

CHAPTER 98-199

Committee Substitute for Senate Bill No. 1372

An act relating to insurance; amending ss. 624.425, 624.428, 624.478, 626.112, F.S.; requiring agents to be appointed; amending s. 624.501, F.S.; clarifying application of fees for title insurance agents; amending s. 626.022, F.S.; providing for applicability of ch. 626, F.S.; amending s. 626.051, F.S.; revising the definition of the term "life agent"; prescribing requirements for soliciting or selling variable life insurance, variable annuity contracts, and other indeterminate value contracts; amending s. 626.062, F.S.; conforming a cross-reference; amending ss. 626.141, 626.171, 626.181, 626.211, 626.221, 626.266, 626.281, 626.311, 626.511, 626.521, 626.561, 626.611, 626.621, 626.641, 626.651, 626.727, 626.730, 626.732, 626.733, 626.877, F.S.; including customer representatives within and deleting claims investigators from application of certain provisions; excluding solicitors; authorizing the department to secure a credit and character report on certain persons; providing limits; providing requirements of the department; amending s. 626.451, F.S.; requiring law enforcement agencies, the state attorney's office, and court clerks to notify the department of agents found guilty of felonies; amending s. 626.201, F.S.; providing for interrogatories before reinstatement; amending s. 626.321, F.S.; authorizing certain entities that hold a limited license for credit life or disability insurance to sell credit property insurance; authorizing persons who hold a limited license for credit insurance to hold certain additional licenses; amending s. 626.331, F.S.; requiring licensure of certain agents for certain appointments; providing that an appointment fee is not refundable; amending s. 626.342, F.S.; prohibiting furnishing supplies to certain agents; amending s. 626.541, F.S.; specifying names and addresses required of certain personnel of corporations; amending s. 626.592, F.S.; revising provisions relating to designation of primary agents; amending s. 626.601, F.S.; authorizing the department to initiate investigation of agents or other licensees under certain conditions; amending s. 626.681, F.S.; providing for administrative fines in addition to certain actions; increasing such fines; amending s. 626.691, F.S.; authorizing the department to place certain persons on probation in addition to suspending, revoking, or refusing to renew a license or appointment; creating s. 626.692, F.S.; providing for restitution under certain circumstances; amending s. 626.7351, F.S.; specifying additional qualifications for a customer representative's license; amending s. 626.739, F.S.; specifying a temporary license as general lines insurance agent; amending s. 626.741, F.S.; authorizing the department to issue a customer representative license to certain persons; providing a limitation; providing procedures for agent licensure of certain persons under certain circumstances; providing for cancellation of a nonresident agent's license; amending ss. 626.792, 626.835, F.S.; providing procedures for issuing a resident agent's license to certain persons; amending s. 626.837, F.S.; clarifying conditions of placing certain

excess or rejected risks; amending s. 626.8411, F.S.; conforming a cross-reference; amending s. 626.8417, F.S.; revising the qualifications for licensure as a title insurance agent; amending s. 626.8418, F.S.; increasing the amount of the deposit or bond of a title insurance agency; specifying that the bond of a title insurance agency must be posted with the department and must inure to the benefit of damaged insurers and insureds; amending ss. 626.8437, 626.844, F.S.; clarifying application of grounds for refusal, suspension, or revocation of license or appointment; amending s. 626.8443, F.S.; providing additional limitations on activities during suspension or after revocation of a license; amending s. 626.852, F.S.; providing for applicability; amending s. 626.858, F.S.; revising the definition of the term "nonresident adjuster" to define "nonresident company employee adjuster"; creating s. 626.8582, F.S.; defining the term "nonresident public adjuster"; creating s. 626.8884, F.S.; defining the term "nonresident independent adjuster"; amending s. 626.865, F.S.; increasing the bonding requirements for public adjusters; amending s. 626.873, F.S.; providing for licensure and qualifications for resident company employee adjusters; creating s. 626.8732, F.S.; providing for licensure and qualifications for nonresident public adjusters; creating s. 626.8734, F.S.; providing for licensure and qualifications for nonresident independent adjusters; creating s. 626.8736, F.S.; providing for service of process on nonresident independent adjusters and on nonresident public adjusters; creating s. 626.8737, F.S.; establishing a retaliatory tax provision regarding certain fines, taxes, penalties, license fees, monetary deposits, securities, or other obligations, limitations, or prohibitions imposed by another state upon Florida resident insurance adjusters in connection with the issuance of, or activities under, a nonresident adjuster's license under that state's laws; creating s. 626.8738, F.S.; providing a criminal penalty for acting as a resident or nonresident public adjuster without the required license; amending s. 626.869, F.S.; requiring certain continuing education courses; clarifying requirements of such courses; amending s. 626.8695, F.S.; providing for notice to the department; requiring designation of primary adjuster on forms prescribed by the department; amending s. 626.872, F.S.; prohibiting the department from issuing a temporary adjuster's license to certain persons; amending s. 626.873, F.S.; providing procedures for licensing certain persons as resident adjusters; providing for cancellation of nonresident adjuster's license; amending s. 626.875, F.S.; prescribing time for keeping adjusters' records; amending s. 626.918, F.S.; allowing the department to approve a surplus lines insurer's election of alternative surplus requirements only if the election was filed before a specified date; amending s. 626.922, F.S.; requiring surplus lines agents to perform certain duties relating to evidence of insurance; amending s. 626.928, F.S.; increasing bonds for surplus lines agents; amending ss. 626.927, 626.9271, 626.929, 626.935, 626.944, F.S.; requiring appointment in addition to licensure of certain persons; amending s. 627.745, F.S.; clarifying a provision related to final examination; amending s. 634.420, F.S.; clarifying application of accountability provisions; amending s. 634.317,

F.S.; providing for responsibility and accountability of sales representatives; amending s. 642.036, F.S.; deleting requirement that the addresses of certain agents be filed with the department; repealing s. 626.112(6), F.S., relating to licensing of claims investigators; amending s. 624.412, F.S.; deleting provisions relating to minimum trust deposits by alien insurers; amending s. 627.681, F.S.; prescribing terms for credit life insurance and credit disability insurance; repealing s. 626.532, F.S., relating to insurance vending machine licenses; repealing s. 626.857, F.S., relating to the definition of "claims investigator"; creating s. 624.4072, F.S.; exempting minority-owned property and casualty insurers from prescribed taxes and assessments for specified period; specifying conditions; amending s. 440.49, F.S., creating the Special Disability Trust Fund Privatization Commission; providing purpose; providing for members; providing duties; providing for adoption of rules; creating the Special Disability Trust Fund Financing Corporation; providing purposes; providing for a board of directors; providing powers and duties of the corporation; authorizing the Division of Workers' Compensation to enter into service contracts for certain purposes; authorizing the corporation to issue evidences of indebtedness; authorizing the corporation to validate bond obligations; exempting the corporation from certain taxes and assessments; providing application; providing for reversion of the assets to the State upon dissolution of the corporation; providing for the State Board of Administration to be a trustee of the corporation's securities; authorizing the commission to issue a request for proposal for administration of the claims of the fund; authorizing the transfer and assumption of the liabilities of the Special Disability Trust Fund to a qualified entity if it is determined by the commission that such an arrangement would be more cost effective than the current administration by the division; authorizing the Auditor General to examine and audit the records of the corporation; providing an appropriation; amending s. 215.555, F.S.; revising the method of reimbursement to insurers under the Florida Hurricane Catastrophe Fund; amending s. 624.316, F.S.; deleting certain rulemaking authority of the Department of Insurance relating to insurer compliance; amending s. 624.426, F.S.; providing that certain transferred policies are exempt from the resident agent and countersignature law; amending s. 624.610, F.S.; specifying purposes of regulation of reinsurance; correcting cross references; amending s. 627.7275, F.S.; modifying coverage requirements and premiums relating to motor vehicle property damage liability; amending s. 627.9126, F.S.; authorizing the Department of Insurance to sample claims or actions for damages; amending s. 627.913, F.S.; revising requirements for annual reports by products liability insurers; repealing s. 624.22, F.S., relating to purposes of regulation of reinsurance; providing for future repeal; creating s. 624.123, F.S.; providing definitions; authorizing licensed agents to sell international health insurance policies to residents of foreign countries at international airports; requiring a specified disclaimer; providing exemptions from regulation under the Insurance Code; specifying applicable provisions; creating s. 627.192, F.S.; providing purposes;

providing definitions; authorizing certain lessors to secure workers' compensation insurance coverage on leased employees under certain circumstances; providing procedures; requiring such lessors to provide certain information to insurers for certain purposes; providing for cancellation or nonrenewal of such insurance under certain circumstances; providing for notice; providing an exception; providing for assigning an experience modification factor to lessees under a terminated employee leasing arrangement; requiring notice; providing application; prohibiting lessees from entering into employee leasing relationships or from being eligible for certain workers' compensation coverage under certain circumstances; requiring insurers to conduct audits of employee leasing companies for certain purposes; specifying procedures; requiring the insured to pay additional premiums if the lessor or lessee fails to provide certain audit access; providing an exception; providing application; providing effective dates.

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

Section 1. Section 624.425, Florida Statutes, is amended to read:

624.425 Resident agent and countersignature required, property, casualty, surety insurance.—

(1) Except as stated in s. 624.426, no authorized property, casualty, or surety insurer shall assume direct liability as to a subject of insurance resident, located, or to be performed in this state unless the policy or contract of insurance is issued by or through, and is countersigned by, a local producing agent who is a resident of this state, regularly commissioned and licensed currently as an agent and appointed as an agent for of the insurer under this code. If two or more authorized insurers issue a single policy of insurance against legal liability for loss or damage to person or property caused by the nuclear energy hazard, or a single policy insuring against loss or damage to property by radioactive contamination, whether or not also insuring against one or more other perils proper to insure against in this state, such policy if otherwise lawful may be countersigned on behalf of all of the insurers by a licensed and appointed resident agent of any insurer appearing thereon. Such agent shall receive on each policy or contract the full and usual commission allowed and paid by the insurer to its agents on business written or transacted by them for the insurer.

(2) If any subject of insurance referred to in subsection (1) is insured under a policy, or contract, or certificate of renewal or continuation thereof, issued in another state and covering also property and risks outside this state, a certificate evidencing such insurance as to subjects located, resident, or to be performed in this state, shall be issued by or through and shall be countersigned by the insurer's commissioned and appointed licensed local producing agent resident in this state in the same manner and subject to the same conditions as is provided in subsection (1) as to policies and contracts; except that the compensation to be paid to the agent may relate only to the Florida portion of the insurance risks represented by such policy or contract.

(3) An agent shall not sign or countersign in blank any policy to be issued outside her or his office, or countersign in blank any countersignature endorsement therefor, or certificate issued thereunder. An agent may give a written power of attorney to the issuing insurance company to countersign such documents by imprinting his name, or the name of the agency or other entity with which the agent may be sharing commission pursuant to s. 626.753(1)(a) and (2), thereon in lieu of manually countersigning such documents; but an agent shall not give a power of attorney to any other person to countersign any such document in her or his name unless the person so authorized is directly employed by the agent and by no other person, and is so employed in the office of the agent.

(4) This section shall not be deemed to prohibit insurers from using salaried licensed and appointed agents for the production and servicing of business in this state and the issuance and countersignature by such agents of insurance policies or contracts, when required under subsection (1), and without payment of commission therefor.

(5) This section shall not be deemed to prohibit an insurer from authorizing an agent who is not regularly commissioned and appointed licensed currently as an agent of the insurer from countersigning a policy or contract of insurance issued pursuant to the provisions of ss. 627.311 and 627.351. This section does not apply to reissuance of insurance policies or endorsements thereto which are part of a mass reissuance of such policies or endorsements and do not involve a change of premium or payment of agent's commissions.

Section 2. Subsections (1) and (2) of section 624.428, Florida Statutes, are amended to read:

624.428 Licensed agent law, life and health insurances.—

(1) No life insurer shall deliver or issue for delivery in this state any policy of life insurance, master group life insurance contract, master credit life policy or agreement, annuity contract, or contract or policy of health insurance, unless the application for such policy or contract is taken by, and the delivery of such policy or contract is made through, an insurance agent of the insurer duly licensed and appointed under the law of this state, who shall receive the usual commission due to an agent from such insurer.

(2) Each such insurer shall maintain a licensed and appointed agent at all times for the purpose of and through whom policies or contracts issued or delivered in this state shall be serviced.

Section 3. Section 624.478, Florida Statutes, is amended to read:

624.478 Use of agents.—A ~~commercial~~ self-insurance fund shall use an agent or agents licensed under parts I and II of chapter 626 to perform any of the activities described in s. 626.041(2). A ~~commercial~~ self-insurance fund shall have the authority to appoint ~~license~~ agents in accordance with parts I and II of chapter 626, and the fund and its appointed licensed agents shall be subject to the requirements of such provisions.

Section 4. Subsections (16), (17), and (29) of section 624.501, Florida Statutes, are amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.—The department shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

(16) Issuance, reissuance, reinstatement, modification resulting in a modified license being issued, ~~or duplicate copy of any insurance representative license, or an appointment being reinstated~~ \$5.00

(17) Additional appointment ~~license~~ continuation fees as prescribed in chapter 626 \$5.00

(29) Title insurance agents:

(a) Agent's original appointment or biennial renewal or continuation thereof, ~~each insurer and agency's biennial license fee:~~

Appointment fee	\$42.00
State tax	12.00
County tax	6.00
Total	\$60.00

(b) Agency original appointment ~~license~~ fee or biennial renewal or continuation thereof, each insurer:

<u>Appointment</u> Licensing fee	\$42.00
State tax	12.00
County tax	6.00
Total	\$60.00

(c) Filing for title insurance agent's license:

Application for filing, each filing, filing fee	\$10.00
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(d) Additional appointment continuation fee as prescribed by s. 626.843 \$5.00

(e) Title insurer and title insurance agency administrative surcharge:

1. On or before January 30 of each calendar year, each title insurer shall pay to the department for each licensed title insurance agency appointed by the title insurer and for each retail office of the insurer on January 1 of that calendar year an administrative surcharge of \$200.00.

2. On or before January 30 of each calendar year, each licensed title insurance agency shall remit to the department an administrative surcharge of \$200.00.

The administrative surcharge may be used solely to defray the costs to the department in its examination or audit of title insurance agencies agents and retail offices of title insurers and to gather title insurance data for statistical purposes in its regulation of title insurance.

Section 5. Section 626.022, Florida Statutes, is amended to read:

626.022 Scope of part.—

(1) This part applies as to insurance agents, solicitors, service representatives, adjusters, and insurance agencies; as to any and all kinds of insurance; and as to stock insurers, mutual insurers, reciprocal insurers, and all other types of insurers, except that:

(a) It does not apply as to reinsurance, except that ss. 626.011-626.031, ss. 626.102-626.181, ss. 626.191-626.211, ss. 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss. 626.541-626.591, and ss. 626.601-626.711 shall apply as to reinsurance intermediaries as defined in s. 626.7492.

(b) The applicability of this chapter as to fraternal benefit societies shall be as provided in chapter 632.

(c) It does not apply to a bail bond agent, as defined in s. 648.25, except as provided in chapter 648 or chapter 903.

(2) For the purposes of this part, “insurance” also includes annuity contracts.

Section 6. Subsections (1) and (2) of section 626.051, Florida Statutes, are amended to read:

626.051 “Life agent” defined.—

(1)(a) For the purposes of this part, a “life agent” is a person who represents one representing an insurer as to life insurance and annuity contracts. The term also includes an agent appointed as such as to life insurance, fixed-dollar annuity contracts, or variable contracts, ~~and health insurance contracts~~ by the same insurer.

(b) A person may not solicit or sell variable life insurance, variable annuity contracts, or any other indeterminate value or variable contract as defined in s. 627.8015, unless the person has successfully completed a licensure examination relating to variable annuity contracts authorized and approved by the department.

(2) Except as provided in s. 626.112(6)(7), with respect to any such insurances or contracts, no person shall, unless licensed as an agent:

(a) Solicit insurance or annuities or procure applications; or

(b) In this state engage or hold himself or herself out as engaging in the business of analyzing or abstracting insurance policies or of counseling or advising or giving opinions to persons relative to insurance or insurance contracts other than:

1. As a consulting actuary advising an insurer; or
2. As to the counseling and advising of labor unions, associations, trustees, employers or other business entities, the subsidiaries and affiliates of each, relative to their interests and those of their members or employees under insurance benefit plans.

Section 7. Subsection (2) of section 626.062, Florida Statutes, is amended to read:

626.062 “Health agent” defined.—

(2) Except as provided in s. 626.112(6)(7), with respect to such insurance, no person shall, unless licensed as an agent:

(a) Solicit insurance or procure applications; or

(b) In this state engage or hold himself or herself out as engaging in the business of analyzing or abstracting insurance policies or of counseling or advising or giving opinions to persons relative to insurance contracts other than:

1. As a consulting actuary advising insurers; or

2. As to the counseling and advising of labor unions, associations, trustees, employers or other business entities, the subsidiaries and affiliates of each, relative to their interests and those of their members or employees under insurance benefit plans.

Section 8. Section 626.112, Florida Statutes, is amended to read:

626.112 License and appointment required; agents, customer representatives, solicitors, adjusters, insurance agencies, service representatives, managing general agents, ~~claims investigators.~~—

(1) No person shall be, act as, or advertise or hold himself or herself out to be an insurance agent, customer representative, solicitor, or adjuster unless he or she is currently licensed and appointed.

(2) No agent, customer representative, or solicitor shall solicit or otherwise transact as agent, customer representative, or solicitor, or represent or hold himself or herself out to be an agent, customer representative, or solicitor as to, any kind or kinds of insurance as to which he or she is not then licensed and appointed.

(3) No person shall act as an adjuster as to any class of business for which he or she is not then licensed and appointed.

(4) No person shall be, act as, or represent or hold himself or herself out to be a service representative unless he or she then holds a currently effective service representative license and appointment. This subsection does not apply as to similar representatives or employees of casualty insurers whose duties are restricted to health insurance.

(5) No person shall be, act as, or represent or hold himself or herself out to be a managing general agent unless he or she then holds a currently effective managing general agent license and appointment.

~~(6) No person shall be, act as, or represent or hold himself or herself out to be a claims investigator, or perform any of the functions of a claims investigator, unless he or she then holds a currently effective claims investigator license and appointment.~~

~~(6)(7)~~ An individual employed by a life or health insurer as an officer or other salaried representative may solicit and effect contracts of life insurance or annuities or of health insurance, without being licensed as an agent, when and only when he or she is accompanied by and solicits for and on the behalf of a licensed and appointed agent.

~~(7)(8)(a)~~ No individual, firm, partnership, corporation, association, or any other entity shall act in its own name or under a trade name, directly or indirectly, as an insurance agency, when required to be licensed by this subsection, unless it complies with s. 626.172 with respect to possessing an insurance agency license for each place of business at which it engages in any activity which may be performed only by a licensed insurance agent or solicitor.

(b) An insurance agency shall, as a condition precedent to continuing business, obtain an insurance agency license if the department finds that, with respect to any majority owner, partner, manager, director, officer, or other person who manages or controls the agency, any person has, subsequent to the effective date of this act:

1. Been found guilty of, or has pleaded guilty or nolo contendere to, a felony in this state or any other state relating to the business of insurance or to an insurance agency, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the cases.

