

## Committee Substitute for House Bill No. 1841

An act relating to insurance company representatives; providing legislative findings and intent; creating s. 626.015, F.S.; providing definitions; creating s. 626.025, F.S.; requiring insurance agents to comply with certain consumer protection laws; amending s. 626.171, F.S.; requiring the department to accept a uniform application for nonresident agent licensing; creating s. 626.175, F.S.; providing for Department of Insurance issuance of temporary licenses under certain circumstances; providing requirements and procedures; providing for fees; creating s. 626.207, F.S.; requiring the department to adopt rules establishing waiting periods for applicants for licensure under certain circumstances; authorizing the department to adopt rules providing for penalties for licensees under certain circumstances; amending s. 626.221, F.S.; exempting customer representatives and adjusters with certain designations, agents transferring their licenses from other states, and certain applicants for nonresident agent licensure from certain examination requirements under certain circumstances; amending s. 626.2815, F.S.; specifying additional continuing education requirements; creating s. 626.292, F.S.; providing requirements and procedures for certain agents licensed in other states to transfer their licenses to this state under certain circumstances; amending s. 626.301, F.S.; revising the form and content of licenses issued by the department; creating s. 626.536, F.S.; requiring agents to report to the department certain final dispositions of administrative actions taken against the agent; authorizing the department to adopt rules to implement the requirement; amending s. 626.551, F.S.; extending the time period allowed for licensees to notify the department of a change of address or name; providing for fines for failure to timely report such information to the department; creating ss. 626.7315, 626.7845, and 626.8305, F.S.; prohibiting engaging in specified general lines insurance activities, life insurance activities, or health insurance activities without a license; amending s. 626.732, F.S.; specifying additional requirements relating to knowledge, experience, or instruction for certain customer representatives and service representatives; specifying additional classroom and correspondence course instruction requirements; amending s. 626.738, F.S.; specifying cancellation of solicitor licenses and conversion to general lines insurance agent licenses; amending ss. 626.741, 626.792, and 626.835, F.S.; authorizing the department to issue a nonresident general lines agent, life agent, or health agent license to certain individuals under certain circumstances; authorizing the department to enter into reciprocal agreements with other states to waive certain examinations under certain circumstances; authorizing the department to verify the nonresident applicant's licensing status through a database; creating s. 626.7455, F.S.; prohibiting insurers from entering into agreements with unlicensed persons to manage certain business of the insurer; providing an exception; amending s. 626.785, F.S.; increasing a limitation on authorized final disposition or burial policies; amending ss.

626.7851 and 626.8311, F.S.; specifying additional classroom and correspondence course instruction requirements; amending s. 626.852, F.S.; exempting from insurance adjusters provisions persons adjusting only multiple-peril crop insurance or crop hail claims; amending s. 626.902, F.S.; increasing a criminal penalty for representing an unauthorized insurer; providing a penalty for subsequent violations; amending ss. 624.11, 624.509, 626.094, 626.112, 626.321, 626.727, 626.729, 626.730, 626.7454, 626.779, 626.790, 626.8411, 626.927, 626.992, 629.401, and 648.27, F.S., to conform; amending s. 626.032, F.S., relating to a definition of administrative agent; amending ss. 624.311, 624.523, 624.507, 626.0428, 626.141, 626.112, 626.171, 626.221, 626.2815, 626.321, 626.451, 626.511, 626.521, 626.561, 626.601, 626.611, 626.621, 626.641, 626.651, 626.730, 626.745, 626.9541, 627.776, 631.155, 631.341, 634.318, 641.37, and 642.041, F.S., to conform; repealing ss. 624.505(2), 626.727(2), 626.737, 626.738, and 626.862(2), F.S., to conform; repealing ss. 626.031, 626.041, 626.051, 626.062, 626.071, 626.072, 626.081, 626.091, 626.094, 626.101, 626.102, 626.103, and 626.104, F.S., relating to definitions; repealing ss. 626.736, 626.737, and 626.738, F.S., relating to solicitors; repealing s. 626.739, F.S., relating to certain temporary licenses; repealing s. 626.740, F.S., relating to certain temporary limited licenses; repealing ss. 626.790 and 626.791, F.S., relating to certain temporary licenses; providing effective dates.

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

Section 1. Legislative findings and intent.—The Legislature finds that Subtitle C of the federal Gramm-Leach-Bliley Act, 15 U.S.C.A., s. 6751, et seq., requires states to achieve uniformity or reciprocity in producer licensing but not at the expense of state laws designed to protect insurance consumers. The Legislature finds that the Gramm-Leach-Bliley Act expressly saves from alteration state consumer protection laws unless inconsistent with that act. Therefore, it is the intent of the Legislature to achieve compliance with the uniformity and reciprocity requirements of Subtitle C of the Gramm-Leach-Bliley Act, while exercising its authority under that act to preserve insurance consumer protection laws not inconsistent with these requirements.

Section 2. Subsection (2) of section 624.11, Florida Statutes, is amended to read:

624.11 Compliance required.—

(2) Any risk retention group organized and existing under the provisions of the Product Liability Risk Retention Act of 1981 (Pub. L. No. 97-45), which has been licensed as an insurance company and authorized to engage in the business of insurance may transact insurance in this state and shall be subject to the provisions of ss. 624.15, 624.316, 624.418, 624.421, 624.4211, 624.422, 624.509, ~~626.041~~, 626.112, 626.611, 626.621, ~~626.7315~~, 626.741, 626.932, 626.938, 626.9541, 627.351, and 627.915; part I of chapter 631; and all other applicable provisions of the laws of this state. Any such group

formed in another jurisdiction shall furnish to the department, upon request, a copy of any financial report submitted by the group in the licensing jurisdiction.

Section 3. Paragraph (b) of subsection (5) of section 624.509, Florida Statutes, is amended to read:

624.509 Premium tax; rate and computation.—

(5) There shall be allowed a credit against the net tax imposed by this section equal to 15 percent of the amount paid by the insurer in salaries to employees located or based within this state and who are covered by the provisions of chapter 443. For purposes of this subsection:

(b) The term “employees” does not include independent contractors or any person whose duties require that the person hold a valid license under the Florida Insurance Code, except persons defined in s. 626.015(1), (16), and (18) ss. 626.081, 626.091, and 626.101.

Section 4. Section 626.015, Florida Statutes, is created to read:

626.015 Definitions.—As used in this part:

(1) “Adjuster” means a public adjuster as defined in s. 626.854, independent adjuster as defined in s. 626.855, or company employee adjuster as defined in s. 626.856.

(2) “Administrative agent” means a life agent or health agent who:

(a) Is employed by a full-time licensed life agent or health agent who shall supervise and be accountable for the actions of the administrative agent.

(b) Performs primarily administrative functions.

(c) Receives no insurance commissions.

(d) Does not solicit or transact business outside of the confines of an insurance agency office.

(3) “Agent” means a general lines agent, life agent, health agent, or title agent, or all such agents, as indicated by context. The term “agent” includes an insurance producer or producer, but does not include a customer representative, limited customer representative, or service representative.

(4) “Appointment” means the authority given by an insurer or employer to a licensee to transact insurance or adjust claims on behalf of an insurer or employer.

(5) “Customer representative” means an individual appointed by a general lines agent or agency to assist that agent or agency in transacting the business of insurance from the office of that agent or agency.

(6) “Department” means the Department of Insurance.

(7) “General lines agent” means an agent transacting any one or more of the following kinds of insurance:

(a) Property insurance.

(b) Casualty insurance, including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund as defined in s. 624.462, or a workers’ compensation self-insurance fund established pursuant to s. 624.4621.

(c) Surety insurance.

(d) Health insurance, when transacted by an insurer also represented by the same agent as to property or casualty or surety insurance.

(e) Marine insurance.

(8) “Health agent” means an agent representing a health maintenance organization or, as to health insurance only, an insurer transacting health insurance.

(9) “Home state” means the District of Columbia and any state or territory of the United States in which an insurance agent maintains his or her principal place of residence and is licensed to act as an insurance agent.