2. Employed any individual in a managerial capacity or in a capacity dealing with the public who is under an order of revocation or suspension issued by the department. An insurance agency may request, on forms prescribed by the department, verification of any person's license status. If a request is mailed within 5 working days after an employee is hired, and the employee's license is currently suspended or revoked, the agency shall not be required to obtain a license, if the unlicensed person's employment is immediately terminated.

3. Operated the agency or permitted the agency to be operated in violation of s. 626.747.

4. With such frequency as to have made the operation of the agency hazardous to the insurance-buying public or other persons:

a. Solicited or handled controlled business. This subparagraph shall not prohibit the licensing of any lending or financing institution or creditor, with respect to insurance only, under credit life or disability insurance policies of borrowers from the institutions, which policies are subject to part IX of chapter 627.

b. Misappropriated, converted, or unlawfully withheld moneys belonging to insurers, insureds, beneficiaries, or others and received in the conduct of business under the license.

c. Unlawfully rebated, attempted to unlawfully rebate, or unlawfully divided or offered to divide commissions with another.

d. Misrepresented any insurance policy or annuity contract, or used deception with regard to any policy or contract, done either in person or by any form of dissemination of information or advertising.

e. Violated any provision of this code or any other law applicable to the business of insurance in the course of dealing under the license.

f. Violated any lawful order or rule of the department.

g. Failed or refused, upon demand, to pay over to any insurer he or she represents or has represented any money coming into his or her hands belonging to the insurer.

h. Violated the provision against twisting as defined in s. 626.9541(1)(l).

i. In the conduct of business, engaged in unfair methods of competition or in unfair or deceptive acts or practices, as prohibited under part X of this chapter.

j. Willfully overinsured any property insurance risk.

k. Engaged in fraudulent or dishonest practices in the conduct of business arising out of activities related to insurance or the insurance agency.

l. Demonstrated lack of fitness or trustworthiness to engage in the business of insurance arising out of activities related to insurance or the insurance agency.

m. Authorized or knowingly allowed individuals to transact insurance who were not then licensed as required by this code.

5. Knowingly employed any person who within the preceding 3 years has had his or her relationship with an agency terminated in accordance with paragraph (d).

6. Willfully circumvented the requirements or prohibitions of this code.

(c) An agency required to be licensed in accordance with paragraph (b) shall remain so licensed for a period of 3 years from the date of licensure unless the license is suspended or revoked in accordance with law. The department may revoke or suspend the agency authority to do business for activities occurring during the time the agency is licensed, regardless of whether the licensing period has terminated.

(d) Notwithstanding the provisions of this subsection, no insurance agency shall be required to apply for an agency license if such agency can prove to the department that:

1. The agency is severing its relationship with each majority owner, partner, manager, director, officer, or other person who managed or controlled such agency and who violated any of the provisions of paragraph (b).

2. No such majority owner, partner, manager, director, officer, or other person who managed such agency is to be affiliated with such agency in any capacity for a period of 3 years from the date of such severance.

Section 9. Section 626.141, Florida Statutes, is amended to read:

626.141 Violation not to affect validity of insurance.—An insurance contract which is otherwise valid and binding as between the parties thereto shall not be rendered invalid by reason of having been solicited, handled, or procured by or through an unlicensed agent, customer representative, or solicitor or an agent, customer representative, or solicitor who has not been appointed.

Section 10. Subsections (1) and (6) of section 626.171, Florida Statutes, are amended to read:

626.171 Application for license.—

(1) The department shall not issue a license as agent, customer representative, ~~solicitor~~, adjuster, insurance agency, service representative, managing general agent, or reinsurance intermediary, ~~or claims investigator~~, to any person except upon written application therefor filed with it, qualification therefor, and payment in advance of all applicable fees. Any such application shall be made under the oath of the applicant and be signed by the applicant.

(6) The application for license filing fee prescribed in s. 624.501 ~~is shall~~ not be subject to refund.

Section 11. Section 626.181, Florida Statutes, is amended to read:

626.181 Number of applications for licensure required.—After a license as agent, customer representative, ~~solicitor~~, or adjuster has been issued to an individual, the same individual shall not be required to take another examination for a similar license, regardless, in the case of an agent, of the number of insurers to be represented by him or her as agent, unless:

(1) Specifically ordered by the department to complete a new application for license; or

(2) During any period of 24 months since the filing of the original license application, such individual was not appointed as an agent, customer representative, ~~solicitor~~, or adjuster, unless the failure to be so appointed was due to military service, in which event the period within which a new application is not required may, in the discretion of the department, be extended to 12 months following the date of discharge from military service if the military service does not exceed 3 years, but in no event to extend under this clause for a period of more than 4 years from the date of filing of the original application for license.

Section 12. Section 626.201, Florida Statutes, is amended to read:

626.201 Investigation.—The department may propound any reasonable interrogatories in addition to those contained in the application, to any applicant for license or appointment, or on any renewal, reinstatement, or continuation thereof, relating to his or her qualifications, residence, prospective place of business, and any other matter which, in the opinion of the department, is deemed necessary or advisable for the protection of the public and to ascertain the applicant's qualifications. The department may, upon completion of the application, make such further investigation as it may deem advisable of the applicant's character, experience, background, and fitness for the license or appointment. Such an inquiry or investigation shall be in addition to any examination required to be taken by the applicant as hereinafter in this chapter provided.

Section 13. Subsection (2) of section 626.211, Florida Statutes, is amended to read:

626.211 Approval, disapproval of application.—

(2) Upon approval of an applicant for license as agent, customer representative, ~~solicitor~~, or adjuster who is subject to written examination, the department shall notify the applicant when and where he or she may take the required examination.

Section 14. Paragraphs (c) and (d) of subsection (2) and subsection (3) of section 626.221, Florida Statutes, are amended to read:

626.221 Examination requirement; exemptions.—

(2) However, no such examination shall be necessary in any of the following cases:

(c) In the discretion of the department, an applicant for reinstatement of license or appointment as an agent, customer representative, or adjuster whose license has been suspended within 2 years prior to the date of application or written request for reinstatement.

(d) An applicant who, within 2 years prior to application for license and appointment as an agent, customer representative, or adjuster, was a full-time salaried employee of the department and had continuously been such an employee with responsible insurance duties for not less than 2 years and who had been a licensee within 2 years prior to employment by the department with the same class of license as that being applied for.

(3) An individual who is already licensed as a solicitor or customer representative shall not be licensed as a general lines agent without application and examination for such license.

Section 15. Section 626.266, Florida Statutes, is amended to read:

626.266 Printing of examinations or related materials to preserve examination security.—A contract let for the development, administration, or

grading of examinations or related materials by the Department of Insurance pursuant to the various agent, customer representative, solicitor, or adjuster licensing and examination provisions of this code may include the printing or furnishing of these examinations or related materials in order to preserve security. Any such contract shall be let as a contract for a contractual service pursuant to s. 287.057.

Section 16. Subsection (2) of section 626.281, Florida Statutes, is amended to read:

626.281 Reexamination.—

(2) The department may require any individual whose license as an agent, customer representative, or adjuster has expired or has been suspended to pass an examination prior to reinstating or relicensing the individual as to any class of license. The examination fee shall be paid as to each examination.

Section 17. Subsection (1) of section 626.311, Florida Statutes, is amended to read:

626.311 Scope of license.—

(1) Except as to limited licenses, the applicant for license as a general lines agent or customer representative ~~solicitor~~ shall qualify for all property, marine, casualty, and surety lines except bail bonds which require a separate license under chapter 648. The license of a general lines agent may also cover health insurance if health insurance is included in the agent's appointment by an insurer as to which the licensee is also appointed as agent for property or casualty or surety insurance. The license of a customer representative ~~solicitor~~ shall provide, in substance, that it covers all of such classes of insurance that his or her appointing general lines agent or agency is currently so authorized to transact under the general lines agent's license and appointments. No such license shall be issued limited to particular classes of insurance except for bail bonds which require a separate license under chapter 648.

Section 18. Subsection (1) of section 626.321, Florida Statutes, is amended to read:

626.321 Limited licenses.—

(1) The department shall issue to a qualified individual, or a qualified individual or entity under paragraphs (c), (d), and (e), a license as agent authorized to transact a limited class of business in any of the following categories:

(a) Motor vehicle physical damage and mechanical breakdown insurance.—License covering insurance against only the loss of or damage to any motor vehicle which is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles. Such license also covers insurance against the failure of an original or replacement part to perform any function for which it was designed. The applicant for such a

license shall pass a written examination covering motor vehicle physical damage insurance and mechanical breakdown insurance. No individual while so licensed shall hold a license as an agent or solicitor as to any other or additional kind or class of insurance coverage except as to a limited license for credit life and disability insurances as provided in paragraph (e).

(b) Industrial fire insurance or burglary insurance.—License covering only industrial fire insurance or burglary insurance. The applicant for such a license shall pass a written examination covering such insurance. No individual while so licensed shall hold a license as an agent or solicitor as to any other or additional kind or class of insurance coverage except as to life and health insurances.

(c) Personal accident insurance.—License covering only policies of personal accident insurance covering the risks of travel, except as provided in subparagraph 2. The license may be issued only:

1. To a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency and may authorize the sale of such ticket policies only in connection with the sale of transportation tickets, or to the full-time salaried employee of such an agent. No such policy shall be for a duration of more than 48 hours or for the duration of a specified one-way trip or round trip.

2. To a full-time salaried employee of a business which offers motor vehicles for rent or lease, or to a business office of a business which offers motor vehicles for rent or lease if insurance sales activities authorized by the license are limited to full-time salaried employees. A business office licensed or a person licensed pursuant to this subparagraph may, as an agent of an insurer, transact insurance that provides coverage for accidental personal injury or death of the lessee and any passenger who is riding or driving with the covered lessee in the rental motor vehicle if the lease or rental agreement is for not more than 30 days, or if the lessee is not provided coverage for more than 30 consecutive days per lease period; however, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days.

(d) Baggage and motor vehicle excess liability insurance.—

1. License covering only insurance of personal effects except as provided in subparagraph 2. The license may be issued only:

a. To a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency, which person is engaged in the sale or handling of transportation of baggage and personal effects of travelers, and may authorize the sale of such insurance only in connection with such transportation; or

b. To the full-time salaried employee of a licensed general lines agent, a full-time salaried employee of a business which offers motor vehicles for rent or lease, or to a business office of a business which offers motor vehicles for rent or lease if insurance sales activities authorized by the license are limited to full-time salaried employees.

The purchaser of baggage insurance shall be provided written information disclosing that the insured's homeowner's policy may provide coverage for loss of personal effects and that the purchase of such insurance is not required in connection with the purchase of tickets or in connection with the lease or rental of a motor vehicle.

2. A business office licensed pursuant to subparagraph 1., or a person licensed pursuant to subparagraph 1. who is a full-time salaried employee of a business which offers motor vehicles for rent or lease, may include lessees under a master contract providing coverage to the lessor or may transact excess motor vehicle liability insurance providing coverage in excess of the standard liability limits provided by the lessor in its lease to a person renting or leasing a motor vehicle from the licensee's employer for liability arising in connection with the negligent operation of the leased or rented motor vehicle, provided that the lease or rental agreement is for not more than 30 days; that the lessee is not provided coverage for more than 30 consecutive days per lease period, and, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days; that the lessee is given written notice that his or her personal insurance policy providing coverage on an owned motor vehicle may provide additional excess coverage; and that the purchase of the insurance is not required in connection with the lease or rental of a motor vehicle. The excess liability insurance may be provided to the lessee as an additional insured on a policy issued to the licensee's employer.

3. A business office licensed pursuant to subparagraph 1., or a person licensed pursuant to subparagraph 1. who is a full-time salaried employee of a business which offers motor vehicles for rent or lease, may, as an agent of an insurer, transact insurance that provides coverage for the liability of the lessee to the lessor for damage to the leased or rented motor vehicle if:

a. The lease or rental agreement is for not more than 30 days; or the lessee is not provided coverage for more than 30 consecutive days per lease period, but, if the lease is extended beyond 30 days, the coverage may be extended one time only for a period not to exceed an additional 30 days;

b. The lessee is given written notice that his personal insurance policy that provides coverage on an owned motor vehicle may provide such coverage with or without a deductible; and

c. The purchase of the insurance is not required in connection with the lease or rental of a motor vehicle.

(e) Credit life or disability insurance.—License covering only credit life or disability insurance. The license may be issued only to an individual employed by a life or health insurer as an officer or other salaried or commissioned representative, or to an individual employed by or associated with a lending or financing institution or creditor, and may authorize the sale of such insurance only with respect to borrowers or debtors of such lending or financing institution or creditor. However, only the individual or entity whose tax identification number is used in receiving or is credited with receiving the commission from the sale of such insurance shall be the licensed agent of the insurer. No individual while so licensed shall hold a

license as an agent or solicitor as to any other or additional kind or class of life or health insurance coverage. An entity other than a lending or financial institution defined in s. 626.988 holding a limited license under this paragraph shall also be authorized to sell credit property insurance.

(f) Credit insurance.—License covering only credit insurance, as such insurance is defined in s. 624.605(1)(i), and no individual so licensed shall, during the same period, hold a license as an agent or solicitor as to any other or additional kind of life or health insurance with the exception of credit life or disability insurance as defined in paragraph (e).

Section 19. Subsections (3) and (4) of section 626.331, Florida Statutes, are amended to read:

626.331 Number of appointments permitted or required.—

(3) The department may issue a single appointment covering both life and health insurances to an individual licensed ~~qualified~~ as to both such kinds of insurance and appointed as agent as to both such kinds by the same insurer.

(4) If requested in writing by the applicant or payor entitled thereto within 60 days after the denial or disapproval of an appointment, the department shall refund to the applicant or payor entitled thereto any state and county taxes received by it in connection with the application for the appointment. The appointment fee is not subject to refund. No refund shall be made under any circumstances after issuance of an appointment. No refund shall be made if the applicable appointment year has commenced before receipt by the department of the request for cancellation of the appointment and refund.

Section 20. Section 626.342, Florida Statutes, is amended to read:

626.342 Furnishing supplies to unlicensed life, health, or general lines agent prohibited; civil liability and penalty.—

(1) ~~An~~ No insurer, a ~~managing~~ general agent, or an agent, directly or through any representative, may not ~~shall~~ furnish to any agent any blank forms, applications, stationery, or other supplies to be used in soliciting, negotiating, or effecting contracts of insurance on its behalf unless such blank forms, applications, stationery, or other supplies relate to a class of business with respect to which the agent is licensed and appointed, whether for that insurer or another insurer.

(2) Any insurer, general agent, or agent who furnishes any of the supplies specified in subsection (1) to any agent or prospective agent not appointed to represent the insurer and who accepts from or writes any insurance business for such agent or agency is ~~shall be~~ subject to civil liability to any insured of such insurer to the same extent and in the same manner as if such agent or prospective agent had been appointed or authorized by the insurer or such agent to act in its or his or her behalf. The provisions of this subsection do not apply to insurance risk apportionment plans under s. 627.351.

(3) This section does not apply to the placing of surplus lines business under the provisions of ss. 626.913-626.937.

Section 21. Subsections (5) and (6) are added to section 626.451, Florida Statutes, to read:

626.451 Appointment of agent or other representative.—

(5) Any law enforcement agency or state attorney's office that is aware that an agent, adjuster, service representative, solicitor, customer representative, or managing general agent has pleaded guilty or nolo contendere to or has been found guilty of a felony shall notify the department of such fact.

(6) Upon the filing of an information or indictment against an agent, adjuster, service representative, solicitor, customer representative, or managing general agent, the state attorney shall immediately furnish the department a certified copy of the information or indictment.

Section 22. Subsection (1) of section 626.511, Florida Statutes, 1996 Supplement, is amended to read:

626.511 Reasons for termination; confidential information.—

(1) Any insurer terminating the appointment of an agent; any general lines agent terminating the appointment of a solicitor, customer representative, or a crop hail or multiple-peril crop insurance agent; and any employer terminating the appointment of an adjuster, service representative, or managing general agent, or claims investigator, whether such termination is by direct action of the appointing insurer, agent, or employer or by failure to renew or continue the appointment as provided, shall file with the department a statement of the reasons, if any, for and the facts relative to such termination. In the case of termination of the appointment of an agent, such information may be filed by the insurer or by the general agent of the insurer.

(2) In the case of terminations by failure to renew or continue the appointment, the information required under subsection (1) shall be filed with the department as soon as possible, and at all events within 30 days, after the date notice of intention not to so renew or continue was filed with the department as required in this chapter. In all other cases, the information required under subsection (1) shall be filed with the department at the time, or at all events within 10 days after, notice of the termination was filed with the department.

(3) Any information, document, record, or statement furnished to the department under subsection (1) is confidential and exempt from the provisions of s. 119.07(1).

Section 23. Subsections (1) and (3) of section 626.521, Florida Statutes, are amended to read:

626.521 Character, credit reports.—

(1) As to each applicant who for the first time in this state is applying and qualifying for a license as agent, solicitor, adjuster, service representative, customer representative, or managing general agent, or claims investigator, the appointing insurer or its manager or general agent in this state, in the case of agents, or the appointing general lines agent, in the case of solicitors or customer representatives, or the employer, in the case of service representatives ~~and claims investigators~~ and of adjusters who are not to be self-employed, shall coincidentally with such appointment or employment secure and thereafter keep on file a full detailed credit and character report made by an established and reputable independent reporting service, relative to the individual so appointed or employed.

(3) As to an applicant for an adjuster's or reinsurance intermediary's license who is to be self-employed, the department may secure, at the cost of the applicant, a full detailed credit and character report made by an established and reputable independent reporting service relative to the applicant.

Section 24. Subsections (1) and (2) of section 626.541, Florida Statutes, are amended to read:

626.541 Firm, corporate, and business names; officers; associates; notice of changes.—

(1) Any licensed agent or adjuster doing business under a firm or corporate name or under any business name other than his or her own individual name shall annually on or before January 1 file with the department, on forms furnished by it, a written statement of the firm, corporate, or business name being so used, the address of any office or offices or places of business making use of such name, and the name and social security number of each officer and director and the president of the corporation and of each individual associated in such firm or corporation as to the insurance transactions thereof or in the use of such business name.

(2) In the event of any change of such name, or of any of the officers and such directors or president, or of any of such addresses, or in the personnel so associated, written notice of such change shall be filed with the department within 60 days by or on behalf of those licensees terminating any such firm, corporate, or business name or continuing to operate thereunder.

Section 25. Subsections (1) and (3) of section 626.561, Florida Statutes, are amended to read:

626.561 Reporting and accounting for funds.—

(1) All premiums, return premiums, or other funds belonging to insurers or others received by an agent, customer representative, solicitor, or adjuster in transactions under his or her license are ~~shall be~~ trust funds so received by the licensee in a fiduciary capacity. An agent shall keep the funds belonging to each insurer for which he or she is not appointed, other than a surplus lines insurer, in a separate account so as to allow the department to properly audit such funds. The licensee in the applicable regular

course of business shall account for and pay the same to the insurer, insured, or other person entitled thereto.