(10) “Insurance agency” means a business location at which an individual, firm, partnership, corporation, association, or other entity, other than an employee of the individual, firm, partnership, corporation, association, or other entity and other than an insurer as defined by s. 624.03 or an adjuster as defined by subsection (1), engages in any activity or employs individuals to engage in any activity which by law may be performed only by a licensed insurance agent.

(11) “License” means a document issued by the department authorizing a person to be appointed to transact insurance or adjust claims for the kind, line, or class of insurance identified in the document.

(12) “Life agent” means an individual representing an insurer as to life insurance and annuity contracts, including agents appointed to transact life insurance, fixed-dollar annuity contracts, or variable contracts by the same insurer.

(13) “Limited customer representative” means a customer representative appointed by a general lines agent or agency to assist that agent or agency in transacting only the business of private passenger motor vehicle insurance from the office of that agent or agency. A limited customer representative is subject to the Florida Insurance Code in the same manner as a customer representative, unless otherwise specified.

(14) “Limited lines insurance” means those categories of business specified in ss. 626.321 and 635.011.

(15) “Line of authority” means a kind, line, or class of insurance an agent is authorized to transact.

(16)(a) “Managing general agent” means any person managing all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office, and acting as an agent for that insurer, whether known as a managing general agent, manager, or other similar term, who, with or without authority, separately or together with affiliates, produces directly or indirectly, or underwrites an amount of gross direct written premium equal to or more than 5 percent of the policyholder surplus as reported in the last annual statement of the insurer in any single quarter or year and also does one or more of the following:

1. Adjusts or pays claims.
2. Negotiates reinsurance on behalf of the insurer.

(b) The following persons shall not be considered managing general agents:

1. An employee of the insurer.
2. A United States manager of the United States branch of an alien insurer.
3. An underwriting manager managing all the insurance operations of the insurer pursuant to a contract, who is under the common control of the insurer subject to regulation under ss. 628.801-628.803, and whose compensation is not based on the volume of premiums written.

4. Administrators as defined by s. 626.88.

5. The attorney in fact authorized by and acting for the subscribers of a reciprocal insurer under powers of attorney.

(17) “Resident” means an individual domiciled and residing in this state.

(18) “Service representative” means an individual employed by an insurer or managing general agent for the purpose of assisting a general lines agent in negotiating and effecting insurance contracts when accompanied by a licensed general lines agent. A service representative shall not be simultaneously licensed as a general lines agent in this state. This subsection does not apply to life insurance.

(19) “Uniform application” means the uniform application of the National Association of Insurance Commissioners for nonresident agent licensing, effective January 15, 2001, or subsequent versions adopted by rule by the department.

Section 5. Section 626.025, Florida Statutes, is created to read:

626.025 Consumer protections.—To transact insurance, agents shall comply with consumer protection laws, including the following, as applicable:

(1) Continuing education requirements for resident and nonresident agents, as required in s. 626.2815.

(2) Fingerprinting requirements for resident and nonresident agents, as required under s. 626.171 or s. 626.202.

(3) Fingerprinting following a department investigation under s. 626.601.

(4) The submission of credit and character reports, as required by s. 626.171 or s. 626.521.

(5) Qualifications for licensure as an agent in s. 626.731, s. 626.741, s. 626.785, s. 626.792, s. 626.831, or s. 626.835.

(6) Examination requirements in s. 626.221, s. 626.741, s. 626.792, or s. 626.835.

(7) Required licensure of certain insurance agencies under s. 626.172.

(8) Requirements for licensure of resident and nonresident agents in s. 626.112, s. 626.321, s. 626.731, s. 626.741, s. 626.785, s. 626.831, s. 626.835, or s. 626.792.

(9) The prohibition against nonresident agents having a place of business in the state, a pecuniary interest in an insurance business in the state, or a financial interest in an insurance agency in the state, under s. 626.741, s. 626.835, or s. 626.792.

(10) The prohibition against employees of the United States Department of Veterans Affairs being licensed as life agents or health agents, under s. 626.788 or s. 626.833.

(11) The prohibition against licensed life agents or health agents who are members of the United States Armed Services selling insurance products to those of a lower military rank, under s. 626.789 or s. 626.834.

(12) Countersignature of insurance policies, as required under s. 624.425, s. 624.426, or s. 626.741.

(13) Designation of a primary agent by an insurance agency under s. 626.592.

(14) The code of ethics for life insurance agents, as set forth in s. 626.797.

(15) The prohibition against the designation of a life insurance agent as the beneficiary of life insurance policy sold to an individual other than a family member under s. 626.798.

(16) Any other licensing requirement, restriction, or prohibition designated a consumer protection by the Insurance Commissioner, but not inconsistent with the requirements of Subtitle C of the Gramm-Leach-Bliley Act, 15, U.S.C.A., s. 6751, et seq.

Section 6. Section 626.032, Florida Statutes, is amended to read:

626.032 Administrative agents ~~“Administrative agent”~~ defined; continuing education and designation required.—

(1) ~~As used in this part, “administrative agent” means a life agent or health agent who:~~

(a) ~~Is employed by a full-time licensed life agent or health agent who shall supervise and be accountable for actions of the administrative agent.~~

(b) ~~Performs primarily administrative functions.~~

(c) ~~Receives no insurance commissions.~~

(d) ~~Does not solicit or transact business outside of the confines of an insurance agency office.~~

(1)(2) An administrative agent is subject to all requirements of this code applicable to life agents or health agents, except that the number of hours of continuing education required of an administrative agent under s. 626.2815 is one-half the number of hours of continuing education required of a life agent or health agent.

(2)(3) An agent may request, and the department must grant, a designation of “administrative agent” to be prominently printed on the agent’s license. The request shall be filed on a form furnished by the department with the administrative agent’s application filing fee of \$10 and license modification fee established by s. 624.501(16).

(3)(4) An administrative agent who desires removal of the “administrative agent” designation may apply to the department, on forms furnished by the department with an application filing fee of \$10 and license modification fee established pursuant to s. 624.501(16). If, during the 24 months preceding the application, the administrative agent completed the full continuing education requirements specified in s. 626.2815, the department shall remove the designation from the agent’s license.

Section 7. Section 626.094, Florida Statutes, is amended to read:

626.094 “Insurance agency” defined.—An “insurance agency” is a business location at which an individual, firm, partnership, corporation, association, or other entity, except for an employee of the individual, firm, partnership, corporation, association, or other entity, and other than an insurer as defined by s. 624.03 or an adjuster as defined by s. 626.015 ~~626.101~~, engages in any activity or employs individuals to engage in any activity which by law may be performed only by a licensed insurance agent ~~or solicitor~~.

Section 8. Paragraphs (a) and (b) of subsection (1) and subsection (2) of section 626.112, Florida Statutes, are amended to read:

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

(1)(a) No person may 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.

(b) Except as provided in subsection (6) or in applicable department rules, and in addition to other conduct described in this chapter with respect to particular types of agents, a license as an insurance agent, service representative, ~~solicitor~~, customer representative, or limited customer representative is required in order to engage in the solicitation of insurance. For purposes of this requirement, as applicable to any of the license types described in this section, the solicitation of insurance is the attempt to persuade any person to purchase an insurance product by:

1. Describing the benefits or terms of insurance coverage, including premiums or rates of return;
2. Distributing an invitation to contract to prospective purchasers;
3. Making general or specific recommendations as to insurance products;
4. Completing orders or applications for insurance products; or
5. Comparing insurance products, advising as to insurance matters, or interpreting policies or coverages.