(3) Any agent, customer representative, solicitor, or adjuster who, not being lawfully entitled thereto, either temporarily or permanently diverts or misappropriates ~~appropriates~~ such funds or any portion thereof ~~to his or her own use~~ or deprives the other person of a benefit therefrom commits the offense specified below:

(a) If the funds diverted or misappropriated ~~appropriated to his or her own use~~ are \$300 or less, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the funds diverted or misappropriated ~~appropriated to his or her own use~~ are more than \$300, but less than \$20,000, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the funds diverted or misappropriated ~~appropriated to his or her own use~~ are \$20,000 or more, but less than \$100,000, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the funds diverted or misappropriated ~~appropriated to his or her own use~~ are \$100,000 or more, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 26. Subsections (1), (2), (4), and (7) of section 626.592, Florida Statutes, are amended to read:

626.592 Primary agents.—

(1) ~~On or before January 1, 1990, and annually thereafter,~~ Each person operating an insurance agency and each location of a multiple location agency shall designate a primary agent for each insurance agency location and shall file the name of the person so designated, and the address of the insurance agency location where he or she is primary agent, with the Department of Insurance, on a form approved by the department. The designation of the primary agent may be changed at the option of the agency and any change shall be effective upon notification to the department. Notice of change must be sent to the department within 30 days after such change.

(2) For the purpose of this section, a “primary agent” is the licensed agent who is responsible for the hiring and supervision of all individuals within an insurance agency location whether such individuals ~~who~~ deal with the public in the solicitation or negotiation of insurance contracts or in the collection or accounting of moneys from the general public. An agent may be designated as primary agent for only one insurance agency location.

(4) The department may suspend or revoke the license of the primary agent if the ~~an~~ insurance agency employs any person who has had a license denied or any person whose license is currently suspended or revoked. However, when a person has been denied a license for failure to pass a required examination, he or she may be employed to perform clerical or administrative functions for which licensure is not required.

(7) An insurance agency location may not shall conduct the business of insurance unless a primary agent is designated at all times. Failure to designate a primary agent, on a form prescribed by the department, within 30 days after agency inception or change of primary agent designation, constitutes as required under this section shall constitute grounds for requiring that the agency obtain a license in accordance with ss. 626.112 and 626.172.

Section 27. Subsection (1) of section 626.601, Florida Statutes, is amended to read:

626.601 Improper conduct; inquiry; fingerprinting.—

(1) The department may, upon its own motion ~~or, and shall~~, upon a written complaint signed by any interested person and filed with the department, inquire into any alleged improper conduct of any licensed agent, solicitor, adjuster, service representative, managing general agent, customer representative, title insurance agent, or title insurance agency or claims investigator under this code. The department may thereafter initiate an investigation of any such licensee if it has reasonable cause to believe that the licensee has violated any provision of the insurance code. During the course of its investigation, the department shall contact the licensee being investigated unless it determines that contacting such person could jeopardize the successful completion of the investigation or cause injury to the public.

Section 28. Section 626.611, Florida Statutes, is amended to read:

626.611 Grounds for compulsory refusal, suspension, or revocation of agent's, title agency's, solicitor's, adjuster's, customer representative's, service representative's, or managing general agent's, or claims investigator's license or appointment.—The department shall deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, title agency, solicitor, adjuster, customer representative, service representative, or managing general agent, or claims investigator, and it shall suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist:

(1) Lack of one or more of the qualifications for the license or appointment as specified in this code.

(2) Material misstatement, misrepresentation, or fraud in obtaining the license or appointment or in attempting to obtain the license or appointment.

(3) Failure to pass to the satisfaction of the department any examination required under this code.

(4) If the license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this code.

(5) Willful misrepresentation of any insurance policy or annuity contract or willful deception with regard to any such policy or contract, done either in person or by any form of dissemination of information or advertising.

(6) If, as an adjuster, ~~claims investigator~~, or agent licensed and appointed to adjust claims under this code, he or she has materially misrepresented to an insured or other interested party the terms and coverage of an insurance contract with intent and for the purpose of effecting settlement of claim for loss or damage or benefit under such contract on less favorable terms than those provided in and contemplated by the contract.

(7) Demonstrated lack of fitness or trustworthiness to engage in the business of insurance.

(8) Demonstrated lack of reasonably adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(9) Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(10) Misappropriation, conversion, or unlawful withholding of moneys belonging to insurers or insureds or beneficiaries or to others and received in conduct of business under the license or appointment.

(11) Unlawfully rebating, attempting to unlawfully rebate, or unlawfully dividing or offering to divide his or her commission with another.

(12) Having obtained or attempted to obtain, or having used or using, a license or appointment as agent, customer representative, or solicitor for the purpose of soliciting or handling "controlled business" as defined in s. 626.730 with respect to general lines agents, s. 626.784 with respect to life agents, and s. 626.830 with respect to health agents.

(13) Willful failure to comply with, or willful violation of, any proper order or rule of the department or willful violation of any provision of this code.

(14) Having been found guilty of or having pleaded guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country which involves moral turpitude, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

(15) Fraudulent or dishonest practice in submitting or aiding or abetting any person in the submission of an application for workers' compensation coverage under chapter 440 containing false or misleading information as to employee payroll or classification for the purpose of avoiding or reducing the amount of premium due for such coverage.

Section 29. Section 626.621, Florida Statutes, is amended to read:

626.621 Grounds for discretionary refusal, suspension, or revocation of agent's, solicitor's, adjuster's, customer representative's, service representative's, or managing general agent's, ~~or claims investigator's~~ license or appointment.—The department may, in its discretion, deny an application for,

suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, solicitor, adjuster, customer representative, service representative, or managing general agent, ~~or claims investigator~~, and it may suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.611:

(1) Any cause for which issuance of the license or appointment could have been refused had it then existed and been known to the department.

(2) Violation of any provision of this code or of any other law applicable to the business of insurance in the course of dealing under the license or appointment.

(3) Violation of any lawful order or rule of the department.

(4) Failure or refusal, upon demand, to pay over to any insurer he or she represents or has represented any money coming into his or her hands belonging to the insurer.

(5) Violation of the provision against twisting, as defined in s. 626.9541(1)(l).

(6) In the conduct of business under the license or appointment, engaging in unfair methods of competition or in unfair or deceptive acts or practices, as prohibited under part X of this chapter, or having otherwise shown himself or herself to be a source of injury or loss to the public or detrimental to the public interest.

(7) Willful overinsurance of any property or health insurance risk.

(8) Having been found guilty of or having pleaded guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

(9) If a life agent, violation of the code of ethics.

(10) Cheating on an examination required for licensure or violating test center or examination procedures published orally, in writing, or electronically at the test site by authorized representatives of the examination program administrator. Communication of test center and examination procedures must be clearly established and documented.

(11) Failure to inform the department in writing within 30 days after pleading guilty or nolo contendere to, or being convicted or found guilty of, any felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof, or under the law of any other country without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case.

(12) Knowingly aiding, assisting, procuring, advising, or abetting any person in the violation of or to violate a provision of the insurance code or any order or rule of the department.

Section 30. Subsections (2), (3), and (4) of section 626.641, Florida Statutes, are amended to read:

626.641 Duration of suspension or revocation.—

(2) No person or appointee under any license or appointment revoked by the department, nor any person whose eligibility to hold same has been revoked by the department, shall have the right to apply for another license or appointment under this code within 2 years from the effective date of such revocation or, if judicial review of such revocation is sought, within 2 years from the date of final court order or decree affirming the revocation. The department shall not, however, grant a new license or appointment or reinstate eligibility to hold such license or appointment if it finds that the circumstance or circumstances for which the eligibility was revoked or for which the previous license or appointment was revoked still exist or are likely to recur; if an individual's license as agent, customer representative, or solicitor or eligibility to hold same has been revoked upon the ground specified in s. 626.611(12), the department shall refuse to grant or issue any new license or appointment so applied for.

(3) If licenses as agent, customer representative, or solicitor, or the eligibility to hold same, as to the same individual have been revoked at two separate times, the department shall not thereafter grant or issue any license under this code as to such individual.

(4) During the period of suspension or revocation of the license or appointment, the former licensee or appointee shall not engage in or attempt or profess to engage in any transaction or business for which a license or appointment is required under this code or directly or indirectly own, control, or be employed in any manner by any insurance agent or agency or adjuster or adjusting firm.

Section 31. Section 626.651, Florida Statutes, is amended to read:

626.651 Effect of suspension, revocation upon associated licenses and appointments and licensees and appointees.—

(1) Upon suspension, revocation, or refusal to renew or continue any one license of an agent, customer representative, or solicitor, or upon suspension or revocation of eligibility to hold a license or appointment, the department shall at the same time likewise suspend or revoke all other licenses, appointments, or status of eligibility held by the licensee or appointee under this code.

(2) In case of the suspension or revocation of license and appointments of any general lines agent, or in case of suspension or revocation of eligibility, the license and appointments of any ~~and~~ all other agents who are members of such agency, whether incorporated or unincorporated, and any ~~and~~ all solicitors or customer representatives employed by such agency, who

knowingly are parties to the act which formed the ground for the suspension or revocation may likewise be suspended or revoked.

Section 32. Section 626.681, Florida Statutes, is amended to read:

626.681 Administrative fine in lieu of or in addition to suspension, revocation, or refusal of license or appointment.—

(1) Except as to insurance agencies, if the department finds that one or more grounds exist for the suspension, revocation, or refusal to issue, renew, or continue any license or appointment issued under this chapter, the department may, in its discretion, in lieu of or in addition to such suspension or, revocation, or in lieu of such refusal, and except on a second offense or when such suspension, revocation, or refusal is mandatory, impose upon the licensee or appointee an administrative penalty in an amount up to \$500 or, if the department has found willful misconduct or willful violation on the part of the licensee or appointee, up to \$3,500 ~~\$2,500~~. The administrative penalty may, in the discretion of the department, be augmented by an amount equal to any commissions received by or accruing to the credit of the licensee or appointee in connection with any transaction as to which the grounds for suspension, revocation, or refusal related.

(2) With respect to insurance agencies, if the department finds that one or more grounds exist for the suspension, revocation, or refusal to issue, renew, or continue any license issued under this chapter, the department may, in its discretion, in lieu of or in addition to such suspension or, revocation, or in lieu of such refusal, impose upon the licensee an administrative penalty in an amount not to exceed \$10,000 per violation. The administrative penalty may, in the discretion of the department, be augmented by an amount equal to any commissions received by or accruing to the credit of the licensee in connection with any transaction as to which the grounds for suspension, revocation, or refusal related.

(3) The department may allow the licensee or appointee a reasonable period, not to exceed 30 days, within which to pay to the department the amount of the penalty so imposed. If the licensee or appointee fails to pay the penalty in its entirety to the department within the period so allowed, the license, ~~or~~ appointments, or status of the licensee or appointee shall stand suspended or revoked or issuance, renewal, or continuation shall be refused, as the case may be, upon expiration of such period.

Section 33. Section 626.691, Florida Statutes, is amended to read:

626.691 Probation.—

(1) If the department finds that one or more grounds exist for the suspension, revocation, or refusal to renew or continue any license or appointment issued under this part, the department may, in its discretion, except when an administrative fine is not permissible under s. 626.681 or when such suspension, revocation, or refusal is mandatory, in lieu of or in addition to such suspension or, revocation, or in lieu of such refusal, or in connection with any administrative monetary penalty imposed under s. 626.681, place

the offending licensee or appointee on probation for a period, not to exceed 2 years, as specified by the department in its order.

(2) As a condition to such probation or in connection therewith, the department may specify in its order reasonable terms and conditions to be fulfilled by the probationer during the probation period. If during the probation period the department has good cause to believe that the probationer has violated a term or condition ~~such terms and conditions or any of them~~, it shall suspend, revoke, or refuse to issue, renew, or continue the license or appointment of the probationer, as upon the original ~~ground or grounds~~ referred to in subsection (1).

Section 34. Section 626.692, Florida Statutes, is created to read:

626.692 Restitution.—If any ground exists for the suspension, revocation, or refusal of a license or appointment, the department may, in addition to any other penalty authorized under this chapter, order the licensee to pay restitution to any person who has been deprived of money by the licensee's misappropriation, conversion, or unlawful withholding of moneys belonging to insurers, insureds, beneficiaries, or others. In no instance shall the amount of restitution required to be paid under this section exceed the amount of money misappropriated, converted, or unlawfully withheld. Nothing in this section limits or restricts a person's right to seek other remedies as provided for by law.

Section 35. Section 626.727, Florida Statutes, is amended to read:

626.727 Scope of this part.—This part applies only as to:

- (1) General lines agents, as defined in s. 626.041;
- (2) Solicitors, as defined in s. 626.071; ~~and~~
- (3) Customer representatives as defined in s. 626.072; and

~~(4)~~(3) Service representatives, as defined in s. 626.081, or managing general agents, as defined in s. 626.091.

Section 36. Section 626.730, Florida Statutes, is amended to read:

626.730 Purpose of license.—

(1) The purpose of a license issued under this code to a general lines agent, ~~customer representative~~, or solicitor is to authorize and enable the licensee actively and in good faith to engage in the insurance business as such an agent, customer representative, or solicitor with respect to the general public and to facilitate the public supervision of such activities in the public interest, and not for the purpose of enabling the licensee to receive a rebate of premium in the form of commission or other compensation as an agent, customer representative, or solicitor or enabling the licensee to receive commissions or other compensation based upon insurance solicited or procured by or through him or her upon his or her own interests or those of other persons with whom he or she is closely associated in capacities other than that of insurance agent, customer representative, or solicitor.

(2) The department shall not grant, renew, continue, or permit to exist any license or appointment as such agent, customer representative, or solicitor as to any applicant therefor or licensee or appointee thereunder if it finds that the license or appointment has been, is being, or will probably be used by the applicant, ~~or~~ licensee, or appointee for the purpose of securing rebates or commissions on “controlled business,” that is, on insurance written on his or her own interests or those of his or her family or of any firm, corporation, or association with which he or she is associated, directly or indirectly, or in which he or she has an interest other than as to the insurance thereof.

Section 37. Subsection (3) of section 626.732, Florida Statutes, is amended to read:

626.732 Requirement as to knowledge, experience, or instruction.—

(3) An individual who was or became qualified to sit for an agent's, customer representative's, or adjuster's examination at or during the time he or she was employed by the department and who, while so employed, was employed in responsible insurance duties as a full-time bona fide employee shall be permitted to take an examination if application for such examination is made within 90 days after the date of termination of his or her employment with the department.

Section 38. Section 626.733, Florida Statutes, is amended to read:

626.733 Agency firms and corporations; special requirements.—If a sole proprietorship, partnership, corporation, or association holds an agency contract, all members thereof who solicit, negotiate, or effect insurance contracts, and all officers and stockholders of the corporation who solicit, negotiate, or effect insurance contracts, are required to qualify and be licensed individually as agents, solicitors, or customer representatives; and all of such agents must be individually appointed as to each property and casualty insurer entering into an agency contract with such agency. Each such appointing insurer as soon as known to it shall comply with this section and shall determine and require that each agent so associated in or so connected with such agency is likewise appointed as to the same such insurer and for the same type and class of license. However, no insurer is required to comply with the provisions of this section if such insurer satisfactorily demonstrates to the department that the insurer has issued an aggregate net written premium, in an agency, in an amount of \$25,000 or less.

Section 39. Subsection (2) of section 626.7351, Florida Statutes, is amended to read:

626.7351 Qualifications for customer representative's license.—The department shall not grant or issue a license as customer representative to any individual found by it to be untrustworthy or incompetent, or who does not meet each of the following qualifications:

(2)(a) The applicant is a bona fide resident of this state and will actually reside in the state at least 6 months out of the year. An individual who is a bona fide resident of this state shall be deemed to meet the residence requirements of this subsection, notwithstanding the existence at the time

of application for license of a license in his or her name on the records of another state as a resident licensee of the other state, if the applicant furnishes a letter of clearance satisfactory to the department that the resident licenses have been canceled or changed to a nonresident basis and that he or she is in good standing.

(b) The applicant is a resident of another state sharing a common boundary with this state and has been employed in this state for a period of not less than 6 months by a Florida resident general lines agent licensed and appointed under this chapter. The applicant licensed under this subsection must meet all other requirements as described in this chapter and must, under the direct supervision of a licensed and appointed Florida resident general lines agent, conduct business solely within the confines of the office of the agent or agency whom he or she represents in this state.

Section 40. Subsection (1) of section 626.739, Florida Statutes, is amended to read:

626.739 Temporary license; death, disability, absence of agent.—

(1) The department may, in its discretion, issue a temporary license authorizing appointment as a general lines insurance as agent to a licensed agent's employee, family member, business associate, or personal representative for the purpose of continuing or winding up the business affairs of the agent or agency, ~~all~~ subject to the following conditions:

(a) The agent ~~so~~ being replaced must have died become deceased or become unable to perform his or her duties as agent because of military service or illness or other physical or mental disability.

(b) ~~There must be~~ No other person connected with the agent's business ~~who~~ is licensed as a general lines agent.

(c) The proposed temporary licensee ~~is~~ must be qualified as for a regular general lines agent's license under this code except as to residence, examination, education, or experience.

(d) Application for the temporary license ~~has been~~ must be made by the applicant upon statements and affidavit filed with the department on forms as prescribed and furnished by it.

(e) The temporary license must ~~shall be issued and be~~ valid for 4 months and may ~~shall~~ not be renewed either to the then holder of the temporary license or to any other person for or on behalf of the agent or agency.

(f) Under a temporary license and appointment the licensee does ~~shall~~ not represent as agent any insurer not last represented by the agent ~~so~~ being replaced, and is not ~~nor be~~ licensed or appointed as to any additional kind or classification of insurance than those covered by the last existing agency appointments of the replaced agent, except that, if during the temporary license period an insurer withdraws from the agency, the temporary licensee may be appointed by another like insurer only for the period remaining under the temporary license.

(g) The holder of a temporary license may be granted a regular agent's license upon taking and successfully completing a classroom course or correspondence course in insurance or having the insurance employment experience as prescribed in s. 626.732 and passing an examination as required by s. 626.221.

Section 41. Subsections (1) and (2) of section 626.741, Florida Statutes, are amended, present subsection (5) of that section is renumbered as subsection (7), and new subsections (5) and (6) are added to that section, to read:

626.741 Nonresident agents; licensing and restrictions.—

(1) The department may, upon written application and the payment of the fees as specified in s. 624.501, issue a license as:

(a) A general lines agent to an individual who is otherwise qualified therefor, but who is not a resident of this state, if by the laws of the state of the individual's residence, residents of this state may be licensed in like manner as a nonresident agent of his state.

(b) A customer representative to an individual who is otherwise qualified therefor, who is not a resident of this state, but who is a resident of a state that shares a common boundary with this state.

(2) The department shall not, however, issue any license and appointment to any nonresident who has an office or place of business in this state, or who has any direct or indirect pecuniary interest in any insurance agent, insurance agency, or in any solicitor licensed as a resident of this state; nor to any individual who does not, at the time of issuance and throughout the existence of the Florida license, hold a license as agent or broker issued by the state of his or her residence; nor to any individual who is employed by any insurer as a service representative or who is a managing general agent in any state, whether or not also licensed in another state as an agent or broker. The foregoing requirement to hold a similar license in the applicant's state of residence does not apply to customer representatives unless the home state licenses residents of that state in a like manner. The prohibition against having an office or place of business in this state does not apply to customer representatives who are required to conduct business solely within the confines of the office of a licensed and appointed Florida resident general lines agent in this state. The department shall have discretion to refuse to issue any license or appointment to a nonresident when it has reason to believe that the applicant by ruse or subterfuge is attempting to avoid the intent and prohibitions contained in this subsection or to believe that any of the grounds exist as for suspension or revocation of license as set forth in ss. 626.611 and 626.621.