However, an employee leasing company licensed pursuant to chapter 468 which is seeking to enter into a contract with an employer that identifies products and services offered to employees may deliver proposals for the purchase of employee leasing services to prospective clients of the employee leasing company setting forth the terms and conditions of doing business; classify employees as permitted by s. 468.529; collect information from prospective clients and other sources as necessary to perform due diligence on the prospective client and to prepare a proposal for services; provide and receive enrollment forms, plans, and other documents; and discuss or explain in general terms the conditions, limitations, options, or exclusions of insurance benefit plans available to the client or employees of the employee leasing company were the client to contract with the employee leasing company. Any advertising materials or other documents describing specific insurance coverages must identify and be from a licensed insurer or its licensed agent or a licensed and appointed agent employed by the employee leasing company. The employee leasing company may not advise or inform the prospective business client or individual employees of specific coverage provisions, exclusions, or limitations of particular plans. As to clients for which the employee leasing company is providing services pursuant to s. 468.525(4), the employee leasing company may engage in activities permitted by ss. ~~626.7315, 626.7845, and 626.8305~~ 626.041, 626.051, and 626.062, subject to the restrictions specified in those sections. If a prospective client requests more specific information concerning the insurance provided by the employee leasing company, the employee leasing company must refer the prospective business client to the insurer or its licensed agent or to a licensed and appointed agent employed by the employee leasing company.

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

Section 9. Subsections (1) and (5) 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, adjuster, insurance agency, service representative, managing general agent, or reinsurance intermediary 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. Beginning November 1, 2002, the department shall accept the uniform application for nonresident agent licensing. The department may adopt revised versions of the uniform application by rule.

(5) An application for a license as an agent, customer representative, ~~solicitor~~, adjuster, insurance agency, service representative, managing general agent, or reinsurance intermediary must be accompanied by a set of the individual applicant's fingerprints, or, if the applicant is not an individual, by a set of the fingerprints of the sole proprietor, majority owner, partners, officers, and directors, on a form adopted by rule of the department and accompanied by the fingerprint processing fee set forth in s. 624.501. The fingerprints shall be certified by a law enforcement officer.

Section 10. Section 626.175, Florida Statutes, is created to read:

626.175 Temporary licensing.—

(1) The department may issue a nonrenewable temporary license for a period not to exceed 6 months authorizing appointment of a general lines insurance agent or a life agent, or an industrial fire or burglary agent, subject to the conditions described in this section. The fees paid for a temporary license and appointment shall be as specified in s. 624.501. Fees paid shall not be refunded after a temporary license has been issued.

(a)1. In the case of a general lines agent, the department may issue a temporary license to an employee, a family member, a business associate, or a personal representative of a licensed general lines agent for the purpose of continuing or winding up the business affairs of the agent or agency in the event the licensed agent has died or become unable to perform his or her duties because of military service or illness or other physical or mental disability, subject to the following conditions:

a. No other individual connected with the agent's business may be licensed as a general lines agent.

b. The proposed temporary licensee shall be qualified for a regular general lines agent license under this code except as to residence, examination, education, or experience.

c. Application for the temporary license shall have been made by the applicant upon statements and affidavit filed with the department on forms prescribed and furnished by the department.

d. Under a temporary license and appointment, the licensee shall not represent any insurer not last represented by the agent being replaced and shall not be licensed or appointed as to any additional kind, line, or class of insurance other than those covered by the last existing agency appointments of the replaced agent. If an insurer withdraws from the agency during the temporary license period, the temporary licensee may be appointed by another similar insurer but only for the period remaining under the temporary license.

2. A regular general lines agent license may be issued to a temporary licensee upon meeting the qualifications for a general lines agent license under s. 626.731.

(b) In the case of a life agent, the department may issue a temporary license:

1. To the executor or administrator of the estate of a deceased individual licensed and appointed as a life agent at the time of death;

2. To a surviving next of kin of the deceased individual, if no administrator or executor has been appointed and qualified; however, any license and appointment under this subparagraph shall be canceled upon issuance of a license to an executor or administrator under subparagraph 1.; or

3. To an individual otherwise qualified to be licensed as an agent who has completed the educational or training requirements prescribed in s. 626.7851 and has successfully sat for the required examination prior to termination of such 6-month period. The department may issue this temporary license only in the case of a life agent to represent an insurer of the industrial or ordinary-combination class.

(c) In the case of a limited license authorizing appointment as an industrial fire or burglary agent, the department may issue a temporary license to an individual otherwise qualified to be licensed as an agent who has completed the educational or training requirements prescribed in s. 626.732 and has successfully sat for the required examination prior to termination of the 6-month period.

(2) If an absent or disabled agent being replaced under a temporary license returns or becomes able to resume the active conduct of the agency, or if the disposition of the affairs of the agency of a deceased or mentally incompetent agent is completed, or the temporary licensee has qualified for a regular license, before expiration otherwise of the temporary license, the temporary license shall terminate.

(3) If, during the 6-month temporary license and appointment period, the applicant passes the licensing examination, the temporary license shall terminate and a license shall be issued by the department after payment of a modification fee as prescribed in s. 624.501.

(4) An application for a temporary license shall be made by the applicant upon statements and affidavit filed with the department on forms prescribed and furnished by the department.

(5) Except as provided in this section, the holder of a temporary license shall be subject to the Florida Insurance Code to the same extent as regularly licensed and appointed agents.

(6) The department may limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public.

(7) The department may issue to an applicant only one temporary license for each kind, line, or class of insurance or a single temporary license covering multiple lines.

Section 11. Section 626.207, Florida Statutes, is created to read:

626.207 Department rulemaking authority; waiting periods for applicants; penalties against licensees.—

(1) The department shall adopt rules establishing specific waiting periods for applicants to become eligible for licensure following denial, suspension, or revocation pursuant to s. 626.611, s. 626.621, s. 626.8437, s. 626.844, s. 626.935, s. 626.9917, s. 634.181, s. 634.191, s. 634.320, s. 634.321, s. 634.422, s. 634.423, s. 642.041, or s. 642.043. The purpose of the waiting periods is to provide sufficient time to demonstrate reformation of character and rehabilitation. The waiting periods shall vary based on the type of conduct and the length of time since the conduct occurred and shall also be based on the probability that the propensity to commit illegal conduct has been overcome. The waiting periods may be adjusted based on aggravating and mitigating factors established by rule and consistent with this purpose.

(2) The department shall adopt rules establishing specific penalties against licensees for violations of s. 626.611, s. 626.621, s. 626.8437, s. 626.844, s. 626.935, s. 626.9917, s. 634.181, s. 634.191, s. 634.320, s. 634.321, s. 634.422, s. 634.423, s. 642.041, or s. 642.043. The purpose of the revocation or suspension is to provide a sufficient penalty to deter future violations of the Florida Insurance Code. The imposition of a revocation or the length of suspension shall be based on the type of conduct and the probability that the propensity to commit further illegal conduct has been overcome at the time of eligibility for relicensure. The revocation or the length of suspension may be adjusted based on aggravating or mitigating factors, established by rule and consistent with this purpose.

Section 12. Section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

(1) The department shall not issue any license as agent, ~~solicitor~~, customer representative, or adjuster to any individual who has not qualified for, taken, and passed to the satisfaction of the department a written examination of the scope prescribed in s. 626.241.

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

(a) An applicant for renewal of appointment as an agent, ~~solicitor~~, customer representative, or adjuster, unless the department determines that

an examination is necessary to establish the competence or trustworthiness of such applicant.

(b) An applicant for limited license as agent for personal accident insurance, baggage and motor vehicle excess liability insurance, credit life or disability insurance, credit insurance, credit property insurance, or in-transit and storage personal property insurance.

(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.

(e) An individual who qualified as a ~~solicitor~~, managing general agent, service representative, customer representative, or all-lines adjuster by passing a general lines agent's examination and subsequently was licensed and appointed and has been actively engaged in all lines of property and casualty insurance may, upon filing an application for appointment, be licensed and appointed as a general lines agent for the same kinds of business without taking another examination if he or she holds any such currently effective license referred to in this paragraph or held the license within 24 months prior to the date of filing the application with the department.

(f) A person who has been licensed and appointed by the department as a public adjuster or independent adjuster, or licensed and appointed either as an agent or company adjuster as to all property, casualty, and surety insurances, may be licensed and appointed as a company adjuster as to any of such insurances, or as an independent adjuster or public adjuster, without additional written examination if an application for appointment is filed with the department within 24 months following the date of cancellation or expiration of the prior appointment.

(g) A person who has been licensed by the department as an adjuster for motor vehicle, property and casualty, workers' compensation, and health insurance may be licensed as such an adjuster without additional written examination if his or her application for appointment is filed with the department within 24 months after cancellation or expiration of the prior license.