(5) Any individual who holds a Florida nonresident agent's license, upon becoming a resident of this state may, for a period not to exceed 90 days, continue to transact insurance in this state under the nonresident license and appointment. Such individual must make application for resident licensure and must become licensed as a resident agent within 90 days of becoming a resident of this state.

(6) Upon becoming a resident of this state, an individual who holds a Florida nonresident agent's license is no longer eligible for licensure as a nonresident agent if such individual fails to make application for a resident license and become licensed as a resident agent within 90 days. His license and any appointments shall be canceled immediately. He may apply for a resident license pursuant to s. 626.731.

(7)(5) Except as provided in this section and ss. 626.742 and 626.743, nonresident agents shall be subject to the same requirements as apply to agents resident in this state.

Section 42. Present subsection (7) of section 626.792, Florida Statutes, is renumbered as subsection (8) and amended, and a new subsection (7) is added to that section, to read:

626.792 Nonresident agents.—

(7) Any individual who holds a Florida nonresident agent's license, upon becoming a resident of this state may, for a period not to exceed 90 days, continue to transact insurance in this state under the nonresident license and appointment. Such individual must make application for resident licensure and must become licensed as a resident agent within 90 days after becoming a resident of this state.

~~(8)(7) Upon becoming a resident of this state, an individual who holds a Florida nonresident agent's license is no longer eligible for licensure as a nonresident agent if such individual fails to make application for a resident license and become licensed as a resident agent within 90 days. and His license and any appointments shall be canceled immediately. He may apply for a resident license pursuant to s. 626.785.~~

Section 43. Present subsection (7) of section 626.835, Florida Statutes, is renumbered as subsection (8) and amended, and a new subsection (7) is added to that section, to read:

626.835 Nonresident agents.—

(7) Any individual who holds a Florida nonresident agent's license, upon becoming a resident of this state may, for a period not to exceed 90 days, continue to transact insurance in this state under the nonresident license and appointment. Such individual must make application for resident licensure and must become licensed as a resident agent within 90 days of becoming a resident of this state.

~~(8)(7) Upon becoming a resident of this state, an individual who holds a Florida nonresident agent's license is no longer eligible for licensure as a nonresident agent if such individual fails to make application for a resident license and become licensed as a resident agent within 90 days. and His or her license and any appointments shall be canceled immediately. The individual may apply for a resident license pursuant to s. 626.831.~~

Section 44. Subsection (1) of section 626.837, Florida Statutes, is amended to read:

626.837 Excess or rejected business.—

(1) A licensed health agent may place excess or rejected risks within the class of business for which he or she is licensed and appointed, and which the insurer appointing the agent is authorized to transact, with any other authorized insurer without being required to secure an appointment as to such other insurer, but subject to the agent's agreement with the insurer appointing licensing him or her.

Section 45. Paragraph (a) of subsection (2) of section 626.8411, Florida Statutes, is amended to read:

626.8411 Application of Florida Insurance Code provisions to title insurance agents or agencies.—

(2) The following provisions of part I do not apply to title insurance agents or title insurance agencies:

(a) Section 626.112(7)(8), relating to licensing of insurance agencies.

Section 46. Paragraph (a) of subsection (3) of section 626.8417, Florida Statutes, is amended to read:

626.8417 Title insurance agent's license; application and qualification; errors and omissions insurance; bond and deposit requirements; exemptions.—

(3) The department shall not grant or issue a license as title agent to any individual found by it to be untrustworthy or incompetent, who does not meet the qualifications for examination specified in s. 626.8414, or who does not meet the following qualifications:

(a) Within the 4 years immediately preceding the date of the application for license, the applicant must have completed a 40-hour classroom course in title insurance, as approved by the department, or must have had at least 12 months of experience in responsible title insurance duties, while working in the title insurance business as a substantially full-time, bona fide employee of a title agency, title agent, or title insurer, or attorney who conducts real estate closing transactions and issues title insurance policies but who is exempt from licensure pursuant to paragraph (4)(a). If an applicant's qualifications are based upon the periods of employment at responsible title insurance duties, the applicant must submit, with the application for license on a form prescribed by the department, the affidavit of the applicant and of the employer setting forth the period of such employment, that the employment was substantially full time, and giving a brief abstract of the nature of the duties performed by the applicant.

Section 47. Subsection (2) of section 626.8418, Florida Statutes, is amended to read:

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

(2) The applicant must have deposited with the department securities of the type eligible for deposit under s. 625.52 and having at all times a market value of not less than \$35,000. In place of such deposit, the title insurance agency may post a surety bond of like amount payable to the department for the benefit of any appointing insurer damaged by a violation by the title insurance agency of its contract with the appointing insurer. If a properly documented claim is timely filed with the department by a damaged title insurer, the department may remit an appropriate amount of the deposit or the proceeds that are received from the surety in payment of the claim ~~damaged insurer making claim on the bond.~~ The required deposit or bond must be made by the title insurance agency, and a title insurer may not provide the deposit or bond directly or indirectly on behalf of the title insurance agency. The deposit or bond must secure the performance by the title insurance agency of its duties and responsibilities under the issuing agency contracts with each title insurer underwriter for which it is appointed. The agency may exchange or substitute other securities of like quality and value for securities on deposit, may receive the interest and other income accruing on such securities, and may inspect the deposit at all reasonable times. Such deposit or bond must remain unimpaired as long as the title insurance agency continues in business in this state and until 1 year after termination of all title insurance agency appointments licenses held by the title insurance agency. The title insurance agency is entitled to the return of the deposit or bond together with accrued interest after such year has passed, if no claim has been made against the deposit or bond. If a surety bond is unavailable generally, the department may adopt rules for alternative methods to comply with this subsection. With respect to such alternative methods for compliance, the department must be guided by the past business performance and good reputation and character of the proposed title insurance agency. A surety bond is deemed to be unavailable generally if the prevailing annual premium exceeds 25 percent of the principal amount of the bond.

Section 48. Section 626.8437, Florida Statutes, is amended to read:

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

(1) Lack of one or more of the qualifications for the license or appointment as specified in ss. s. 626.8417, 626.8418, and 626.8419.

(2) Material misstatement, misrepresentation, or fraud in obtaining, or attempting to obtain, the license or appointment.

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

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

(5) Demonstrated lack of reasonably adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(6) Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(7) Misappropriation, conversion, or unlawful withholding of moneys belonging to title insurers or insureds or others and received in conduct of business under the license or appointment.

(8) Unlawful rebating, or attempting to unlawfully rebate, or unlawfully dividing, or offering to unlawfully divide, title insurance premiums, fees, or charges with another, as prohibited by s. 626.9541(1)(h)3.

(9) Willful failure to comply with, or willful violation of, any proper order or rule of the department or willful violation of any provision of this act.

(10) The licensee if an individual, or the partners if a partnership, or owner if a sole proprietorship, or the officers if a corporation, having been found guilty of or having pleaded guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state or under the law of any other country which involves moral turpitude, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

Section 49. Section 626.844, Florida Statutes, is amended to read:

626.844 Grounds for discretionary refusal, suspension, or revocation of license or appointment.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any title insurance agent or agency, and it may suspend or revoke the eligibility to hold a license or appointment of any such title insurance agent or agency person if it finds that as to the applicant or licensee or appointee, or any principal thereof, any one or more of the following grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.8437:

(1) Any cause for which issuance of the license or appointment could have been refused had it then existed and been known to the department.

(2) Violation of any provision of this act in the course of dealing under the license or appointment.

(3) Violation of any lawful order or rule of the department.

(4) Failure or refusal upon demand to pay over to any title insurer that the appointee represents or has represented any money coming into the hands of such appointee and belonging to the title insurer.

(5) Engaging in unfair methods of competition or in unfair or deceptive acts or practices in the conduct of business, as prohibited under part X of this chapter, or having otherwise shown himself or herself to be a source of injury or loss to the public or to be detrimental to the public interest.

(6) The licensee if an individual, or the partners if a partnership, or owner if a sole proprietorship, or the officers if a corporation, having been found guilty of or having pleaded guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

Section 50. Subsections (1), (3), and (4) of section 626.8443, Florida Statutes, are amended to read:

626.8443 Duration of suspension or revocation.—

(1) The department shall, in its order suspending a title insurance agent's or agency's license or appointment or in its order suspending the eligibility of a person to hold or apply for such license or appointment, specify the period during which the suspension is to be in effect, but such period shall not exceed 1 year. The license, or appointment, or eligibility shall remain suspended during the period so specified, subject, however, to any rescission or modification of the order by the department, or modification or reversal thereof by the court, prior to expiration of the suspension period. A license, ~~and~~ appointment, or eligibility which has been suspended may not be reinstated except upon request for such reinstatement, but the department shall not grant such reinstatement if it finds that the circumstance or circumstances for which the license, appointment, and eligibility was suspended still exist or are likely to recur.

(3) If licenses of any person as a title insurance agent ~~or agency has~~ have been revoked twice, the department shall not thereafter grant or issue a title insurance agent's or agency's license to such person.

(4) During the period of suspension or after revocation of the license and appointment, the former licensee shall not engage in or attempt to profess to engage in any transaction or business for which a license or appointment is required under this code or directly or indirectly own, control, or be employed in any manner by any insurance agent or agency or adjuster or adjusting firm act.

Section 51. Subsections (1) and (2) of section 626.852, Florida Statutes, are amended to read:

626.852 Scope of this part.—

(1) This part applies only as to insurance adjusters ~~and claims investigators as defined hereinafter~~ in this part defined.

(2) Unless otherwise required by context, the term "adjusters" as used in this part applies to all licensees ~~defined herein~~ as any type of adjuster ~~or as a claims investigator.~~

Section 52. Section 626.858, Florida Statutes, is amended to read:

626.858 “Nonresident company employee adjuster” defined.—A “nonresident company employee adjuster” is a person who:

(1) Is not a resident of this state;

(2) Is a currently licensed or authorized adjuster in his or her home state for the type or kinds of insurance for which he or she intends to adjust claims ~~for~~ in this state; and

(3) Is an employee of an insurer, or other insurers under the common control or ownership of such insurer, admitted to do business in this state.; and

~~(4) Does not maintain an office in this state for the purpose of adjusting losses in this state.~~

Section 53. Section 626.8582, Florida Statutes, is created to read:

626.8582 “Nonresident public adjuster” defined.—A “nonresident public adjuster” is a person who:

(1) Is not a resident of this state;

(2) Is a currently licensed public adjuster in his or her state of residence for the type or kinds of insurance for which the licensee intends to adjust claims in this state or, if a resident of a state that does not license public adjusters, has passed the department’s adjuster examination as prescribed in s. 626.8732(1)(b); and

(3) Is a self-employed public adjuster or associated with or employed by a public adjusting firm or other public adjuster.

Section 54. Section 626.8584, Florida Statutes, is created to read:

626.8584 “Nonresident independent adjuster” defined.—A “nonresident independent adjuster” is a person who:

(1) Is not a resident of this state;

(2) Is a currently licensed independent adjuster in his or her state of residence for the type or kinds of insurance for which the licensee intends to adjust claims in this state or, if a resident of a state that does not license independent adjusters, has passed the department’s adjuster examination as prescribed in s. 626.8734(1)(b); and

(3) Is a self-employed independent adjuster or associated with or employed by an independent adjusting firm or other independent adjuster.

Section 55. Subsection (2) of section 626.865, Florida Statutes, is amended to read:

626.865 Public adjuster’s qualifications, bond.—

(2) At the time of application for license as a public adjuster, the applicant shall file with the department a bond executed and issued by a surety insurer authorized to transact such business in this state, in the amount of ~~\$50,000~~ \$5,000, conditioned for the faithful performance of his or her duties as a public adjuster under the license applied for. The bond shall be in favor of the department and shall specifically authorize recovery by the department of the damages sustained in case the licensee is guilty of fraud or unfair practices in connection with his or her business as public adjuster. The aggregate liability of the surety for all such damages shall in no event exceed the amount of the bond. Such bond shall not be terminated unless at least 30 days' written notice is given to the licensee and filed with the department.

Section 56. Section 626.873, Florida Statutes, is amended to read:

626.873 Nonresident company employee adjusters.—The department shall, upon application therefor, issue a license to an applicant for a nonresident adjuster's license upon determining that the applicant has paid the applicable license fees required under s. 624.501 and:

(1) Is a currently licensed insurance adjuster in his or her home state, if such state requires a license.

(2) Is an employee of an insurer, or a wholly owned subsidiary of an insurer, admitted to do business in this state.

~~(3) Does not maintain an office in this state for the purpose of adjusting losses in this state.~~

~~(3)~~(4) Has filed a certificate or letter of authorization from the insurance department of his or her home state, if such state requires an adjuster to be licensed, stating that he or she holds a current license or authorization to adjust insurance losses. Such certificate or authorization must be signed by the insurance commissioner, or his or her deputy, of the adjuster's home state and must reflect whether or not the adjuster has ever had his or her license or authorization in the adjuster's home state suspended or revoked and, if such is the case, the reason for such action.

Section 57. Section 626.8732, Florida Statutes, is created to read:

626.8732 Nonresident public adjuster's qualifications, bond.—

(1) The department shall, upon application therefor, issue a license to an applicant for a nonresident public adjuster's license upon determining that the applicant has paid the applicable license fees required under s. 624.501 and:

(a) Is a natural person at least 18 years of age.

(b) Has passed to the satisfaction of the department a written Florida public adjuster's examination of the scope prescribed in s. 626.241(6); however, the requirement for such an examination does not apply to any of the following:

1. An applicant who is licensed as a resident public adjuster in his or her state of residence, when that state requires the passing of a written examination in order to obtain the license and a reciprocal agreement with the appropriate official of that state has been entered into by the department; or

2. An applicant who is licensed as a nonresident public adjuster in a state other than his or her state of residence when the state of licensure requires the passing of a written examination in order to obtain the license and a reciprocal agreement with the appropriate official of the state of licensure has been entered into by the department.

(c) Is self-employed as a public adjuster or associated with or employed by a public adjusting firm or other public adjuster. Applicants licensed as nonresident public adjusters under this section must be appointed as such in accordance with the provisions of ss. 626.112 and 626.451. Appointment fees in the amount specified in s. 624.501 must be paid to the department in advance. The appointment of a nonresident public adjuster shall continue in force until suspended, revoked, or otherwise terminated, but subject to biennial renewal or continuation by the licensee in accordance with procedures prescribed in s. 626.381 for licensees in general.

(d) Is trustworthy and has such business reputation as would reasonably assure that he or she will conduct his or her business as a nonresident public adjuster fairly and in good faith and without detriment to the public.

(e) Has had sufficient experience, training, or instruction concerning the adjusting of damages or losses under insurance contracts, other than life and annuity contracts; is sufficiently informed as to the terms and effects of the provisions of those types of insurance contracts; and possesses adequate knowledge of the laws of this state relating to such contracts as to enable and qualify him or her to engage in the business of insurance adjuster fairly and without injury to the public or any member thereof with whom he or she may have business as a public adjuster.

(2) The applicant shall furnish the following with his or her application:

(a) A complete set of his or her fingerprints. The applicant's fingerprints must be certified by an authorized law enforcement officer. The department may not authorize an applicant to take the required examination or issue a nonresident public adjuster's license to the applicant until the department has received a report from the Florida Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

(b) If currently licensed as a resident public adjuster in the applicant's state of residence, a certificate or letter of authorization from the licensing authority of the applicant's state of residence, stating that the applicant holds a current or comparable license to act as a public adjuster. The certificate or letter of authorization must be signed by the insurance commissioner or his or her deputy or the appropriate licensing official and must disclose whether the adjuster has ever had any license or eligibility to hold any license declined, denied, suspended, revoked, or placed on probation or

whether an administrative fine or penalty has been levied against the adjuster and, if so, the reason for the action.

(c) If the applicant's state of residence does not require licensure as a public adjuster and the applicant has been licensed as a resident insurance adjuster, agent, broker, or other insurance representative in his or her state of residence or any other state within the past 3 years, a certificate or letter of authorization from the licensing authority stating that the applicant holds or has held a license to act as such an insurance adjuster, agent, or other insurance representative. The certificate or letter of authorization must be signed by the insurance commissioner or his or her deputy or the appropriate licensing official and must disclose whether or not the adjuster, agent, or other insurance representative has ever had any license or eligibility to hold any license declined, denied, suspended, revoked, or placed on probation or whether an administrative fine or penalty has been levied against the adjuster and, if so, the reason for the action.

(3) At the time of application for license as a nonresident public adjuster, the applicant shall file with the department a bond executed and issued by a surety insurer authorized to transact surety business in this state, in the amount of \$50,000, conditioned for the faithful performance of his or her duties as a nonresident public adjuster under the license applied for. The bond must be in favor of the department and must specifically authorize recovery by the department of the damages sustained if the licensee commits fraud or unfair practices in connection with his or her business as nonresident public adjuster. The aggregate liability of the surety for all the damages may not exceed the amount of the bond. The bond may not be terminated unless at least 30 days' written notice is given to the licensee and filed with the department.

(4) The usual and customary records pertaining to transactions under the license of a nonresident public adjuster must be retained for at least 3 years after completion of the adjustment and must be made available in this state to the department upon request. The failure of a nonresident public adjuster to properly maintain records and make them available to the department upon request constitutes grounds for the immediate suspension of the license issued under this section.

(5) After licensure as a nonresident public adjuster, as a condition of doing business in this state, the licensee must annually on or before January 1, on a form prescribed by the department, submit an affidavit certifying that the licensee is familiar with and understands the insurance code and rules adopted thereunder and the provisions of the contracts negotiated or to be negotiated. Compliance with this filing requirement is a condition precedent to the issuance, continuation, reinstatement, or renewal of a nonresident public adjuster's appointment.

Section 58. Section 626.8734, Florida Statutes, is created to read:

626.8734 Nonresident independent adjuster's qualifications.—

(1) The department shall, upon application therefor, issue a license to an applicant for a nonresident independent adjuster's license upon determining

that the applicant has paid the applicable license fees required under s. 624.501 and:

(a) Is a natural person at least 18 years of age.

(b) Has passed to the satisfaction of the department a written Florida independent adjuster's examination of the scope prescribed in s. 626.214(6); however, the requirement for the examination does not apply to any of the following:

1. An applicant who is licensed as a resident independent adjuster in his or her state of residence when that state requires the passing of a written examination in order to obtain the license and a reciprocal agreement with the appropriate official of that state has been entered into by the department; or

2. An applicant who is licensed as a nonresident independent adjuster in a state other than his or her state of residence when the state of licensure requires the passing of a written examination in order to obtain the license and a reciprocal agreement with the appropriate official of the state of licensure has been entered into by the department.

(c) Is self-employed or associated with or employed by an independent adjusting firm or other independent adjuster. Applicants licensed as nonresident independent adjusters under this section must be appointed as such in accordance with the provisions of ss. 626.112 and 626.451. Appointment fees in the amount specified in s. 624.501 must be paid to the department in advance. The appointment of a nonresident independent adjuster shall continue in force until suspended, revoked, or otherwise terminated, but subject to biennial renewal or continuation by the licensee in accordance with procedures prescribed in s. 626.381 for licensees in general.

(d) Is trustworthy and has such business reputation as would reasonably assure that he or she will conduct his business as a nonresident independent adjuster fairly and in good faith and without detriment to the public.