(h) An applicant for temporary license, except as provided in this code.

~~(i) An applicant for license as a nonresident agent, if so provided in this code.~~

(i)(j) An applicant for a life or health license who has received the designation of chartered life underwriter (CLU) from the American College of Life

Underwriters and who has been engaged in the insurance business within the past 4 years, except that such an individual ~~a person~~ may be examined on pertinent provisions of this code.

~~(j)~~<sup>(k)</sup> An applicant for license as a general lines agent, ~~solicitor~~, customer representative, or adjuster who has received the designation of chartered property and casualty underwriter (CPCU) from the American Institute for Property and Liability Underwriters and who has been engaged in the insurance business within the past 4 years, except that such an individual ~~a person~~ may be examined on pertinent provisions of this code.

~~(k)~~<sup>(4)</sup> An applicant for license as a customer representative who has the designation of Accredited Advisor in Insurance (AAI) from the Insurance Institute of America, the designation of Certified Insurance Counselor (CIC) from the Society of Certified Insurance Service Counselors, the designation of Accredited Customer Service Representative (ACSR) from the Independent Insurance Agents of America, the designation of Certified Professional Service Representative (CPSR) from the National Association of Professional Insurance Agents, the designation of Certified Insurance Service Representative (CISR) from the Society of Certified Insurance Service Representatives. Also, an applicant for license as a customer representative who has the designation of Certified Customer Service Representative (CCSR) from the Florida Association of Insurance Agents, or the designation of Registered Customer Service Representative (RCSR) from a regionally accredited postsecondary institution in this state, or the designation of Professional Customer Service Representative (PCSR) from the Professional Career Institute, whose curriculum has been approved by the department and whose curriculum includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the customer representative license. The department shall adopt rules establishing standards for the approval of curriculum.

~~(l)~~<sup>(m)</sup> An applicant for license as an adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state, or the designation of Professional Claims Adjuster (PCA) from the Professional Career Institute, whose curriculum has been approved by the department and whose curriculum includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license. The department shall adopt rules establishing standards for the approval of curriculum.

(m) An applicant qualifying for a license transfer under s. 626.292, if the applicant:

1. Has successfully completed the prelicensing examination requirements in the applicant's previous state which are substantially equivalent to the examination requirements in this state, as determined by the Insurance Commissioner of this state;

2. Has received the designation of chartered property and casualty underwriter (CPCU) from the American Institute for Property and Liability

Underwriters and has been engaged in the insurance business within the past 4 years if applying to transfer a general lines agent license; or

3. Has received the designation of chartered life underwriter (CLU) from the American College of Life Underwriters and has been engaged in the insurance business within the past 4 years, if applying to transfer a life or health agent license.

(n) An applicant for a nonresident agent license, if the applicant:

1. Has successfully completed precicensing examination requirements in the applicant's home state which are substantially equivalent to the examination requirements in this state, as determined by the Insurance Commissioner of this state, as a requirement for obtaining a resident license in his or her home state;

2. Held a general lines agent license, life agent license, or health agent license prior to the time a written examination was required;

3. Has received the designation of chartered property and casualty underwriter (CPCU) from the American Institute for Property and Liability Underwriters and has been engaged in the insurance business within the past 4 years, if an applicant for a nonresident license as a general lines agent; or

4. Has received the designation of chartered life underwriter (CLU) from the American College of Life Underwriters and has been in the insurance business within the past 4 years, if an applicant for a nonresident license as a life agent or health agent.

(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 13. Paragraph (a) of subsection (3) of section 626.2815, Florida Statutes, is amended to read:

626.2815 Continuing education required; application; exceptions; requirements; penalties.—

(3)(a) Each person subject to the provisions of this section must, except as set forth in paragraphs (b) and (c), complete a minimum of 28 hours of continuing education courses every 2 years in basic or higher-level courses prescribed by this section or in other courses approved by the department. Each person subject to the provisions of this section must complete, as part of their required number of continuing education hours, a minimum of 2 hours of continuing education, approved by the department, every 2 years on the subject matter of unauthorized entities engaging in the business of insurance. The scope of the topic of unauthorized entities shall include the Florida Nonprofit Multiple Employer Welfare Arrangement Act and the Employee Retirement Income Security Act, 29 U.S.C. s. 1001, et seq., as it relates to the provision of health insurance by employers to their employees and the regulation thereof.

Section 14. Section 626.292, Florida Statutes, is created to read:

626.292 Transfer of license from another state.—

(1) Any individual licensed in good standing in another state may apply to the department to have the license transferred to this state to obtain a Florida resident agent license for the same lines of authority covered by the license in the other state.

(2) To qualify for a license transfer, an individual applicant must meet the following requirements:

(a) The individual shall become a resident of this state.

(b) The individual shall have been licensed in another state for a minimum of 1 year immediately preceding the date the individual became a resident of this state.

(c) The individual shall submit a completed application for this state which is received by the department within 90 days after the date the individual became a resident of this state, along with payment of the applicable fees set forth in s. 624.501 and submission of the following documents:

1. A certification issued by the appropriate official of the applicant's home state identifying the type of license and lines of authority under the license and stating that, at the time the license from the home state was cancelled, the applicant was in good standing in that state or that the state's Producer Database records, maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries, indicate that the agent is or was licensed in good standing for the line of authority requested.

2. A set of the individual applicant's fingerprints in accordance with s. 626.171(5).

(d) The individual shall satisfy prelicensing education requirements in this state, unless the completion of prelicensing education requirements was a prerequisite for licensure in the other state and the prelicensing education requirements in the other state are substantially equivalent to the prelicensing requirements of this state as determined by the Insurance Commissioner of this state.

(e) The individual shall satisfy the examination requirement under s. 626.221, unless exempt thereunder.

(3) An applicant satisfying the requirements for a license transfer under subsection (2) shall be approved for licensure in this state unless the department finds that grounds exist under s. 626.611 or s. 626.621 for refusal, suspension, or revocation of a license.

Section 15. Section 626.301, Florida Statutes, is amended to read:

626.301 Form and contents of licenses, in general.—Each license issued by the department shall be in such form as the department may designate and contain show the licensee's name, lines of authority ~~classes of insurance~~

the licensee is authorized to transact, the licensee's personal identification number, the date of issuance, and any other information the department deems necessary to fully identify the licensee and the authority being granted ~~the name of the licensee~~. The department may by rule require photographs of applicants as a part of the licensing process.

Section 16. Paragraphs (b) and (f) of subsection (1) of section 626.321, Florida Statutes, are 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:

(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.

(f) Credit insurance.—License covering only credit insurance, as such insurance is defined in s. 624.605(1)(i), and no individual or entity 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). The same licensing provisions as outlined in paragraph (e) apply to entities licensed as credit insurance agents under this paragraph.

Section 17. Section 626.536, Florida Statutes, is created to read:

626.536 Reporting of actions.—An agent shall submit to the department, within 30 days after the final disposition of any administrative action taken against the agent by a governmental agency in this or any other state or jurisdiction relating to the business of insurance, the sale of securities, or activity involving fraud, dishonesty, trustworthiness, or breach of a fiduciary duty, a copy of the order, consent to order, or other relevant legal documents. The department may adopt rules implementing the provisions of this section.

Section 18. Section 626.551, Florida Statutes, is amended to read:

626.551 Notice of change of address, name.—Every licensee shall notify the department in writing within 60 ~~30~~ days after a change of name, residence address, principal business street address, or mailing address. Any licensed agent who has moved his or her residence from this state shall have his or her license and all appointments immediately terminated by the department. Failure to notify the department within the required time period shall result in a fine not to exceed \$250 for the first offense and, for subsequent offenses, a fine of not less than \$500 or suspension or revocation of the license pursuant to s. 626.611 or s. 626.621.