(e) Has had sufficient experience, training, or instruction concerning the adjusting of damages or losses under insurance contracts, other than life and annuity contracts; is sufficiently informed as to the terms and effects of the provisions of those types of insurance contracts; and possesses adequate knowledge of the laws of this state relating to such contracts as to enable and qualify him or her to engage in the business of insurance adjuster fairly and without injury to the public or any member thereof with whom he or she may have business as an independent adjuster.

(2) The applicant shall furnish the following with his or her application:

(a) A complete set of his or her fingerprints. The applicant's fingerprints must be certified by an authorized law enforcement officer.

(b) If currently licensed as a resident independent adjuster in the applicant's state of residence, a certificate or letter of authorization from the licensing authority of the applicant's state of residence, stating that the

applicant holds a current license to act as an independent adjuster. Such certificate or letter of authorization must be signed by the insurance commissioner or his or her deputy or the appropriate licensing official and must disclose whether the adjuster has ever had any license or eligibility to hold any license declined, denied, suspended, revoked or placed on probation or whether an administrative fine or penalty has been levied against the adjuster and, if so, the reason for the action.

(c) If the applicant's state of residence does not require licensure as an independent adjuster and the applicant has been licensed as a resident insurance adjuster, agent, broker, or other insurance representative in his state of residence or any other state within the past 3 years, a certificate or letter of authorization from the licensing authority stating that the applicant holds or has held a license to act as an insurance adjuster, agent, or other insurance representative. The certificate or letter of authorization must be signed by the insurance commissioner or his or her deputy or the appropriate licensing official and must disclose whether the adjuster, agent, or other insurance representative has ever had any license or eligibility to hold any license declined, denied, suspended, revoked or placed on probation or whether an administrative fine or penalty has been levied against the adjuster and, if so, the reason for the action.

(3) The usual and customary records pertaining to transactions under the license of a nonresident independent adjuster must be retained for at least 3 years after completion of the adjustment and must be made available in this state to the department upon request. The failure of a nonresident independent adjuster to properly maintain records and make them available to the the department upon request constitutes grounds for the immediate suspension of the license issued under this section.

(4) After licensure as a nonresident independent adjuster, as a condition of doing business in this state, the licensee must annually on or before January 1, on a form prescribed by the department, submit an affidavit certifying that the licensee is familiar with and understands the insurance laws and administrative rules of this state and the provisions of the contracts negotiated or to be negotiated. Compliance with this filing requirement is a condition precedent to the issuance, continuation, reinstatement, or renewal of a nonresident independent adjuster's appointment.

Section 59. Section 626.8736, Florida Statutes, is created to read:

626.8736 Nonresident independent or public adjusters; service of process.—

(1) Each licensed nonresident independent or public adjuster shall appoint the Insurance Commissioner and Treasurer and his or her successors in office as his or her attorney to receive service of legal process issued against the nonresident independent or public adjuster in this state, upon causes of action arising within this state out of transactions under his license and appointment. Service upon the Insurance Commissioner and Treasurer as attorney shall constitute effective legal service upon the nonresident independent or public adjuster.

(2) The appointment of the Insurance Commissioner and Treasurer for service of process shall be irrevocable for as long as there could be any cause of action against the nonresident independent or public adjuster arising out of his or her insurance transactions in this state.

(3) Duplicate copies of legal process against the nonresident independent or public adjuster shall be served upon the Insurance Commissioner and Treasurer by a person competent to serve a summons.

(4) Upon receiving the service, the Insurance Commissioner and Treasurer shall forthwith send one of the copies of the process, by registered mail with return receipt requested, to the defendant nonresident independent or public adjuster at his or her last address of record with the department.

(5) The Insurance Commissioner and Treasurer shall keep a record of the day and hour of service upon him or her of all legal process received under this section.

Section 60. Section 626.8737, Florida Statutes, is created to read:

626.8737 Nonresident adjusters; retaliatory provision.—When under the laws of any other state any fine, tax, penalty, license fee, deposit of money, or security or other obligation, limitation, or prohibition is imposed upon resident insurance adjusters of this state in connection with the issuance of, and activities under, a nonresident adjuster's license under the laws of that state as to Florida resident insurance adjusters, then so long as these laws continue in force or are so administered, the same requirements, obligations, limitations, and prohibitions, of whatever kind, shall be imposed upon every insurance adjuster of that other state when doing business in this state under a nonresident adjuster's license issued under this part.

Section 61. Section 626.8738, Florida Statutes, is created to read:

626.8738 Penalty for violation.—In addition to any other remedy imposed pursuant to this code, any person who acts as a resident or nonresident public adjuster or holds himself or herself out to be a public adjuster to adjust claims in this state, without being licensed by the department as a public adjuster and appointed as a public adjuster, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each act in violation of this section constitutes a separate offense.

Section 62. Subsection (5) of section 626.869, Florida Statutes, is amended to read:

626.869 License, adjusters.—

(5) Any person holding a license for 24 consecutive months or longer and appointment and who engages in adjusting workers' compensation insurance must, beginning in their birth month and every 2 years thereafter, have completed 24 hours of courses, 2 hours of which relate to ethics, in subjects shall certify to the department every 2 years, at least 90 days prior to the renewal date of his or her appointment, the fact that the licensee has completed a course of instruction designed to inform the licensee regarding as

to the current workers' compensation laws of this state, so as to enable him or her to engage in such business as a workers' compensation insurance adjuster fairly and without injury to the public and to adjust all claims in accordance with the policy or contract and the workers' compensation laws of this state. In order to qualify as an eligible course under this subsection, the course must shall:

(a) ~~Have a~~ Consist of 24 hours of classroom instruction in the workers' compensation laws and practices of this state, 2 hours of which shall relate to ethics, with the course outline approved by the department. It is not required that the 24 hours of classroom instruction take place in one course.

(b) Be taught at a school training facility or other location approved by the department.

(c) Be taught by instructors with at least 5 years of experience in the area of workers' compensation, general lines of insurance, or other persons approved by the department. However, a member of The Florida Bar is shall be exempt from the 5 years' experience requirement.

(d) Furnish the attendee a certificate of completion. The ~~sponsor of the course provider~~ shall send a roster copy of the certificate of completion to the department in a format prescribed by the department.

Section 63. Section 626.8695, Florida Statutes, is amended to read:

626.8695 Primary adjuster.—

(1) ~~On or before January 1, 1993, and annually thereafter,~~ Each person operating an adjusting firm and each location of a multiple location adjusting firm must designate a primary adjuster for each such firm or location and must file with the department the name of such primary adjuster and the address of the firm or location where he or she is the primary adjuster, on a form approved by the department. The designation of the primary adjuster may be changed at the option of the adjusting firm. Any such change is effective upon notification to the department. Notice of change must be sent to the department within 30 days after such change.

(2)(a) For purposes of this section, a "primary adjuster" is the licensed adjuster who is responsible for the hiring and supervision of all individuals within an adjusting firm location who deal with the public and who acts in the capacity of a public adjuster as defined in s. 626.854, or an independent adjuster as defined in s. 626.855. An adjuster may be designated as a primary adjuster for only one adjusting firm location.

(b) For purposes of this section, an "adjusting firm" is a location where an independent or public adjuster is engaged in the business of insurance.

(3) The department may suspend or revoke the license of the primary adjuster if the ~~an~~ adjusting firm employs any person who has had a license denied or any person whose license is currently suspended or revoked. However, if a person has been denied a license for failure to pass a required examination, he or she may be employed to perform clerical or administrative functions for which licensure is not required.

(4) The primary adjuster in an unincorporated adjusting firm, or the primary adjuster in an incorporated adjusting firm in which no officer, director, or stockholder is an adjuster, is responsible and accountable for the acts of salaried employees under his or her direct supervision and control while acting on behalf of the adjusting firm. Nothing in this section renders any person criminally liable or subject to any disciplinary proceedings for any act unless the person personally committed or knew or should have known of the act and of the facts constituting a violation of this code.

(5) The department may suspend or revoke the license of any adjuster who is employed by a person whose license is currently suspended or revoked.

(6) ~~An~~ No adjusting firm location may not conduct the business of insurance unless a primary adjuster is designated. Failure of the person operating the adjusting firm to designate a primary adjuster for the firm, or for each location, as applicable, on a form prescribed by the department within 30 days after inception of the firm or change of primary adjuster designation, constitutes grounds for requiring the adjusting firm to obtain an adjusting firm license pursuant to s. 626.8696.

(7) Any adjusting firm may request, on a form prescribed by the department, verification from the department of any person's current licensure status. If a request is mailed to the department within 5 working days after the date an adjuster is hired, and the department subsequently notifies the adjusting firm that an employee's license is currently suspended, revoked, or has been denied, the license of the primary adjuster shall not be revoked or suspended if the unlicensed person is immediately dismissed from employment as an adjuster with the firm.

Section 64. Subsection (5) is added to section 626.872, Florida Statutes, to read:

626.872 Temporary license.—

(5) The department shall not issue a temporary license as an independent adjuster or as a company employee adjuster to any individual who has ever held such a license in this state.

Section 65. Section 626.873, Florida Statutes, is amended to read:

626.873 Nonresident adjusters.—

(1) The department shall, upon application therefor, issue a license to an applicant for a nonresident adjuster's license upon determining that the applicant has paid the applicable license fees required under s. 624.501 and:

~~(a)~~(1) Is a currently licensed insurance adjuster in his or her home state, if such state requires a license.

~~(b)~~(2) Is an employee of an insurer admitted to do business in this state.

~~(c)~~(3) Does not maintain an office in this state for the purpose of adjusting losses in this state.

(d)(4) Has filed a certificate or letter of authorization from the insurance department of his or her home state, if such state requires an adjuster to be licensed, stating that he or she holds a current license or authorization to adjust insurance losses. Such certificate or authorization must be signed by the insurance commissioner, or his or her deputy, of the adjuster's home state and must reflect whether or not the adjuster has ever had his or her license or authorization in the adjuster's home state suspended or revoked and, if such is the case, the reason for such action.

(2) Any individual who holds a Florida nonresident adjuster's license, upon becoming a resident of this state may, for a period not to exceed 90 days, continue to adjust claims in this state under his or her nonresident license and appointment. Such individual must make application for resident licensure and must become licensed as a resident adjuster within 90 days of becoming a resident of this state.

(3) Upon becoming a resident of this state, an individual who holds a Florida nonresident adjuster's license is no longer eligible for licensure as a nonresident adjuster if such individual fails to make application for a resident license and become licensed as a resident adjuster within 90 days. Such individual may apply for a resident license pursuant to s. 626.865, s. 626.866, or s. 626.867.

Section 66. Subsection (2) of section 626.875, Florida Statutes, is amended to read:

626.875 Office and records.—

(2) The records of the adjuster relating to a particular claim or loss shall be so retained in the adjuster's place of business for a period of not less than 3 years ~~1 year~~ after completion of the adjustment. This provision shall not be deemed to prohibit return or delivery to the insurer or insured of documents furnished to or prepared by the adjuster and required by the insurer or insured to be returned or delivered thereto.

Section 67. Section 626.877, Florida Statutes, is amended to read:

626.877 Adjustments to comply with insurance contract and law.—Every adjuster ~~and claims investigator~~ shall adjust or investigate every claim, damage, or loss made or occurring under an insurance contract, in accordance with the terms and conditions of the contract and of the applicable laws of this state.

Section 68. Effective upon this act becoming a law, subsection (2) of section 626.918, Florida Statutes, is amended to read:

626.918 Eligible surplus lines insurers.—

(2) No unauthorized insurer shall be or become an eligible surplus lines insurer unless made eligible by the department in accordance with the following conditions:

(a) Eligibility of the insurer must be requested in writing by a Florida-licensed surplus lines agent;

(b) The insurer must be currently an authorized insurer in the state or country of its domicile as to the kind or kinds of insurance proposed to be so placed and must have been such an insurer for not less than the 3 years next preceding or must be the wholly owned subsidiary of such authorized insurer or must be the wholly owned subsidiary of an already eligible surplus lines insurer as to the kind or kinds of insurance proposed for a period of not less than the 3 years next preceding. However, the department may waive the 3-year requirement if the insurer provides a product or service not readily available to the consumers of this state or has operated successfully for a period of at least 1 year next preceding and has capital and surplus of not less than \$25 million;

(c) Before granting eligibility, the requesting surplus lines agent or the insurer shall furnish the department with a duly authenticated copy of its current annual financial statement in the English language and with all monetary values therein expressed in United States dollars, at an exchange rate (in the case of statements originally made in the currencies of other countries) then-current and shown in the statement, and with such additional information relative to the insurer as the department may request;

(d)1. The insurer must have and maintain surplus as to policyholders of not less than \$15 million; in addition, an alien insurer must also have and maintain in the United States a trust fund for the protection of all its policyholders in the United States under terms deemed by the department to be reasonably adequate, in an amount not less than 5.4 million. Any such surplus as to policyholders or trust fund shall be represented by investments consisting of eligible investments for like funds of like domestic insurers under part II of chapter 625 provided, however, that in the case of an alien insurance company, any such surplus as to policyholders may be represented by investments permitted by the domestic regulator of such alien insurance company if such investments are substantially similar in terms of quality, liquidity, and security to eligible investments for like funds of like domestic insurers under part II of chapter 625;

2. For those surplus lines insurers that were eligible on January 1, 1994, and that maintained their eligibility thereafter, the required surplus as to policyholders shall be:

- a. On December 31, 1994, and until December 30, 1995, \$2.5 million.
- b. On December 31, 1995, and until December 30, 1996, \$3.5 million.
- c. On December 31, 1996, and until December 30, 1997, \$4.5 million.
- d. On December 31, 1997, and until December 30, 1998, \$5.5 million.
- e. On December 31, 1998, and until December 30, 1999, \$6.5 million.
- f. On December 31, 1999, and until December 30, 2000, \$8 million.
- g. On December 31, 2000, and until December 30, 2001, \$9.5 million.
- h. On December 31, 2001, and until December 30, 2002, \$11 million.

- i. On December 31, 2002, and until December 30, 2003, \$13 million.
- j. On December 31, 2003, and thereafter, \$15 million.

3. The capital and surplus requirements as set forth in subparagraph 2. do not apply in the case of an insurance exchange created by the laws of individual states, where the exchange maintains capital and surplus pursuant to the requirements of that state, or maintains capital and surplus in an amount not less than \$50 million in the aggregate. For an insurance exchange which maintains funds in the amount of at least \$12 million for the protection of all insurance exchange policyholders, each individual syndicate shall maintain minimum capital and surplus in an amount not less than \$3 million. If the insurance exchange does not maintain funds in the amount of at least \$12 million for the protection of all insurance exchange policyholders, each individual syndicate shall meet the minimum capital and surplus requirements set forth in subparagraph 2.;

4. A surplus lines insurer which is a member of an insurance holding company that includes a member which is a Florida domestic insurer as set forth in its holding company registration statement, as set forth in s. 628.801 and rules ~~adopted~~ promulgated thereunder, may elect to maintain surplus as to policyholders in an amount equal to the requirements of s. 624.408, subject to the requirement that the surplus lines insurer shall at all times be in compliance with the requirements of chapter 625.

The election shall be submitted to the department and shall be effective upon the department's being satisfied that the requirements of subparagraph 4. this sub-subparagraph have been met. The initial date of election shall be the date of department approval. The election approval application shall be on a form adopted by department rule. The department may approve an election form submitted pursuant to subparagraph 4. only if it was on file with the department before February 28, 1998;

(e) The insurer must be of good reputation as to the providing of service to its policyholders and the payment of losses and claims;

(f) The insurer must be eligible, as for authority to transact insurance in this state, under s. 624.404(3); and

(g) This subsection does not apply as to unauthorized insurers made eligible under s. 626.917 as to wet marine and aviation risks.

Section 69. Subsection (1) of section 626.922, Florida Statutes, is amended to read:

626.922 Evidence of the insurance; changes; penalty.—

(1) Upon placing a surplus lines coverage, the surplus lines agent shall promptly issue and deliver to the insured evidence of the insurance consisting either of the policy as issued by the insurer or, if such policy is not then available, a certificate, cover note, or other confirmation of insurance. Such document shall be executed or countersigned by the surplus lines agent and shall show the description and location of the subject of the insurance;

coverage, conditions, and term of the insurance; the premium and rate charged and taxes collected from the insured; and the name and address of the insured and insurer. If the direct risk is assumed by more than one insurer, the document shall state the name and address and proportion of the entire direct risk assumed by each insurer. A surplus lines agent may not delegate the duty to issue any such document to producing general lines agents without prior written authority from the surplus lines insurer. A general lines agent may issue any such document only if the agent has prior written authority from the surplus lines agent. The surplus lines agent must maintain copies of the authorization from the surplus lines insurer and the delegation to the producing general lines agent. The producing agent must maintain copies of the written delegation from the surplus lines agent and copies of any evidence of coverage or certificate of insurance which the producing agent issues or delivers. Any evidence of coverage issued by a producing agent pursuant to this section must include the name and address of the authorizing surplus lines agent.

Section 70. Section 626.928, Florida Statutes, is amended to read:

626.928 Surplus lines agent's bond.—Prior to issuance of license, the applicant shall file with the department, and thereafter for as long as any such license remains in effect, shall keep in force and unimpaired, a bond in favor of the department in the penal sum of not less than \$50,000 ~~\$5,000~~, aggregate liability, with authorized corporate surety or sureties approved by the department. The department may, in its discretion, require a bond in a larger amount commensurate with the volume of surplus lines business transacted or to be transacted by a particular surplus lines agent. The bond shall be conditioned that the surplus lines agent will faithfully conduct business under the license in accordance with the provisions of the Surplus Lines Law and rules and regulations of the department for the effectuation thereof and that the licensee will promptly remit to the department the taxes as provided for by such law. No such bond shall be terminated unless not less than 30 days' prior written notice thereof is given the licensee and filed with the department.

Section 71. Subsections (4) and (7) of section 626.927, Florida Statutes, are amended to read:

626.927 Licensing of surplus lines agent.—

(4) License and appointment fees in the amount specified in s. 624.501 shall be paid to the department in advance. The license and appointment of a surplus lines agent continue in force until suspended, revoked, or otherwise terminated. The appointment of a surplus lines agent continues in force until suspended, revoked, or terminated, but is subject to biennial renewal or continuation by the licensee in accordance with procedures prescribed in s. 626.381 for agents in general.

(7) Any individual who has been licensed by the department as a surplus lines agent as provided in this section may be subsequently appointed licensed without additional written examination if his or her application for appointment license is filed with the department within 24 months next following the date of cancellation or expiration of the prior appointment

license. The department may, in its discretion, require any individual to take and successfully pass an examination as for original issuance of license as a condition precedent to the reinstatement ~~renewal~~ or continuation of the licensee's current license or reinstatement or continuation of the licensee's appointment.

Section 72. Subsections (1) and (2) of section 626.9271, Florida Statutes, are amended to read:

626.9271 Temporary license; death, disability, absence of surplus lines agent.—

(1) The department may, in its discretion, issue a temporary license and appointment as a surplus lines agent to a licensed surplus lines agent's employee, family member, business associate, or personal representative for the purpose of continuing or winding up the business affairs of the surplus lines agent or agency, ~~all~~ subject to the following conditions:

(a) The surplus lines agent being replaced must have ~~died become deceased~~ or become unable to perform his or her duties as agent because of military service or illness or other physical or mental disability.