Section 19. Section 626.727, Florida Statutes, is amended to read:

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

- (1) general lines agents, ~~as defined in s. 626.041;~~
- (2) ~~solicitors, as defined in s. 626.071;~~
- (3) customer representatives, ~~as defined in s. 626.072; and~~
- (4) service representatives, ~~and as defined in s. 626.081, or managing general agents, all as defined in s. 626.015 s. 626.091.~~

Section 20. Section 626.729, Florida Statutes, is amended to read:

626.729 “Industrial fire insurance” defined.—For the purposes of this code, “industrial fire insurance” is insurance against loss by fire of either buildings and other structures or contents, which may include extended coverage; windstorm insurance; basic limits owner’s, landlord’s, or tenant’s liability insurance with single limits of \$25,000; comprehensive personal liability insurance with a single limit of \$25,000; or burglary insurance, under which the premiums are collected quarterly or more often and the face amount of the insurance provided by the policy on one risk is not more than \$50,000, including the contents of such buildings and other structures, and the insurer issuing such policy is operating under a system of collecting a debit by its agents. A temporary license for an industrial fire or burglary agent issued pursuant to s. ~~626.175~~ 626.740 shall be solely for the purpose of collecting premiums and servicing in-force policies, and such licensee shall not directly or indirectly solicit, negotiate, or effect contracts of insurance.

Section 21. Subsections (1) and (2) of section 626.730, Florida Statutes, are 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 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 or, 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 or, customer representative, ~~or solicitor~~.

(2) The department shall not grant, renew, continue, or permit to exist any license or appointment as such agent or, 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, 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 22. Section 626.7315, Florida Statutes, is created to read:

626.7315 Prohibition against the unlicensed transaction of general lines insurance.—With respect to any line of authority as defined in s. 626.015(7), no individual shall, unless licensed as a general lines agent:

(1) Solicit insurance or procure applications therefor;

(2) In this state, receive or issue a receipt for any money on account of or for any insurer, or receive or issue a receipt for money from other persons to be transmitted to any insurer for a policy, contract, or certificate of insurance or any renewal thereof, even though the policy, certificate, or contract is not signed by him or her as agent or representative of the insurer;

(3) Directly or indirectly represent himself or herself to be an agent of any insurer or as an agent, to collect or forward any insurance premium, or to solicit, negotiate, effect, procure, receive, deliver, or forward, directly or indirectly, any insurance contract or renewal thereof or any endorsement relating to an insurance contract, or attempt to effect the same, of property or insurable business activities or interests, located in this state;

(4) 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, other than as a licensed attorney at law, relative to insurance or insurance contracts, for fee, commission, or other compensation, other than as a salaried bona fide full-time employee so counseling and advising his or her employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer;

(5) In any way, directly or indirectly, make or cause to be made, or attempt to make or cause to be made, any contract of insurance for or on account of any insurer;

(6) Solicit, negotiate, or in any way, directly or indirectly, effect insurance contracts, if a member of a partnership or association, or a stockholder, officer, or agent of a corporation which holds an agency appointment from any insurer; or

(7) Receive or transmit applications for suretyship, or receive for delivery bonds founded on applications forwarded from this state, or otherwise procure suretyship to be effected by a surety insurer upon the bonds of persons in this state or upon bonds given to persons in this state.

Section 23. Subsection (1) of section 626.732, Florida Statutes, is amended, and subsection (4) is added to said section, to read:

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

(1) Except as provided in subsection (3), no applicant for a license as a general lines agent, except for a chartered property and casualty underwriter (CPCU), other than as to a limited license as to baggage and motor vehicle excess liability insurance, credit property insurance, credit insurance, or in-transit and storage personal property insurance, shall be qualified or licensed unless within the 4 years immediately preceding the date the application for license is filed with the department the applicant has:

(a) Taught or successfully completed classroom courses in insurance satisfactory to the department at a school, college, or extension division thereof, approved by the department;

(b) Completed a correspondence course in insurance satisfactory to the department and regularly offered by accredited institutions of higher learning in this state and, except if he or she is applying for a limited license under s. 626.321, has had at least 6 months of responsible insurance duties as a substantially full-time bona fide employee in all lines of property and casualty insurance set forth in the definition of general lines agent under s. 626.015 ~~s. 626.041(1)~~; or

(c) Completed at least 1 year in responsible insurance duties as a substantially full-time bona fide employee in all lines of property and casualty insurance, exclusive of aviation and wet marine and transportation insurances but not exclusive of boats of less than 36 feet in length or aircraft not held out for hire, as set forth in the definition of a general lines agent under s. 626.015 ~~s. 626.041(1)~~, without the education requirement mentioned in paragraph (a) or paragraph (b); or

(d)1. Completed at least 1 year of responsible insurance duties as a licensed and appointed customer representative in either commercial or personal lines of property and casualty insurance and 40 hours of classroom courses approved by the department covering the areas of property, casualty, surety, health, and marine insurance; or

2. Completed at least 1 year of responsible insurance duties as a licensed and appointed service representative in either commercial or personal lines of property and casualty insurance and 80 hours of classroom courses approved by the department covering the areas of property, casualty, surety, health, and marine insurance.

(4) Classroom and correspondence courses under subsection (1) must include instruction on the subject matter of unauthorized entities engaging in the business of insurance. The scope of the topic of unauthorized entities shall include the Florida Nonprofit Multiple-Employer Welfare Arrangement Act and the Employee Retirement Income Security Act, 29 U.S.C. s. 1001, et seq., as it relates to the provision of health insurance by employers and the regulation thereof.

Section 24. Effective July 1, 2002, subsections (4) and (5) are added to section 626.738, Florida Statutes, to read:

626.738 Solicitor's powers; agent's or agency's responsibility.—

(4) The department shall not issue or renew solicitor licenses and appointments on or after October 1, 2002. Effective 12:01 a.m., October 1, 2002, all solicitor licenses and appointments shall be canceled by operation of law. Each solicitor licensee may have his or her license converted to a general lines agent license. No later than August 1, 2002, the department shall notify existing solicitor licensees of the procedure for converting their license to a general lines agent license, including the requirement of a written request to have the license converted and payment of any required fees. Upon receipt of the written request and fee, the department shall issue a general lines insurance agent license to the solicitor licensee. Conversion of existing solicitor licenses to general lines agent licenses shall be completed prior to October 1, 2002.

(5) After the department converts the solicitor license to a general lines agent license, the licensee shall comply with all provisions of the Florida Insurance Code pertaining to general lines agents.

Section 25. Section 626.741, Florida Statutes, is amended 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 nonresident general lines agent to an individual licensed in his or her home state as a resident agent for the same line of authority as a Florida resident general lines agent and who is otherwise qualified therefor under the laws of this state, but who is not a resident of this state, if by the laws of the individual's home state of the individual's residence, residents of this state may be licensed in a similar like manner as a nonresident agent of his or her home 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 sharing that shares a common boundary with this state.

(2) The department may enter into reciprocal agreements with the appropriate official of any other state waiving the written examination of any applicant resident in that other state if:

(a) In the applicant's home state, a resident of this state is privileged to procure a general lines agent's license upon compliance with the conditions specified in subsection (1) and without discrimination as to fees or otherwise in favor of the residents of the individual's home state.

(b) The appropriate official of the individual's home state certifies that the applicant holds a currently valid license as a resident agent in his or her home state for the same line of authority as a general lines agent in this state.

(c) The applicant satisfies the examination requirement under s. 626.221, or qualifies for an exemption thereunder.

(3)(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 his or her home ~~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 home ~~state of residence~~ does not apply to customer representatives unless the home state licenses residents of that state in a similar ~~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 authority of such nonresident license is limited to the specific lines of authority granted in the license issued by the agent's home ~~state of residence~~ and further limited to the specific lines authorized under the nonresident license issued by 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.

(4)(3) Such a nonresident shall not directly or indirectly solicit, negotiate, or effect insurance contracts in this state unless accompanied by a countersigning agent, resident in this state, on such risk.