(b) There must be no other person connected with the surplus lines agent's business who is licensed as a surplus lines agent.

(c) The proposed temporary licensee must be qualified ~~as for a regular surplus lines agent's license~~ under this code except as to residence, examination, education, or experience.

(d) Application for the temporary license and appointment must be made by the applicant upon statements and affidavit filed with the department on forms as prescribed and furnished by it.

(e) The temporary license and appointment shall be issued and be valid for a period of not over 4 months, and may ~~shall~~ not be renewed ~~either to the then~~ holder of the temporary license or to any other person for or on behalf of the surplus lines agent or agency.

(2) The applicant for a temporary license and appointment shall pay to the department, prior to the issuance thereof, the applicable license and appointment fees ~~fee as specified therefor~~ in s. 624.501.

Section 73. Subsections (1) and (2) of section 626.929, Florida Statutes, are amended to read:

626.929 Origination, acceptance, placement of surplus lines business.—

(1) A resident general lines agent while licensed and appointed as a surplus lines agent under this part may originate surplus lines business and may accept surplus lines business from any other originating Florida-licensed general lines agent appointed and licensed as to the ~~kind or~~ kinds of insurance involved and may compensate such agent therefor.

(2) A managing general agent while licensed and appointed as a surplus lines agent under this part may accept and place solely such surplus lines business as is originated by a Florida-licensed general lines agent appointed and licensed as to the ~~kind or kinds~~ of insurance involved and may compensate such agent therefor.

Section 74. Subsections (1), (2), and (3) of section 626.935, Florida Statutes, are amended to read:

626.935 Suspension, revocation, or refusal of surplus lines agent's license.—

(1) The department shall deny an application for, suspend, revoke, or refuse to renew the appointment license of a surplus lines agent and all other licenses and appointments held by the licensee under this code, upon any ~~one or more~~ of the following grounds:

(a) Removal of the licensee's office from the state.

(b) Removal of the accounts and records of his or her surplus lines business from this state during the period when such accounts and records are required to be maintained under s. 626.930.

(c) Closure of the licensee's office for a period of more than 30 consecutive days.

(d) Failure to make and file his or her quarterly reports when due as required by s. 626.931.

(e) Failure to pay the tax on surplus lines premiums, as provided for in this Surplus Lines Law.

(f) Failure to maintain the bond as required by s. 626.928.

(g) Suspension, revocation, or refusal to renew or continue the license or appointment as a general lines agent, service representative, or managing general agent.

(h) Lack of qualifications as for an original surplus lines agent's license.

(i) Violation of this Surplus Lines Law.

(j) For any other applicable cause for which the license of a general lines agent could be suspended, revoked, or refused under s. 626.611.

(2) The department may, in its discretion, deny an application for, suspend, revoke, or refuse to renew the license or appointment of any surplus lines agent upon any applicable ground for which a general lines agent's license could be suspended, revoked, or refused under s. 626.621.

(3) In the suspension or revocation of, or the refusal to issue or renew, the license or appointment of a surplus lines agent, the department shall follow the same procedures, as applicable, as provided for suspension, revocation, or refusal of licenses of general lines agents, but subject to s. 626.936 as to failure to file a quarterly report or pay the tax.

Section 75. Subsections (3) and (4) of section 626.944, Florida Statutes, are amended to read:

626.944 Qualifications for health care risk managers.—

(3) The department shall issue a license and an appointment, beginning on June 1, 1986, to practice health care risk management to any applicant who qualifies under this section and submits the license and appointment fees ~~fee~~ as set forth in s. 624.501. Licenses and appointments shall be issued and canceled in the same manner as provided in part I of this chapter.

(4) The department shall renew a health care risk manager appointment license in accordance with procedures prescribed in s. 626.381 for agents in general.

Section 76. Subsection (3) of section 627.745, Florida Statutes, is amended to read:

627.745 Mediation of claims.—

(3)(a) The department shall approve ~~appoint~~ mediators to conduct mediations pursuant to this section. All mediators must file an application under oath for approval as a mediator.

(b) To qualify for approval ~~appointment~~ as a mediator, a person must ~~shall~~ meet the following qualifications:

1. Possess a masters or doctorate degree in psychology, counseling, business, accounting, or economics, be a member of The Florida Bar, be licensed as a certified public accountant, or demonstrate that the applicant for approval ~~appointment~~ has been actively engaged as a qualified mediator for at least 4 years prior to July 1, 1990.

2. Within 4 years immediately preceding the date the application for approval is filed with the department, have completed a minimum of a 40-hour training program approved by the department and successfully passed a final an examination included in the training program and approved by the department. The training program shall include and address all of the following:

- a. Mediation theory.
- b. Mediation process and techniques.
- c. Standards of conduct for mediators.
- d. Conflict management and intervention skills.
- e. Insurance nomenclature.

Section 77. Section 634.317, Florida Statutes, is amended to read:

634.317 License and appointment required.—No person may solicit, negotiate, or effectuate home warranty contracts for remuneration in this state

unless such person is licensed and appointed as a sales representative. A licensed and appointed sales representative shall be directly responsible and accountable for all acts of the licensee's employees.

Section 78. Section 634.420, Florida Statutes, is amended to read:

634.420 License and appointment of sales representatives.—Sales representatives for service warranty associations or insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated in accordance with procedures as prescribed in chapter 626 for insurance representatives in general. However, they shall be exempt from all other provisions of chapter 626, including fingerprinting, photo identification, education, and examination. License, appointment, and other fees shall be those prescribed in s. 624.501. A licensed and appointed sales representative shall be directly responsible and accountable for all acts of the licensed sales representative's ~~her or his~~ employees or other representatives. Each service warranty association or insurer shall, on forms prescribed by the department, within 30 days after termination of the appointment, notify the department of such termination. No employee or sales representative of a service warranty association or insurer may directly or indirectly solicit or negotiate insurance contracts, or hold herself or himself out in any manner to be an insurance agent or solicitor, unless so qualified, licensed, and appointed therefor under the insurance code.

Section 79. Section 642.036, Florida Statutes, is amended to read:

642.036 Sales representatives to be licensed and appointed.—

(4) Sales representatives of legal expense insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in chapter 626 for insurance representatives in general, and shall pay the license and appointment fees prescribed in s. 624.501. No employee or sales representative of an insurer may directly or indirectly solicit or negotiate insurance contracts, or hold herself or himself out in any manner to be an insurance agent or solicitor, unless so qualified, licensed, and appointed therefor under the insurance code.

~~(2) Each casualty insurer shall, on or before March 1 of each odd-numbered year, file with the department the name and business address of each licensed general lines agent or solicitor who solicits, negotiates, sells, or executes legal expense insurance contracts on behalf of the casualty insurer.~~

Section 80. Section 624.412, Florida Statutes, is amended to read:

624.412 Deposit of alien insurers.—

(1) An alien insurer shall not have authority to transact insurance in this state unless it has and maintains within the United States as trust deposits with public officials having supervision over insurers, or with trustees, public depositories, or trust institutions approved by the department, assets available for discharge of its United States insurance obligations, which assets shall be in amount not less than the outstanding reserves and other

liabilities of the insurer arising out of its insurance transactions in the United States together with the amount of surplus as to policyholders required by s. 624.408 of a domestic stock insurer transacting like kinds of insurance.

~~(2) The amount so held on deposit under subsection (1) is, for the purposes of this code, deemed to be minimum surplus of the insurer required to be maintained.~~

~~(2)(3)~~ Any such deposit made in this state shall be held for the protection of the insurer's policyholders or policyholders and creditors in the United States and shall be subject to the applicable provisions of part III of chapter 625 and chapter 630.

Section 81. Section 624.4072, Florida Statutes, is created to read:

624.4072 Minority owned property and casualty insurers; limited exemption for taxation and assessments.—

(1) A minority business that is at least 51 percent owned by minority persons, as defined in s. 288.703(3), initially issued a certificate of authority in this state as an authorized insurer after May 1, 1998, to write property and casualty insurance shall be exempt, for a period not to exceed 5 years from the date of receiving its certificate of authority, from the following taxes and assessments:

(a) Taxes imposed under ss. 624.509, 175.101, and 185.08;

(b) Assessments by the Florida Residential Property and Casualty Joint Underwriting Association or by the Florida Windstorm Underwriting Association, as provided under s. 627.351, except for emergency assessments collected from policyholders pursuant to s. 627.351(2)(b)2.d.(III) and (6)(b)3.d. Any such insurer shall be a member insurer of the Florida Windstorm Underwriting Association and the Florida Residential Property and Casualty Joint Underwriting Association. The premiums of such insurer shall be included in determining, for the Florida Windstorm Underwriting Association, the aggregate statewide direct written premium for property insurance and in determining, for the Florida Residential Property and Casualty Joint Underwriting Association, the aggregate statewide direct written premium for the subject lines of business for all member insurers.

(2) Subsection (1) applies only to personal lines and commercial lines residential property insurance policies as defined in s. 627.4025, and applies only to an insurer that has employees in this state and has a home office or a regional office in this state. With respect to any tax year or assessment year, the exemptions provided by subsection (1) apply only if during the year an average of at least 10 percent of the insurer's Florida residential property policies in force covered properties located in enterprise zones designated pursuant to s. 290.0065.

(3) The provision of the definition of "minority person" in s. 288.703(3) that requires residency in Florida shall not apply to the term "minority person" as used in this section or s. 627.3511.

(4) This section is repealed effective July 1, 2003, and the tax and assessment exemptions authorized by this section shall terminate on such date.

Section 82. Section 624.123, Florida Statutes, is created to read:

624.123 Certain international health insurance policies; exemption from code.—

(1) International health insurance policies and applications may be solicited and sold in this state at any international airport to a resident of a foreign country. Such international health insurance policies shall be solicited and sold only by a licensed health insurance agent and unwritten only by an admitted insurer. For purposes of this subsection:

(a) “International airport” means any airport in Florida with U. S. Customs service, which enplanes more than 1 million passengers per year.

(b) “International health insurance policy” means health insurance, as defined in s. 627.6561(5)(a)2., which is offered to an individual, covering only a resident of a foreign country on an annual basis.

(c) “Resident of a foreign country” does not include any United States citizen, any natural person maintaining his or her residence in this country, or any natural person staying in this state continuously for more than 120 days.

(2) Any international health insurance policy sold, and any application provided, to residents of foreign countries pursuant to this subsection shall contain the following conspicuous, boldfaced disclaimer in at least 12 point type: “This individual health insurance policy may be sold only to a person not a resident of the United States. This policy does not comply with coverage, underwriting, and other provisions of the Florida Insurance Code, and must comply with coverage, underwriting, and other insurance regulatory provisions of your country of residence.”

(3) Any insurer underwriting international health insurance policies pursuant to this subsection is subject to all applicable provisions of the Insurance Code, except as otherwise provided in this subsection. International health insurance policies are not subject to any form approval, rate approval, underwriting restrictions, guaranteed availability, or coverage mandates provided in the Insurance Code. Health insurance agents who are licensed and appointed pursuant to chapter 626 may solicit, sell, effect, collect premium on, and deliver international health insurance policies in accordance with this section. Solicitation or sale of an international health insurance policy to a U. S. citizen or to a natural person not a resident of a foreign country is a willful violation of the provisions of s. 626.611.

(4) Any international health insurance policy or application solicited, provided, entered into, issued, or delivered pursuant to this subsection is exempt from all provisions of the Insurance Code, except that such policy, contract, or agreement is subject to the provisions of ss. 624.155, 624.316, 624.3161, 626.951, 626.9511, 626.9521, 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591, 626.9601, 627.413, 627.4145, 627.428, and 627.6043.

Section 83. Present subsections (3) and (4) of section 627.681, Florida Statutes, are renumbered as subsections (4) and (5), respectively, and a new subsection (3) is added to that section, to read:

627.681 Term and evidence of insurance.—

(3) Notwithstanding s. 627.6785(3), the term of credit life or credit disability insurance may be for less than the term of the indebtedness. However, except for the age limitations referred to in s. 627.6785(3), the term shall extend for at least 5 years or for the term of the indebtedness, whichever is less.

Section 84. Section 440.49, Florida Statutes, is amended to read:

440.49 Limitation of liability for subsequent injury through Special Disability Trust Fund.—

(1) LEGISLATIVE INTENT.—Whereas it is often difficult for workers with disabilities to achieve employment or to become reemployed following an injury, and it is the desire of the Legislature to facilitate the return of these workers to the workplace, it is the purpose of this section to encourage the employment, reemployment, and accommodation of the physically disabled by reducing an employer's insurance premium for reemploying an injured worker, to decrease litigation between carriers on apportionment issues, and to protect employers from excess liability for compensation and medical expense when an injury to a physically disabled worker merges with, aggravates, or accelerates her or his preexisting permanent physical impairment to cause either a greater disability or permanent impairment, or an increase in expenditures for temporary compensation or medical benefits than would have resulted from the injury alone. The division or the administrator shall inform all employers of the existence and function of the fund and shall interpret eligibility requirements liberally. However, this subsection shall not be construed to create or provide any benefits for injured employees or their dependents not otherwise provided by this chapter. The entitlement of an injured employee or her or his dependents to compensation under this chapter shall be determined without regard to this subsection, the provisions of which shall be considered only in determining whether an employer or carrier who has paid compensation under this chapter is entitled to reimbursement from the Special Disability Trust Fund.

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

(a) "Permanent physical impairment" means and is limited to the conditions listed in paragraph (6)(a).

(b) "Preferred worker" means a worker who, because of a permanent impairment resulting from a compensable injury or occupational disease, is unable to return to the worker's regular employment.

(c) "Merger" describes or means that:

1. If the permanent physical impairment had not existed, the subsequent accident or occupational disease would not have occurred;

2. The permanent disability or permanent impairment resulting from the subsequent accident or occupational disease is materially and substantially greater than that which would have resulted had the permanent physical impairment not existed, and the employer has been required to pay, and has paid, permanent total disability or permanent impairment benefits for that materially and substantially greater disability;

3. The preexisting permanent physical impairment is aggravated or accelerated as a result of the subsequent injury or occupational disease, or the preexisting impairment has contributed, medically and circumstantially, to the need for temporary compensation, medical, or attendant care and the employer has been required to pay, and has paid, temporary compensation, medical, or attendant care benefits for the aggravated preexisting permanent impairment; or

4. Death would not have been accelerated if the permanent physical impairment had not existed.

(d) “Excess permanent compensation” means that compensation for permanent impairment, or permanent total disability or death benefits, for which the employer or carrier is otherwise entitled to reimbursement from the Special Disability Trust Fund.

(e) “Administrator” means the entity selected by the commission to review, allow, deny, compromise, controvert, and litigate claims of the Special Disability Trust Fund.

(f) “Corporation” means the Special Disability Trust Fund Financing Corporation, as created under subsection (14).

(g) “Commission” means the Special Disability Trust Fund Privatization Commission, as created under subsection (13).

(3) DEDUCTIBLE.—Reimbursement may not be obtained for the first \$10,000 of benefits paid which otherwise qualify for reimbursement under this section. This deductible does not apply to claims by employers for reimbursement under subparagraph (b)3.

(4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL DISABILITY, TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT CARE AFTER OTHER PHYSICAL IMPAIRMENT.—

(a) Permanent impairment.—If an employee who has a preexisting permanent physical impairment incurs a subsequent permanent impairment from injury or occupational disease arising out of, and in the course of, her or his employment which merges with the preexisting permanent physical impairment to cause a permanent impairment, the employer shall, in the first instance, pay all benefits provided by this chapter; but, subject to the limitations specified in subsection (6), such employer shall be reimbursed from the Special Disability Trust Fund created by subsection (8) for 50 percent of all impairment benefits which the employer has been required to provide pursuant to s. 440.15(3)(a) as a result of the subsequent accident or occupational disease.

(b) Permanent total disability.—If an employee who has a preexisting permanent physical impairment incurs a subsequent permanent impairment from injury or occupational disease arising out of, and in the course of, her or his employment which merges with the preexisting permanent physical impairment to cause permanent total disability, the employer shall, in the first instance, pay all benefits provided by this chapter; but, subject to the limitations specified in subsection (6), such employer shall be reimbursed from the Special Disability Trust Fund created by subsection (8) for 50 percent of all compensation for permanent total disability.

(c) Temporary compensation and medical benefits; aggravation or acceleration of preexisting condition or circumstantial causation.—If an employee who has a preexisting permanent physical impairment experiences an aggravation or acceleration of the preexisting permanent physical impairment as a result of an injury or occupational disease arising out of and in the course of her or his employment, or suffers an injury as a result of a merger as defined in subparagraph (1)(b)2., the employer shall provide all benefits provided by this chapter, but, subject to the limitations specified in subsection (7), the employer shall be reimbursed by the Special Disability Trust Fund created by subsection (8) for 50 percent of its payments for temporary, medical, and attendant care benefits.

(5) WHEN DEATH RESULTS.—If death results from the subsequent permanent impairment contemplated in paragraph (c) within 1 year after the subsequent injury, or within 5 years after the subsequent injury when disability has been continuous since the subsequent injury, and it is determined that the death resulted from a merger, the employer shall, in the first instance, pay the funeral expenses and the death benefits prescribed by this chapter; but, subject to the limitations specified in subsection (6), she or he shall be reimbursed from the Special Disability Trust Fund created by subsection (8) for the last 50 percent of all compensation allowable and paid for such death and for 50 percent of the amount paid as funeral expenses.

(6) EMPLOYER KNOWLEDGE, EFFECT ON REIMBURSEMENT.—

(a) Reimbursement is not allowed under this section unless it is established that the employer knew of the preexisting permanent physical impairment prior to the occurrence of the subsequent injury or occupational disease, and that the permanent physical impairment is one of the following:

1. Epilepsy.
2. Diabetes.
3. Cardiac disease.
4. Amputation of foot, leg, arm, or hand.
5. Total loss of sight of one or both eyes or a partial loss of corrected vision of more than 75 percent bilaterally.
6. Residual disability from poliomyelitis.

7. Cerebral palsy.
8. Multiple sclerosis.
9. Parkinson's disease.
10. Meniscectomy.
11. Patellectomy.
12. Ruptured cruciate ligament.
13. Hemophilia.
14. Chronic osteomyelitis.
15. Surgical or spontaneous fusion of a major weight-bearing joint.
16. Hyperinsulinism.
17. Muscular dystrophy.
18. Thrombophlebitis.
19. Herniated intervertebral disk.
20. Surgical removal of an intervertebral disk or spinal fusion.
21. One or more back injuries or a disease process of the back resulting in disability over a total of 120 or more days, if substantiated by a doctor's opinion that there was a preexisting impairment to the claimant's back.
22. Total deafness.
23. Mental retardation, provided the employee's intelligence quotient is such that she or he falls within the lowest 2 percentile of the general population. However, it shall not be necessary for the employer to know the employee's actual intelligence quotient or actual relative ranking in relation to the intelligence quotient of the general population.
24. Any permanent physical condition which, prior to the industrial accident or occupational disease, constitutes a 20-percent impairment of a member or of the body as a whole.
25. Obesity, provided the employee is 30 percent or more over the average weight designated for her or his height and age in the Table of Average Weight of Americans by Height and Age prepared by the Society of Actuaries using data from the 1979 Build and Blood Pressure Study.
26. Any permanent physical impairment as defined in s. 440.15(3) which is a result of a prior industrial accident with the same employer or the employer's parent company, subsidiary, sister company, or affiliate located within the geographical boundaries of this state.
 - (b) The Special Disability Trust Fund is not liable for any costs, interest, penalties, or attorneys' fees.

(c) An employer's or carrier's right to apportionment or deduction pursuant to ss. 440.02(1), 440.15(5)(b), and 440.151(1)(c) does not preclude reimbursement from such fund, except when the merger comes within the definition of subparagraph (2)(b)2. and such apportionment or deduction relieves the employer or carrier from providing the materially and substantially greater permanent disability benefits otherwise contemplated in those paragraphs.

(7) REIMBURSEMENT OF EMPLOYER.—

(a) The right to reimbursement as provided in this section is barred unless written notice of claim of the right to such reimbursement is filed by the employer or carrier entitled to such reimbursement with the division or administrator at Tallahassee within 2 years after the date the employee last reached maximum medical improvement, or within 2 years after the date of the first payment of compensation for permanent total disability, wage loss, or death, whichever is later. The notice of claim must contain such information as the division by rule requires or as established by the administrator; and the employer or carrier claiming reimbursement shall furnish such evidence in support of the claim as the division or administrator reasonably may require.

(b) For notice of claims on the Special Disability Trust Fund filed on or after July 1, 1978, the Special Disability Trust Fund shall, within 120 days after receipt of notice that a carrier has paid, been required to pay, or accepted liability for excess compensation, serve notice of the acceptance of the claim for reimbursement.

(c) A proof of claim must be filed on each notice of claim on file as of June 30, 1997, within 1 year after July 1, 1997, or the right to reimbursement of the claim shall be barred. A notice of claim on file on or before June 30, 1997, may be withdrawn and refiled if, at the time refiled, the notice of claim remains within the limitation period specified in paragraph (a). Such refiling shall not toll, extend, or otherwise alter in any way the limitation period applicable to the withdrawn and subsequently refiled notice of claim. Each proof of claim filed shall be accompanied by a proof-of-claim fee as provided in paragraph (9)(d). The Special Disability Trust Fund shall, within 120 days after receipt of the proof of claim, serve notice of the acceptance of the claim for reimbursement. This paragraph shall apply to all claims notwithstanding the provisions of subsection (12).

(d) Each notice of claim filed or refiled on or after July 1, 1997, must be accompanied by a notification fee as provided in paragraph (9)(d). A proof of claim must be filed within 1 year after the date the notice of claim is filed or refiled, accompanied by a proof-of-claim fee as provided in paragraph (9)(d), or the claim shall be barred. The notification fee shall be waived if both the notice of claim and proof of claim are submitted together as a single filing. The Special Disability Trust Fund shall, within 180 days after receipt of the proof of claim, serve notice of the acceptance of the claim for reimbursement. This paragraph shall apply to all claims notwithstanding the provisions of subsection (12).

(e) For dates of accident on or after January 1, 1994, the Special Disability Trust Fund shall, within 120 days of receipt of notice that a carrier has been required to pay, and has paid over \$10,000 in benefits, serve notice of the acceptance of the claim for reimbursement. Failure of the Special Disability Trust Fund to serve notice of acceptance shall give rise to the right to request a hearing on the claim for reimbursement. If the Special Disability Trust Fund through its representative denies or controverts the claim, the right to such reimbursement shall be barred unless an application for a hearing thereon is filed with the division or administrator at Tallahassee within 60 days after notice to the employer or carrier of such denial or controversion. When such application for a hearing is timely filed, the claim shall be heard and determined in accordance with the procedure prescribed in s. 440.25, to the extent that such procedure is applicable, and in accordance with the workers' compensation rules of procedure. In such proceeding on a claim for reimbursement, the Special Disability Trust Fund shall be made the party respondent, and no findings of fact made with respect to the claim of the injured employee or the dependents for compensation, including any finding made or order entered pursuant to s. 440.20(12), shall be res judicata. The Special Disability Trust Fund may not be joined or made a party to any controversy or dispute between an employee and the dependents and the employer or between two or more employers or carriers without the written consent of the fund.

(f) When it has been determined that an employer or carrier is entitled to reimbursement in any amount, the employer or carrier shall be reimbursed annually from the Special Disability Trust Fund for the compensation and medical benefits paid by the employer or carrier for which the employer or carrier is entitled to reimbursement, upon filing request therefor and submitting evidence of such payment in accordance with rules prescribed by the division, which rules may include parameters for annual audits. The Special Disability Trust Fund shall pay the approved reimbursement requests on a first-in, first-out basis reflecting the order in which the reimbursement requests were received.

(8) **PREFERRED WORKER PROGRAM.**—The division or administrator shall issue identity cards to preferred workers upon request by qualified employees and shall reimburse an employer, from the Special Disability Trust Fund, for the cost of workers' compensation premium related to the preferred workers payroll for up to 3 years of continuous employment upon satisfactory evidence of placement and issuance of payroll and classification records and upon the employee's certification of employment.

(9) **SPECIAL DISABILITY TRUST FUND.**—

(a) There is established in the State Treasury a special fund to be known as the "Special Disability Trust Fund," which shall be available only for the purposes stated in this section; and the assets thereof may not at any time be appropriated or diverted to any other use or purpose. The Treasurer shall be the custodian of such fund, and all moneys and securities in such fund shall be held in trust by such Treasurer and shall not be the money or property of the state. The Treasurer is authorized to disburse moneys from such fund only when approved by the division or corporation and upon the

order of the Comptroller. The Treasurer shall deposit any moneys paid into such fund into such depository banks as the division or corporation may designate and is authorized to invest any portion of the fund which, in the opinion of the division, is not needed for current requirements, in the same manner and subject to all the provisions of the law with respect to the deposits of state funds by such Treasurer. All interest earned by such portion of the fund as may be invested by the Treasurer shall be collected by her or him and placed to the credit of such fund.

(b)1. The Special Disability Trust Fund shall be maintained by annual assessments upon the insurance companies writing compensation insurance in the state, the commercial self-insurers under ss. 624.462 and 624.4621, the assessable mutuals under s. 628.601, and the self-insurers under this chapter, which assessments shall become due and be paid quarterly at the same time and in addition to the assessments provided in s. 440.51. The division shall estimate annually in advance the amount necessary for the administration of this subsection and the maintenance of this fund and shall make such assessment in the manner hereinafter provided.

2. The annual assessment shall be calculated to produce during the ensuing fiscal year an amount which, when combined with that part of the balance in the fund on June 30 of the current fiscal year which is in excess of \$100,000, is equal to the average of:

a. The sum of disbursements from the fund during the immediate past 3 calendar years, and

b. Two times the disbursements of the most recent calendar year.

Such amount shall be prorated among the insurance companies writing compensation insurance in the state and the self-insurers.

3. The net premiums written by the companies for workers' compensation in this state and the net premium written applicable to the self-insurers in this state are the basis for computing the amount to be assessed as a percentage of net premiums. Such payments shall be made by each insurance company and self-insurer to the division for the Special Disability Trust Fund in accordance with such regulations as the division prescribes.

4. The Treasurer is authorized to receive and credit to such Special Disability Trust Fund any sum or sums that may at any time be contributed to the state by the United States under any Act of Congress, or otherwise, to which the state may be or become entitled by reason of any payments made out of such fund.

(c) Notwithstanding the Special Disability Trust Fund assessment rate calculated pursuant to this section, the rate assessed shall not exceed 4.52 percent.

(d) The Special Disability Trust Fund shall be supplemented by a \$250 notification fee on each notice of claim filed or refiled after July 1, 1997, and a \$500 fee on each proof of claim filed in accordance with subsection (7). Revenues from the fee shall be deposited into the Special Disability Trust

Fund and are exempt from the deduction required by s. 215.20. The fees provided in this paragraph shall not be imposed upon any insurer which is in receivership with the Department of Insurance.

(e) The Department of Labor and Employment Security ~~or administrator~~ shall report annually on the status of the Special Disability Trust Fund. The report shall update the estimated undiscounted and discounted fund liability, as determined by an independent actuary the projected change in fund liability, change in the total number of notices of claim on file with the fund in addition to the number of newly filed notices of claim, change in the number of proofs of claim processed by the fund, ~~and~~ the fee revenues refunded and revenues applied to pay down the liability of the fund, the average time required to reimburse accepted claims, and the average administrative costs per claim. The department ~~or administrator~~ shall submit its ~~initial~~ report to the Governor, the President of the Senate, and the Speaker of the House of Representatives ~~by March 1, 1998, for the period ending February 1, 1998, with additional reports submitted by December 1 of each year, 1998, and December 1, 1999.~~

(10) DIVISION ADMINISTRATION OF FUND; CLAIMS; ADVISORY COMMITTEE; EXPENSES.—The division ~~or administrator~~ shall administer the Special Disability Trust Fund with authority to allow, deny, compromise, controvert, and litigate claims made against it and to designate an attorney to represent it in proceedings involving claims against the fund, including negotiation and consummation of settlements, hearings before judges of compensation claims, and judicial review. The division ~~or administrator~~ or the attorney designated by it shall be given notice of all hearings and proceedings involving the rights or obligations of such fund and shall have authority to make expenditures for such medical examinations, expert witness fees, depositions, transcripts of testimony, and the like as may be necessary to the proper defense of any claim. The division shall appoint an advisory committee composed of representatives of management, compensation insurance carriers, and self-insurers to aid it in formulating policies with respect to conservation of the fund, who shall serve without compensation for such terms as specified by it, but be reimbursed for travel expenses as provided in s. 112.061. All expenditures made in connection with conservation of the fund, including the salary of the attorney designated to represent it and necessary travel expenses, shall be allowed and paid from the Special Disability Trust Fund as provided in this section upon the presentation of itemized vouchers therefor approved by the division.

(11) EFFECTIVE DATES.—This section does not apply to any case in which the accident causing the subsequent injury or death or the disablement or death from a subsequent occupational disease occurred prior to July 1, 1955, or on or after January 1, 1998. In no event shall the Special Disability Trust Fund be liable for, or reimburse employers or carriers for, any case in which the accident causing the subsequent injury or death or the disablement or death from a subsequent occupational disease occurred on or after January 1, 1998. The Special Disability Trust Fund shall continue to reimburse employers or carriers for subsequent injuries occurring prior to January 1, 1998, and the division shall continue to assess for and the division or

administrator shall fund reimbursements as provided in subsection (9) for this purpose.

(12) REIMBURSEMENT FROM THE SPECIAL DISABILITY TRUST FUND.—The applicable law for the purposes of determining entitlement to reimbursement from the Special Disability Trust Fund is the law in effect on the date the accident occurred.

(13)(a) The Special Disability Trust Fund Privatization Commission is created to evaluate and determine the feasibility of privatizing the Special Disability Trust Fund. The commission shall determine the liabilities of the fund and the costs to presently administer the Special Disability Trust Fund. The commission may develop and issue a request for proposal to transfer the liabilities of the Special Disability Trust Fund to a qualified entity. The commission is authorized to select and contract with a qualified entity, only if the commission determines that such an arrangement would substantially reduce the costs and be more effective than the current administration of the Special Disability Trust Fund. The commission may adopt rules necessary for the performance of its assigned duties and responsibilities.

(b) Consistent with the closing of the fund provided in subsection (11), the Special Disability Trust Fund Privatization Commission is authorized to contract with an administrator to review, allow, deny, compromise, controvert, and litigate claims of the Special Disability Trust Fund under this section. The Commission, in consultation with the division, is authorized to contract with a qualified entity to assume the reimbursement obligations of the Special Disability Trust Fund for claims which have previously have accepted for reimbursement by the Special Disability Trust Fund and claims which are determined to be reimbursable by the Special Disability Trust Fund. The qualified entity and the administrator shall not be affiliates of the other, and shall not establish or maintain a financial or contractual agreement with each other for purposes of this section. On or before July 1, 1999, the commission, in consultation with the division, may develop and issue a request for proposal for the transfer and assumption of liabilities, and administration of certain functions related to claims of the Special Disability Trust Fund. The administrator shall have experience in workers' compensation claims management of sufficient scope and size to undertake the duties and responsibilities of this section and shall demonstrate the ability to meet the criteria established by the commission, which shall include the ability to substantially reduce the overall costs of reviewing and reimbursing claims, and to settle and extinguish the liabilities of the Special Disability Trust Fund in a more cost efficient and more timely manner than presently provided by the division. In the event liabilities on the Special Disabilities Trust Fund are transferred to and assumed by a qualified entity, such entity shall provide the state with financial assurance as to the satisfaction of any such liabilities or claims and the state and the Special Disability Trust Fund shall have no further liability with respect to those liabilities and claims. The financial assurances may include, but are not limited to, cash reserves, reinsurance, guarantees, or letters of credit.

(c) The commission shall be composed of three members, one member selected by the Governor; one selected by the Insurance Commissioner; and one selected by the Comptroller.

(d) The commission is authorized to appoint and employ such officers, agents, and employees as the commission deems advisable to operate and manage the affairs of the commission, which officers, agents, and employees may be employees of the division or the State Board of Administration. The commission shall contract with consultants deemed necessary to determine the liabilities of the Special Disability Trust Fund, as of December 31, 1998, and the feasibility of privatizing the Special Disability Trust Fund.

(14) Florida Special Disability Trust Fund Financing Corporation.—

(a) The Legislature finds that:

1. The liabilities of the Special Disability Trust Fund are substantial and that the extinguishment of these liabilities in a cost effective and timely manner are of paramount importance to the state. In connection therewith, in the event that the commission determines that it is more cost effective and in the best interest of the Special Disabilities Trust Fund and the state to finance the liabilities of the Special Disabilities Trust Fund through the issuance of bonds, notes or other evidence of indebtedness, it shall request the assistance of the corporation to issue such bonds, notes or other evidences of indebtedness.

2. The Legislature finds that the creation of a public benefits corporation and the issuance of bonds or other forms of indebtedness under this section is consistent with the underlying public purpose of reducing and ultimately eliminating the liabilities of the Special Disability Trust Fund. The purpose of the corporation and the subsequent bond issuance is to fund and pay the liabilities of the Special Disability Trust Fund, ensure the existence of a sufficient funding source for reimbursements to employers and carriers, and reduce the overall costs of the program provided by the state by employers and carriers.

(b) In the event the commission determines that it is more cost effective and in the best interest of the Special Disability Trust Fund, the state, insurers, and employers to finance the liabilities of the Special Disability Trust Fund through the issuance of bonds, notes, or other evidences of indebtedness, there is created a public benefits corporation to be known as the Special Disability Trust Fund Financing Corporation.

1. The corporation shall operate under a three-member board of directors consisting of the Governor or a designee, the Treasurer or a designee, and the Comptroller or a designee.

2. The corporation has all of the powers of corporations under chapter 607 and under chapter 617.

3. The corporation may issue bonds, notes, or other evidences of indebtedness and engage in such other financial transactions as are necessary to provide sufficient funds to achieve the purposes of this section.

4. The corporation may invest in any of the investments authorized under s. 215.47.

5. There shall be no liability on the part of, and no cause of action shall arise against, any board members or employees of the corporation or the state for any actions taken by them in the performance of their duties under this paragraph.

6. The corporation may appoint and employ such officers, agents, and employees as the corporation deems advisable to operate and manage the affairs of the corporation, which officers, agents, and employees may be employees of the division or the State Board of Administration. The administrative costs and fees incurred by the corporation, and employee salaries, shall be paid from bond revenues. The corporation and the division shall have the power to contract with each other for expenses incurred in connection with the transfer, assumption, and settlement of liabilities of the Special Disability Trust Fund.

7. In addition to bonding, the corporation may also borrow from, or enter into other financing arrangements with, any market sources at interest rates not exceeding prevailing interest rates.

(c)1. The proceeds of revenue bonds issued by this corporation may be used to pay obligations of the Special Disability Trust Fund made pursuant to this section; to finance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bonds issued under this subsection, or for such other purposes related to the financial obligations of the Special Disability Trust Fund as the corporation may determine. The corporation may pledge all or a portion of the revenues collected under subsection (9) to secure such revenue bonds, and may execute such agreements between the corporation and the division, necessary or desirable in connection with the issuance of any revenue bonds.

2. The corporation may contract with the State Board of Administration to serve as trustee with respect to debt obligations issued by the corporation as provided by this section and to hold, administer, and invest proceeds of such debt obligations and other funds of the corporation. The State Board of Administration may perform such services and may contract with others to provide all or a part of such services and to recover the costs and expenses of providing such services. The investment of proceeds of debt obligations or other funds of the corporation and contracts of funds held in trust by the State Board of Administration, whether directly or indirectly related to the investments or contracts, are exempt from the provisions of chapter 287.

(d)1. Revenue bonds may not be issued under this subsection until validated under chapter 75. In any suit, action, or proceeding involving the validity or enforceability of any bond issued under this subsection, or the security therefor, any such bond reciting in substance that it has been issued by the corporation in connection with any purpose of this section shall be conclusively deemed to have been carried out in accordance with the mandates herein. In actions under chapter 75 to validate any bonds issued by the corporation, the notice required by s. 75.06 shall be published only in Leon County and in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the State

Attorney of the Second Judicial Circuit. The validation of at least the first obligations incurred pursuant to this subsection shall be appealed to the Supreme Court, to be handled on an expedited basis.

2. The state hereby covenants with holders of bonds of the corporation that the state will not repeal or abrogate the power of the division to levy the assessments and to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

3. The corporation and its corporate existence shall continue until terminated by law; however, no such law shall take effect as long as the corporation has bonds outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds. Upon termination of the existence of the corporation, all of its rights and properties in excess of its obligations shall pass to and be vested in the state.

(e)1. The funds, credit, property, or taxing power of the state or political subdivisions of the state shall not be pledged for the payment of such bonds. The bonds of the corporation are not a debt of the state or of any political subdivision, and neither the state nor any political subdivision is liable on such bonds. The corporation does not have the power to pledge the credit, the revenues, or the taxing power of the state or of any political subdivision. The credit, revenues, or taxing power of the state or of any political subdivision shall not be deemed to be pledged to the payment of any bonds of the corporation. However, bonds issued under this subsection are declared to be for an essential public and governmental purpose.

2. The property, revenues, and other assets of the corporation; the transactions and operations of the corporation and the income from such transactions and operations; and all bonds issued under this paragraph and the interest on such bonds, which is exempt from income taxes of the United States, are exempt from taxation by the state and any political subdivision, including, but not limited to, the intangibles tax under chapter 199, the income tax under chapter 220, and the premium tax under the Florida Insurance Code. This exemption does not apply to any tax imposed by chapter 220 on interest income or profits on debt obligations owned by corporations other than the Special Disability Trust Fund Financing Corporation. The corporation is not subject to the reporting requirements mandated by the Florida Insurance Code.

(f) All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public

funds. This paragraph shall be considered as additional and supplemental authority and shall not be limited without specific reference to this paragraph.

(g) In the event the commission selects a qualified entity to assume all or some of the liabilities of the Special Disability Trust Fund, all or any portion of the monetary assets and claims liabilities held in and accruing to the Special Disability Trust Fund may, with the agreement of the corporation or the administrator, be transferred to and fully assumed by the corporation or the qualified entity. As provided in an agreement with the corporation or the qualified entity, subsequent assessments under subsection (9) shall be collected by the division, deposited into the Special Disability Trust Fund, and used exclusively for the debt service of the bonds issued by the corporation, the payment of outstanding liabilities of the Special Disability Trust Fund not assumed by the corporation or the qualified entity, and expenses of the corporation.