(5)(4)(a) All insurance policies as defined in s. 627.402, written under the nonresident agent's license, including those written or issued pursuant to the Surplus Lines Law, part VIII, on risks or property located in this state must be countersigned by a local agent resident of this state; and it shall be the duty and responsibility of the nonresident agent, and, if called upon to do so by the countersigning agent, of the insurer likewise, to assure that such resident local agent receives the same commission as allowed by the home ~~state of residence~~ of the nonresident agent, but in no event shall the resident local agent receive, accept, or retain less than 50 percent of the usual Florida local agent's commission or 50 percent of the nonresident agent's commission, whichever is less, on policies of insurance covering property as defined in s. 624.604 and insurance covering in whole or in part real property and tangible personal property, including property floater policies. On all other policies of insurance, including insurance covering motor vehicles, plate glass, burglary, robbery, theft, larceny, boiler and machinery, workers' compensation, fidelity and surety, bodily injury liability, and property damage liability, in no event shall he or she receive, accept, or retain less than 25 percent of the usual Florida local agent's commission or 25 percent of the nonresident agent's commission, whichever is less.

(b) The provisions of this subsection, with respect to resident agent countersignature commission, shall not be applicable to any contracts of insurance purchased by a person whose premiums for insurance in the preceding

year of such purchase exceeded \$250,000 in the aggregate. Nothing herein is intended to preclude the negotiation and payment of a commission to the countersigning agent to compensate him or her for services performed or to be performed.

~~(6)~~<sup>(5)</sup> 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.

~~(7)~~<sup>(6)</sup> 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 or her license and any appointments shall be canceled immediately. He or she may apply for a resident license pursuant to s. 626.731.

~~(8)~~<sup>(7)</sup> 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.

(9) If available, the department shall verify the nonresident applicant's licensing status through the Producer Database maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.

Section 26. Subsection (6) of section 626.7454, Florida Statutes, is amended to read:

626.7454 Managing general agents; duties of insurers.—

(6) An insurer shall review its books and records on a quarterly basis to determine if any producer has become a managing general agent as defined in s. ~~626.015~~ ~~626.091~~. If the insurer determines that a producer has become a managing general agent, the insurer shall promptly notify the producer and the department of such determination and the insurer and producer must fully comply with the provisions of this section and ss. 626.7451, 626.7452, and 626.7453 within 30 days after such determination.

Subsections (1), (3), and (4) do not apply to a managing general agent that is a controlled or controlling person.

Section 27. Section 626.7455, Florida Statutes, is created to read:

626.7455 Managing general agent; responsibility of insurer.—

(1) No insurer shall enter into an agreement with any person to manage the business written in this state by the general lines agents appointed by the insurer or appointed by the managing general agent on behalf of the insurer unless the person is properly licensed and appointed as a managing general agent in this state. An insurer shall be responsible for the acts of

its managing general agent when the agent acts within the scope of his or her authority.

(2) This section does not apply to surplus lines insurance when written pursuant to the Surplus Lines Law, ss. 626.913-626.937.

Section 28. Section 626.779, Florida Statutes, is amended to read:

626.779 “Life agent” defined.—For the purposes of this part, a “life agent” is as defined in s. ~~626.015~~ ~~626.051~~.

Section 29. Section 626.7845, Florida Statutes, is created to read:

626.7845 Prohibition against unlicensed transaction of life insurance.—

(1) An individual 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 individual 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), with respect to any line of authority specified in s. 626.015(12), no individual shall, unless licensed as a life 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 30. Paragraph (d) of subsection (1) of section 626.785, Florida Statutes, is amended to read:

626.785 Qualifications for license.—

(1) The department shall not grant or issue a license as life agent to any individual found by it to be untrustworthy or incompetent, or who does not meet the following qualifications:

(d) Must not be a funeral director or direct disposer, or an employee or representative thereof, or have an office in, or in connection with, a funeral establishment, except that a funeral establishment may contract with a life insurance agent to sell a preneed contract as defined in chapter 497. Notwithstanding other provisions of this chapter, such insurance agent may sell limited policies of insurance covering the expense of final disposition or burial of an insured in an amount not to exceed \$10,000 ~~\$7,500~~.

Section 31. Subsections (1) and (2) of section 626.7851, Florida Statutes, are amended to read:

626.7851 Requirement as to knowledge, experience, or instruction.—No applicant for a license as a life agent, except for a chartered life underwriter (CLU), shall be qualified or licensed unless within the 4 years immediately preceding the date the application for a license is filed with the department he or she has:

(1) Successfully completed 40 hours of classroom courses in insurance satisfactory to the department at a school or college, or extension division thereof, or other authorized course of study, approved by the department. Courses must include instruction on the subject matter of unauthorized entities engaging in the business of insurance, to include the Florida Non-profit Multiple-Employer Welfare Arrangement Act and the Employee Retirement Income Security Act, 29 U.S.C. s. 1001, et seq., as it relates to the provision of life insurance by employers to their employees and the regulation thereof;

(2) Successfully completed a correspondence course in insurance satisfactory to the department and regularly offered by accredited institutions of higher learning in this state, approved by the department. Courses must include instruction on the subject matter of unauthorized entities engaging in the business of insurance, to include the Florida Nonprofit Multiple-Employer Welfare Arrangement Act and the Employee Retirement Income Security Act, 29 U.S.C. s. 1001, et seq., as it relates to the provision of life insurance by employers to their employees and the regulation thereof;

Section 32. Subsection (1) of section 626.790, Florida Statutes, is amended to read:

626.790 Temporary license; pending examination.—

(1) Each applicant for a life agent's license to represent an insurer of the industrial or ordinary-combination class may, upon payment of the required license and appointment fees, have issued to him or her a temporary license for a period not exceeding 6 months. The department shall not issue a temporary license as to an ordinary class agent, except as provided in s. ~~626.175~~ 626.791.

Section 33. Subsections (1) and (2) of section 626.792, Florida Statutes, are amended, and subsection (9) is added to said section, to read:

626.792 Nonresident agents; licensing and restrictions.—

(1) The department, upon written application and payment of the fees specified in s. 624.501, may issue a license as a nonresident life agent to an individual ~~a person~~ not resident of this state, upon compliance with the applicable provisions of this code, if that individual's home ~~the state or province of Canada of such person's residence~~ will accord the same privilege to a resident of this state.

(2) The department may enter into reciprocal agreements with the appropriate official of any other state or province of Canada waiving the writ-

ten examination of any applicant resident in such other state or province if, in that other state or province, a resident of this state is privileged to procure a life insurance agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state or province and:

(a) A written examination, substantially equivalent to the examination required by this state, is required of an applicant for a life insurance agent's license in such other state or province.;

(b) The appropriate official of the other state or province certifies that the applicant holds a currently valid license as a life insurance agent in such other state or province and satisfies the examination requirement under s. 626.221 or is exempt under such section either passed such a written examination or was the holder of a life insurance agent's license prior to the time a written examination was required; and

~~(c) In such other state or province, a resident of this state is privileged to procure a life insurance agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state or province.~~

(9) If available, the department shall verify the nonresident applicant's licensing status through the Producer Database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

Section 34. Section 626.8305, Florida Statutes, is created to read:

626.8305 Prohibition against the unlicensed transaction of health insurance.—Except as provided in s. 626.112(6), with respect to any line of authority specified in s. 626.015(8), no individual shall, unless licensed as a health agent:

(1) Solicit insurance or procure applications; or

(2) 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:

(a) As a consulting actuary advising insurers; or

(b) 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 35. Subsections (1) and (2) of section 626.8311, Florida Statutes, are amended to read:

626.8311 Requirement as to knowledge, experience, or instruction.—No applicant for a license as a health agent, except for a chartered life underwriter (CLU), shall be qualified or licensed unless within the 4 years imme-

diately preceding the date the application for license is filed with the department he or she has:

(1) Successfully completed 40 hours of classroom courses in insurance satisfactory to the department at a school or college, or extension division thereof, or other authorized course of study, approved by the department. Courses must include instruction on the subject matter of unauthorized entities engaging in the business of insurance, to include the Florida Non-profit Multiple-Employer Welfare Arrangement Act and the Employee Retirement Income Security Act, 29 U.S.C. s. 1001, et seq., as it relates to the provision of health insurance by employers to their employees and the regulation thereof;

(2) Successfully completed a correspondence course in insurance satisfactory to the department and regularly offered by accredited institutions of higher learning in this state, approved by the department. Courses must include instruction on the subject matter of unauthorized entities engaging in the business of insurance, to include the Florida Nonprofit Multiple-Employer Welfare Arrangement Act and the Employee Retirement Income Security Act, 29 U.S.C. s. 1001, et seq., as it relates to the provision of health insurance by employers to their employees and the regulation thereof;

Section 36. Subsections (1) and (2) of section 626.835, Florida Statutes, are amended, and subsection (9) is added to said section, to read:

626.835 Nonresident agents; licensing and restrictions.—

(1) The department, upon written application and payment of the fees specified in s. 624.501, may issue a license as a nonresident health agent to an individual ~~a person~~ not a resident of this state, if the state or province of Canada of such individual's ~~person's~~ residence will accord the same privilege to a resident of this state.

(2) The department may enter into reciprocal agreements with the appropriate official of any other state or province of Canada waiving the written examination of any applicant resident in such other state or province if, in such other state or province, a resident of this state is privileged to procure a health insurance agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state or province and:

(a) A written examination, substantially equivalent to the examination required by this state, is required of an applicant for a health insurance agent's license in such other state or province.;

(b) The appropriate official of the other state or province certifies that the applicant holds a currently valid license as a health insurance agent in such other state or province and satisfied the examination requirements under s. 626.221 or is exempt under such section either has passed such a written examination or was the holder of a health insurance agent's license prior to the time a written examination was required; and

~~(c) In such other state or province, a resident of this state is privileged to procure a health insurance agent's license upon the foregoing conditions~~

and without discrimination as to fees or otherwise in favor of the residents of such other state or province.

(9) If available, the department shall verify the producer's licensing status through the Producer Database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

Section 37. Paragraph (b) of subsection (1) of section 626.8411, Florida Statutes, is amended to read:

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

(1) The following provisions of part II, as applicable to general lines agents or agencies, also apply to title insurance agents or agencies:

(b) Section 626.175 ~~626.739~~, relating to temporary licenses.

Section 38. Subsection (6) is added to section 626.852, Florida Statutes, to read:

626.852 Scope of this part.—

(6) This part does not apply to any person who adjusts only multiple peril crop insurance or crop hail claims.

Section 39. Subsection (1) of section 626.902, Florida Statutes, is amended to read:

626.902 Penalty for representing unauthorized insurer.—

(1) In addition to any other penalties provided in the insurance code:

(a) Any insurance agent licensed in this state who in this state knowingly represents or aids an unauthorized insurer in violation of s. 626.901 commits a felony misdemeanor of the third ~~second~~ degree, punishable as provided in s. 775.082, ~~or s. 775.083, or s. 775.084.~~

(b) Any person other than an insurance agent licensed in this state who in this state represents or aids an unauthorized insurer in violation of s. 626.901 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who commits a subsequent violation of this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 40. Subsection (2) of section 626.927, Florida Statutes, is amended to read:

626.927 Licensing of surplus lines agent.—

(2) Any individual while licensed and appointed as a managing general agent as defined in s. 626.015 ~~626.091~~, or service representative as defined

in s. ~~626.015~~ ~~626.081~~, and who otherwise possesses all of the other qualifications of a general lines agent under this code, and who has a minimum of 1 year's experience working for a licensed surplus lines agent or who has successfully completed 60 class hours in surplus and excess lines in a course approved by the department, may, upon taking and successfully passing a written examination as to surplus lines, as given by the department, be licensed as a surplus lines agent solely for the purpose of placing with surplus lines insurers property, marine, casualty, or surety coverages originated by general lines agents; except that no examination as for a general lines agent's license shall be required of any managing general agent or service representative who held a Florida surplus lines agent's license as of January 1, 1959.

Section 41. Subsection (4) of section 626.992, Florida Statutes, is amended to read:

626.992 Use of viatical settlement licensed brokers, providers, and sales agents required.—

(4) A person may not perform the functions of a viatical settlement sales agent unless licensed as a life agent as defined in s. ~~626.015~~ ~~626.051~~ and as provided in this chapter.

Section 42. Paragraph (b) of subsection (6) of section 629.401, Florida Statutes, is amended to read:

629.401 Insurance exchange.—

(6)

(b) In addition to the insurance laws specified in paragraph (a), the department shall regulate the exchange pursuant to the following powers, rights, and duties:

1. General examination powers.—The department shall examine the affairs, transactions, accounts, records, and assets of any security fund, exchange, members, and associate brokers as often as it deems advisable. The examination may be conducted by the accredited examiners of the department at the offices of the entity or person being examined. The department shall examine in like manner each prospective member or associate broker applying for membership in an exchange.

2. Departmental approval and applications of underwriting members.—No underwriting member shall commence operation without the approval of the department. Before commencing operation, an underwriting member shall provide a written application containing:

a. Name, type, and purpose of the underwriting member.

b. Name, residence address, business background, and qualifications of each person associated or to be associated in the formation or financing of the underwriting member.

c. Full disclosure of the terms of all understandings and agreements existing or proposed among persons so associated relative to the underwriting member, or the formation or financing thereof, accompanied by a copy of each such agreement or understanding.

d. Full disclosure of the terms of all understandings and agreements existing or proposed for management or exclusive agency contracts.

3. Investigation of underwriting member applications.—In connection with any proposal to establish an underwriting member, the department shall make an investigation of:

a. The character, reputation, financial standing, and motives of the organizers, incorporators, or subscribers organizing the proposed underwriting member.

b. The character, financial responsibility, insurance experience, and business qualifications of its proposed officers.

c. The character, financial responsibility, business experience, and standing of the proposed stockholders and directors, or owners.

4. Notice of management changes.—An underwriting member shall promptly give the department written notice of any change among the directors or principal officers of the underwriting member within 30 days after such change. The department shall investigate the new directors or principal officers of the underwriting member. The department's investigation shall include an investigation of the character, financial responsibility, insurance experience, and business qualifications of any new directors or principal officers. As a result of the investigation, the department may require the underwriting member to replace any new directors or principal officers.

5. Alternate financial statement.—In lieu of any financial examination, the department may accept an audited financial statement.

6. Correction and reconstruction of records.—If the department finds any accounts or records to be inadequate, or inadequately kept or posted, it may employ experts to reconstruct, rewrite, post, or balance them at the expense of the person or entity being examined if such person or entity has failed to maintain, complete, or correct such records or accounts after the department has given him or her or it notice and reasonable opportunity to do so.

7. Obstruction of examinations.—Any person or entity who or which willfully obstructs the department or its examiner in an examination is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

8. Filing of annual statement.—Each underwriting member shall file with the department a full and true statement of its financial condition, transactions, and affairs. The statement shall be filed on or before March 1 of each year, or within such extension of time as the department for good cause grants, and shall be for the preceding calendar year. The statement

shall contain information generally included in insurer financial statements prepared in accordance with generally accepted insurance accounting principles and practices and in a form generally utilized by insurers for financial statements, sworn to by at least two executive officers of the underwriting member. The form of the financial statements shall be the approved form of the National Association of Insurance Commissioners or its successor organization. The department may by rule require each insurer to submit any part of the information contained in the financial statement in a computer-readable form compatible with the department's electronic data processing system. In addition to information furnished in connection with its annual statement, an underwriting member must furnish to the department as soon as reasonably possible such information about its transactions or affairs as the department requests in writing. All information furnished pursuant to the department's request must be verified by the oath of two executive officers of the underwriting member.

9. Record maintenance.—Each underwriting member shall have and maintain its principal place of business in this state and shall keep therein complete records of its assets, transactions, and affairs in accordance with such methods and systems as are customary for or suitable to the kind or kinds of insurance transacted.

10. Examination of agents.—If the department has reason to believe that any agent, as defined in s. 626.015 ~~626.041~~, s. ~~626.051~~, s. ~~626.062~~, or s. ~~626.914~~, has violated or is violating any provision of the insurance law, or upon receipt of a written complaint signed by any interested person indicating that any such violation may exist, the department shall conduct such examination as it deems necessary of the accounts, records, documents, and transactions pertaining to or affecting the insurance affairs of such agent.