(h) The administrator is prohibited from reviewing, auditing, litigating, reimbursing, or settling any pending or future claim or liability of its affiliates or subsidiaries. The administrator is required to subcontract the responsibility of reviewing, auditing, litigating, reimbursing, or settling such a claim or liability.

(i) The Auditor General is authorized to examine and audit the records and accounts of the corporation.

Section 85. There is hereby appropriated \$200,000 from the Special Disability Trust Fund to the Special Disability Trust Fund Privatization Commission to implement this act.

Section 86. Paragraph (e) of subsection (4) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(4) REIMBURSEMENT CONTRACTS.—

(e)1. Except as provided in subparagraphs 2. and 3., the contract shall provide that if an insurer demonstrates to the board that it is likely to qualify for reimbursement under the contract, and demonstrates to the board that the immediate receipt of moneys from the board is likely to prevent the insurer from becoming insolvent, the board shall advance the insurer, at market interest rates, the amounts necessary to maintain the solvency of the insurer, up to 50 percent of the board's estimate of the reimbursement due the insurer. The insurer's reimbursement shall be reduced by an amount equal to the amount of the loan and interest thereon.

2. With respect only to an entity created under s. 627.351, the contract shall also provide that the board may, upon application by such entity, advance to such entity, at market interest rates, up to 90 percent of the lesser of:

a. The board's estimate of the amount of reimbursement due to such entity; or

b. The entity's share of the actual reimbursement premium paid for that contract year, multiplied by the currently available liquid assets of the fund. In order for the entity to qualify for an advance under this subparagraph, the entity must demonstrate to the board that the advance is essential to allow the entity to pay claims for a covered event and the board must determine that the fund's assets are sufficient and are sufficiently liquid to allow the board to make an advance to the entity and still fulfill the board's reimbursement obligations to other insurers. The entity's final reimbursement for any contract year in which an advance has been made under this subparagraph must be reduced by an amount equal to the amount of the advance and any interest on such advance. In order to determine what amounts, if any, are due the entity, the board may require the entity to report its exposure and its losses at any time to determine retention levels and reimbursements payable.

3. The contract shall also provide specifically and solely with respect to any limited apportionment company under s. 627.351(2)(b)3. that the board may, upon application by such company, advance to such company the amount of the estimated reimbursement payable to such company as calculated pursuant to paragraph (d), up to the lesser of:

~~a. Ninety percent of the board's estimate of the reimbursement due to such company, or~~

~~b. Ninety percent of the company's share of the total fund premiums applied to the board's currently available liquid assets,~~

~~at market rates, if the company demonstrates to the board that the immediate receipt of such moneys is essential to permit it to pay claims for a covered event and if the board determines that the fund's assets are sufficient and are sufficiently liquid to permit the board to make an advance to such company and at the same time fulfill its reimbursement obligations to the insurers that are participants in the fund. Such company's final reimbursement for any contract year in which an advance pursuant to this subparagraph has been made shall be reduced by an amount equal to the amount of the advance and interest thereon. In order to determine what amounts, if any, are due to such company, the board may require such company to report its exposure and its losses at such times as may be required to determine retention levels and loss reimbursements payable.~~

Section 87. Paragraph (f) of subsection (2) of section 624.316, Florida Statutes, is amended to read:

624.316 Examination of insurers.—

(2)

(f)1.a. An examination under this section must be conducted at least once every year with respect to a domestic insurer that has continuously held a certificate of authority for less than 3 years. The examination must cover the preceding fiscal year or the period since the last examination of the insurer. The department may limit the scope of the examination ~~if the insurer has demonstrated sufficient compliance as determined under subparagraph 3.~~

b. The department may not accept an independent certified public accountant's audit report in lieu of an examination required by this subparagraph.

c. An insurer may not be required to pay more than \$25,000 to cover the costs of any one examination under this subparagraph.

2. An examination under this section must be conducted not less frequently than once every 5 years with respect to an insurer that has continuously held a certificate of authority, without a change in ownership subject to s. 624.4245 or s. 628.461, for more than 15 years and has demonstrated sufficient compliance as determined under subparagraph 3. The examination must cover the preceding 5 fiscal years of the insurer or the period since the last examination of the insurer. This subparagraph does not limit the ability of the department to conduct more frequent examinations.

~~3.—The department must, by rule, adopt procedures and criteria for determining if an insurer has demonstrated sufficient compliance with this code and cooperation with the department. The rules must include consideration of such factors as financial strength, timeliness, consumer service, economic and community contributions and support, responsiveness to department requests, and any other relevant factors. The department must annually publish and disseminate a listing of those insurers found to demonstrate sufficient compliance under the rules, including special recognition for community contributions and support.~~

Section 88. Subsection (4) is added to section 624.426, Florida Statutes, to read:

624.426 Exceptions to resident agent and countersignature law.—Section 624.425 does not apply to:

(4) Policies of insurance issued by insurers whose agents represent only one company or group of companies under common ownership if a company within one group is transferring policies to another company within the same group and the agent of record remains the same.

Section 89. Subsections (1)-(12) of section 624.610, Florida Statutes, are renumbered as subsections (2)-(13) of said section, respectively, new subsection (1) is added to said section, and renumbered subsection (2) of said section is amended, to read:

624.610 Reinsurance.—

(1) The purpose of this section is to protect the interests of insureds, claimants, ceding insurers, assuming insurers, and the public. It is the intent of the Legislature to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations. In furtherance of that state interest, the Legislature requires that upon the insolvency of a non-United States insurer or reinsurer which provides security to fund its United States obligations in accordance with this section, such security shall be maintained in the United States and claims shall be filed with and valued by the State Insurance Commissioner with regulatory oversight, and the assets shall be distributed in accordance with the insurance

laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurance companies. The Legislature declares that the matters contained in this section are fundamental to the business of insurance in accordance with 15 U.S.C. ss. 1011-1012.

(3)(2)

(b) Credit in accounting and financial statements on account of reinsurance ceded to a nonapproved reinsurer may be allowed only:

1. When it is demonstrated by the ceding insurer to the satisfaction of the department that such reinsurer maintains the standards and meets the financial requirements applicable to an authorized insurer;

2. To the extent of deposits by, or funds withheld from, such reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or such deposits or funds are placed in trust for such purposes in a bank which is a member of the Federal Reserve System if withdrawals from the trust cannot be made without the consent of the ceding insurer. The funds withheld may be cash or securities which are qualified as admitted assets under part II of chapter 625 and which have a market value equal to or greater than the credit taken; or

3. To the extent that the amount of a clean, unconditional, evergreen, and irrevocable letter of credit, issued for a term of not less than 1 year and in conformity with the requirements set forth in this subparagraph, equals or exceeds the liability of an unauthorized or unapproved reinsurer for unearned premiums, outstanding losses, and an adequate reserve for incurred but not reported losses under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit be issued under arrangements satisfactory to the department as constituting security to the ceding insurer substantially equal to that of a deposit under subparagraph 2. and that the letter be issued by a banking institution which is a member of the Federal Reserve System and which has financial standing satisfactory to the commissioner. The department may adopt rules requiring that the letter adhere in its wording to a format for letters of credit as the format has been or may be adopted or approved by the National Association of Insurance Commissioners.

4. When the reinsurance is ceded to a reinsurer which maintains a trust fund, in a bank or trust company that is subject to supervision by any state of the United States or that is a member of the Federal Reserve System, for the payment of the valid claims for business written in the United States. The trust shall consist of a trustee account in an amount not less than the reinsurer's liabilities attributable to reinsurance by ceding insurers for business written in the United States and, in addition, the reinsurer shall maintain a trustee surplus of not less than \$20 million. Such trust shall be established in a form approved, and any amendments to the trust approved, by the insurance commissioner where the trust is domiciled, or the insurance commissioner of another state who, pursuant to the terms of the trust agreement, has accepted principal regulatory oversight of the trust. The

trust shall remain in effect for as long as the reinsurer has outstanding obligations due under the reinsurance agreements subject to the trust. The trust assets must be in cash or securities which are qualified as admitted assets under part II of chapter 625 and which have a market value of the required liabilities and trustee surplus. The reinsurer shall report quarterly to the insurance commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners Annual Statement form by licensed insurers to enable the insurance commissioner to determine the sufficiency of the trust fund. The trust and the reinsurer shall be subject to examination as determined by the commissioner.

5. The credit permitted by subparagraph (a)4. and the credit permitted by subparagraph (b)2. shall not be allowed unless the assuming insurer in substance agrees in the trust agreement to the following conditions:

a. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by the department or, if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner superintendent with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner superintendent with regulatory oversight all of the assets of United States trust beneficiaries.

b. The assets shall be distributed by, and claims of United States trust beneficiaries shall be filed with and valued by, the commissioner superintendent with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

c. If the commissioner superintendent with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims for business written in the United States, the assets or any part thereof shall be returned by the commissioner superintendent with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

d. The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

(c) For the purposes of this subsection only, the term "ceding insurer" shall include any health maintenance organization operating under a certificate of authority issued under part I of chapter 641.

Section 90. Paragraph (a) of subsection (2) of section 627.7275, Florida Statutes, is amended to read:

627.7275 Motor vehicle property damage liability.—

(2)(a) Insurers writing motor vehicle insurance in this state shall make available, subject to the insurers' usual underwriting restrictions, coverage

under policies as described in subsection (1) of this section to any applicant for private passenger motor vehicle insurance coverage who is seeking the coverage in order to reinstate the applicant's driving privileges in this state when the driving privileges were revoked or suspended pursuant to s. 316.646 or s. 627.733 due to the failure of the applicant to maintain required security. The policy shall be issued for a period of at least 6 months and as to the minimum coverages required under this section shall not be cancelable by the insured for any reason or by the insurer after a period not to exceed 30 days during which the insurer must complete underwriting of the policy. After the insurer has completed underwriting the policy within the 30-day period, the insurer shall notify the Department of Highway Safety and Motor Vehicles that the policy is in full force and effect and the policy shall not be cancelable for the remainder of the policy period. A premium shall be collected and coverage shall be in effect for the 30-day period during which the insurer is completing the underwriting of the policy whether or not the person's driver license, motor vehicle tag, and motor vehicle registration are in effect. Once the noncancelable provisions of the policy become effective, the coverage or risk shall not be changed during the policy period and the premium shall be nonrefundable fully earned. If, during the pendency of the 2-year proof of insurance period required under s. 627.733(7), the insured obtains additional coverage or coverage for an additional risk or changes territories, the insured then she or he must obtain a new 6-month noncancelable policy in accordance with the provisions of this section. However, if the insured must obtain a new 6-month policy and obtains the policy from the same insurer, the policyholder shall receive credit on the new policy for any premium paid on the previously issued policy.

Section 91. Subsections (1) and (2) of section 627.9126, Florida Statutes, are amended to read:

627.9126 Annual reports of information by liability insurers required.—

(1) Each insurer transacting commercial multiperil, products liability, commercial automobile liability, private passenger automobile liability, or other line of liability insurance shall maintain information as specified in this section. Such information shall be maintained for each line of insurance and for direct Florida business only. The department may ~~shall annually~~ conduct a sampling of claims or actions for damages for personal injury or property damage claimed to have been caused by error, omission, or negligence of insureds if the claim resulted in:

- (a) A final judgment in any amount.
- (b) A settlement in any amount.
- (c) A final disposition not resulting in payment on behalf of the insured.

(2) Upon request of the department, an insurer shall, within 60 days, submit to the department a report that ~~which~~ contains:

- (a) A final judgment in any amount.
- (b) A settlement in any amount.

(c) A final disposition not resulting in payment on behalf of the insured.

Section 92. Section 627.913, Florida Statutes, is amended to read:

627.913 Reports of information by products liability insurers required.—

(4) The department may require any insurer authorized to write a policy of products liability insurance in the state to shall transmit the following information, based on its statewide products liability insurance writings. Upon the request of, to the department, an each year in the annual report of such insurer shall, within 60 days, submit to the department a report that contains:

(1)(a) Premiums written;

(2)(b) Premiums earned;

(3)(c) Unearned premiums;

(4)(d) The dollar amount of claims paid;

(5)(e) Incurred claims, not including claims incurred but not reported;

(6)(f) Claims closed without payment, and the amount reserved for such claims;

(7)(g) Loss reserves for all claims except claims incurred but not reported;

(8)(h) Reserves for claims incurred but not reported;

(9)(i) Losses paid as a percentage of the amount reserved for such losses;

(10)(j) Net investment gain or loss and other income gain or loss allocated to products liability lines according to the allocation formula used in the annual insurance expense exhibit;

(11)(k) Underwriting income or loss;

(12)(l) Actual expenses in detail, including, but not limited to, loss adjustment expense; commissions; general expense; and advertising, home office, and defense costs;

(13)(m) Claims settled after a suit was filed;

(14)(n) Claims paid based on a judgment; and

(15)(o) Judgments appealed by the insurer, together with the total results of such appeals.

~~(2) The department shall provide a summary of information provided pursuant to subsection (1) in its annual report.~~

~~(3) In the first year that an insurer makes a report pursuant to subsection (1), the insurer shall provide only the information required by para-~~

~~graphs (a) through (l) of subsection (1) and shall provide such information for the current year and the 3 previous years.~~

Section 93. Section 624.22, Florida Statutes, is repealed.

Section 94. Sections 626.532 and 626.857, Florida Statutes, are repealed.

Section 95. Section 627.192, Florida Statutes, is created to read:

627.192 Workers' compensation insurance; employee leasing arrangements.—

(1) The purpose of this section is to ensure that an employer who leases some or all of its workers properly obtains workers' compensation insurance coverage for all of its employees, including those leased from or coemployed with another entity, and that premium paid by an employee leasing company is commensurate with exposure and anticipated claim experience for all employees.

(2) For purposes of the Florida Insurance Code:

(a) "Employee leasing" shall have the same meaning as set forth in s. 468.520(4).

(b) "Experience rating modification" means a factor applied to a premium to reflect a risk's variation from the average risk. The experience modification is determined by comparing actual losses to expected losses, using the risk's own past experience.

(c) "Leased employee" means a person performing services for a lessee under an employee leasing arrangement.

(d) "Lessee" means an entity which obtains all or part of its workforce from another entity through an employee leasing arrangement or which employs the services of an entity through an employee leasing arrangement.

(e) "Lessor" means an employee leasing company, as set forth in part XI of chapter 468, engaged in the business of or holding itself out as being in the business of employee leasing. A lessor may also be referred to as an employee leasing company.

(f) "Premium subject to dispute" means that the insured has provided a written notice of dispute to the insurer or service carrier, has initiated any applicable proceeding for resolving such disputes as prescribed by law or rating organization procedures approved by the department, or has initiated litigation regarding the premium dispute. The insured must have detailed the specific areas of dispute and provided an estimate of the premium the insured believes to be correct. The insured must have paid any undisputed portion of the bill.

(3) A lessor that obtains coverage in the voluntary workers' compensation market may elect, with the voluntary market insurer's knowledge and consent, to secure the coverage on leased employees through a workers' compensation policy issued to the lessor. The insurer of the lessor may, in

its discretion, take all reasonable steps to ascertain exposure under the policy and collect the appropriate premium by:

(a) Requiring the lessor to provide a complete description of lessor's operations.

(b) Requiring periodic reporting by the lessor of covered lessees' payroll, classifications, claims information, loss data, and jurisdictions with exposure. This reporting may be supplemented by a requirement for lessees to submit to the carrier Internal Revenue Service Form 941 or its equivalent on a quarterly basis.

(c) Auditing the lessor's operations.

(d) Using other reasonable measures to determine the appropriate premium.

(4) A lessor that applies for coverage or is covered through the voluntary market shall also maintain and furnish to the insurer on an annual basis, and as the insurer may otherwise reasonably require, sufficient information to permit the calculation of an experience modification factor for each lessee upon termination of the employee leasing relationship. Information accruing during the term of the leasing arrangement which is used to calculate an experience modification factor for a lessee upon termination of the leasing relationship shall continue to be used in the future experience ratings of the lessor. Such information shall include:

(a) The lessee's corporate name.

(b) The lessee's taxpayer or employer identification number.

(c) Payroll summaries and class codes applicable to each lessee, and, if requested by the insurer, a listing of all leased employees associated with a given lessee.

(d) Claims information grouped by lessee, and any other information maintained by or readily available to the lessor that is necessary for the calculation of an experience modification factor for each lessee.

(5) In addition to any other provision of law, any material violation of this section by an employee leasing company is grounds for cancellation or non-renewal of the lessor's insurance policy provided that the employee leasing company has been provided a reasonable opportunity to cure the violation. If an employee leasing company has received notice that its workers' compensation insurance policy will be canceled or nonrenewed, the leasing company shall notify by certified mail, within 15 days after receipt of the notice, all of the lessees for which there is an employee leasing arrangement covered under the policy to be canceled, except notice is not required if the employee leasing company has obtained another insurance policy with an effective date that is the same as the date of cancellation or nonrenewal.

(6) If the employee leasing arrangement with a lessee is terminated, the lessee shall be assigned an experience modification factor which reflects its

experience during the experience period specified by the approved experience rating plan, including, if applicable, experience incurred for leased employees under the employee leasing arrangements. The employee leasing company shall notify the insurer of its intent to terminate any lessee relationship prior to termination when feasible. When prior notice is not feasible, the employee leasing company shall notify its insurer within 5 working days following actual termination.

(7) This section shall not have any effect on the statutory obligation, if any, of a lessee to secure workers' compensation coverage for employees that the lessee does not coemploy or lease pursuant to an employee leasing arrangement.

(8) A lessee shall not enter into an employee leasing relationship or be eligible for workers' compensation coverage in the voluntary market if the lessee owes its current or a prior insurer any premium for workers' compensation insurance, or if the lessee owes its current or prior employee leasing company amounts due under the service agreement, except for premium or amounts due that are subject to dispute. For the purposes of this section and compliance with other laws and regulations, a lessor may rely on a sworn statement by the lessee that the lessee has met any and all prior premium or fee obligations, unless the lessor has actual knowledge to the contrary.

(9) Insurers shall conduct annual audits of payroll and classifications of employee leasing companies in order to ensure that the appropriate premium is charged for workers' compensation coverage. The audits shall be conducted to ensure that all sources of payment by lessors to employees, subcontractors, and independent contractors have been reviewed and the accuracy of classifications of employees have been verified. Insurers may provide for more frequent audits of lessors based on such factors as amount of premium, type of business, loss ratios, or other relevant factors. Payroll and classification verification audit rules of insurers must include, but need not be limited to, use by the insurer of state and federal reports of employee income, payroll and other accounting records, certificates of insurance maintained by subcontractors, and duties of employees.

(10) If a lessor or a lessee fails to provide reasonable access to payroll and classification records for a payroll and classification audit, the insured shall pay a premium to the insurer not to exceed three times the most recent estimated annual premium. However, the lessor is not subject to such penalty if the failure to obtain the needed records is the direct result of the acts or omissions of the lessee.

(11) This section shall take effect July 1, 1998, and shall apply to any workers' compensation insurance policy issued to or renewed with an employee leasing company on or after October 1, 1998.

Section 96. Except as otherwise provided herein, this act shall take effect October 1, 1998.

Became a law without the Governor's approval May 24, 1998.

Filed in Office Secretary of State May 22, 1998.