11. Written reports of department.—The department or its examiner shall make a full and true written report of any examination. The report shall contain only information obtained from examination of the records, accounts, files, and documents of or relative to the person or entity examined or from testimony of individuals under oath, together with relevant conclusions and recommendations of the examiner based thereon. The department shall furnish a copy of the report to the person or entity examined not less than 30 days prior to filing the report in its office. If such person or entity so requests in writing within such 30-day period, the department shall grant a hearing with respect to the report and shall not file the report until after the hearing and after such modifications have been made therein as the department deems proper.

12. Admissibility of reports.—The report of an examination when filed shall be admissible in evidence in any action or proceeding brought by the department against the person or entity examined, or against his or her or its officers, employees, or agents. The department or its examiners may at any time testify and offer other proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished, or filed in the department.

13. Publication of reports.—After an examination report has been filed, the department may publish the results of any such examination in one or more newspapers published in this state whenever it deems it to be in the public interest.

14. Consideration of examination reports by entity examined.—After the examination report of an underwriting member has been filed, an affidavit shall be filed with the department, not more than 30 days after the report has been filed, on a form furnished by the department and signed by the person or a representative of any entity examined, stating that the report has been read and that the recommendations made in the report will be considered within a reasonable time.

15. Examination costs.—Each person or entity examined by the department shall pay to the department the expenses incurred in such examination.

16. Exchange costs.—An exchange shall reimburse the department for any expenses incurred by it relating to the regulation of the exchange and its members, except as specified in subparagraph 15.

17. Powers of examiners.—Any examiner appointed by the department, as to the subject of any examination, investigation, or hearing being conducted by him or her, may administer oaths, examine and cross-examine witnesses, and receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance and testimony, and require by subpoena the production of books, papers, records, files, correspondence, documents, or other evidence which the examiner deems relevant to the inquiry. If any person refuses to comply with any such subpoena or to testify as to any matter concerning which he or she may be lawfully interrogated, the Circuit Court of Leon County or the circuit court of the county wherein such examination, investigation, or hearing is being conducted, or of the county wherein such person resides, on the department's application may issue an order requiring such person to comply with the subpoena and to testify; and any failure to obey such an order of the court may be punished by the court as a contempt thereof. Subpoenas shall be served, and proof of such service made, in the same manner as if issued by a circuit court. Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a circuit court.

18. False testimony.—Any person willfully testifying falsely under oath as to any matter material to any examination, investigation, or hearing shall upon conviction thereof be guilty of perjury and shall be punished accordingly.

19. Self-incrimination.—

a. If any person asks to be excused from attending or testifying or from producing any books, papers, records, contracts, documents, or other evidence in connection with any examination, hearing, or investigation being conducted by the department or its examiner, on the ground that the testimony or evidence required of the person may tend to incriminate him or her

or subject him or her to a penalty or forfeiture, and the person notwithstanding is directed to give such testimony or produce such evidence, he or she shall, if so directed by the department and the Department of Legal Affairs, nonetheless comply with such direction; but the person shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or she may have so testified or produced evidence, and no testimony so given or evidence so produced shall be received against him or her upon any criminal action, investigation, or proceeding; except that no such person so testifying shall be exempt from prosecution or punishment for any perjury committed by him or her in such testimony, and the testimony or evidence so given or produced shall be admissible against him or her upon any criminal action, investigation, or proceeding concerning such perjury, nor shall he or she be exempt from the refusal, suspension, or revocation of any license, permission, or authority conferred, or to be conferred, pursuant to the insurance law.

b. Any such individual may execute, acknowledge, and file in the office of the department a statement expressly waiving such immunity or privilege in respect to any transaction, matter, or thing specified in such statement, and thereupon the testimony of such individual or such evidence in relation to such transaction, matter, or thing may be received or produced before any judge or justice, court, tribunal, grand jury, or otherwise; and if such testimony or evidence is so received or produced, such individual shall not be entitled to any immunity or privileges on account of any testimony so given or evidence so produced.

20. Penalty for failure to testify.—Any person who refuses or fails, without lawful cause, to testify relative to the affairs of any member, associate broker, or other person when subpoenaed and requested by the department to so testify, as provided in subparagraph 17., shall, in addition to the penalty provided in subparagraph 17., be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

21. Name selection.—No underwriting member shall be formed or authorized to transact insurance in this state under a name which is the same as that of any authorized insurer or is so nearly similar thereto as to cause or tend to cause confusion or under a name which would tend to mislead as to the type of organization of the insurer. Before incorporating under or using any name, the underwriting syndicate or proposed underwriting syndicate shall submit its name or proposed name to the department for the approval of the department.

22. Capitalization.—An underwriting member approved on or after July 2, 1987, shall provide an initial paid-in capital and surplus of \$3 million and thereafter shall maintain a minimum policyholder surplus of \$2 million in order to be permitted to write insurance. Underwriting members approved prior to July 2, 1987, shall maintain a minimum policyholder surplus of \$1 million. After June 29, 1988, underwriting members approved prior to July 2, 1987, must maintain a minimum policyholder surplus of \$1.5 million to write insurance. After June 29, 1989, underwriting members approved prior to July 2, 1987, must maintain a minimum policyholder surplus of \$1.75

million to write insurance. After December 30, 1989, all underwriting members, regardless of the date they were approved, must maintain a minimum policyholder surplus of \$2 million to write insurance. Except for that portion of the paid-in capital and surplus which shall be maintained in a security fund of an exchange, the paid-in capital and surplus shall be invested by an underwriting member in a manner consistent with ss. 625.301-625.340. The portion of the paid-in capital and surplus in any security fund of an exchange shall be invested in a manner limited to investments for life insurance companies under the Florida insurance laws.

23. Limitations on coverage written.—

a. Limit of risk.—No underwriting member shall expose itself to any loss on any one risk in an amount exceeding 10 percent of its surplus to policyholders. Any risk or portion of any risk which shall have been reinsured in an assuming reinsurer authorized or approved to do such business in this state shall be deducted in determining the limitation of risk prescribed in this section.

b. Restrictions on premiums written.—If the department has reason to believe that the underwriting member's ratio of actual or projected annual gross written premiums to policyholder surplus exceeds 8 to 1 or the underwriting member's ratio of actual or projected annual net premiums to policyholder surplus exceeds 4 to 1, the department may establish maximum gross or net annual premiums to be written by the underwriting member consistent with maintaining the ratios specified in this sub-subparagraph.

(I) Projected annual net or gross premiums shall be based on the actual writings to date for the underwriting member's current calendar year, its writings for the previous calendar year, or both. Ratios shall be computed on an annualized basis.

(II) For purposes of this sub-subparagraph, the term "gross written premiums" means direct premiums written and reinsurance assumed.

c. Surplus as to policyholders.—For the purpose of determining the limitation on coverage written, surplus as to policyholders shall be deemed to include any voluntary reserves, or any part thereof, which are not required by or pursuant to law and shall be determined from the last sworn statement of such underwriting member with the department, or by the last report or examination filed by the department, whichever is more recent at the time of assumption of such risk.

24. Unearned premium reserves.—All unearned premium reserves for business written on the exchange shall be calculated on a monthly or more frequent basis or on such other basis as determined by the department; except that all premiums on any marine or transportation insurance trip risk shall be deemed unearned until the trip is terminated.

25. Loss reserves.—All underwriting members of an exchange shall maintain loss reserves, including a reserve for incurred but not reported claims. The reserves shall be subject to review by the department, and, if loss experience shows that an underwriting member's loss reserves are

inadequate, the department shall require the underwriting member to maintain loss reserves in such additional amount as is needed to make them adequate.

26. Distribution of profits.—An underwriting member shall not distribute any profits in the form of cash or other assets to owners except out of that part of its available and accumulated surplus funds which is derived from realized net operating profits on its business and realized capital gains. In any one year such payments to owners shall not exceed 30 percent of such surplus as of December 31 of the immediately preceding year, unless otherwise approved by the department. No distribution of profits shall be made that would render an underwriting member either impaired or insolvent.

27. Stock dividends.—A stock dividend may be paid by an underwriting member out of any available surplus funds in excess of the aggregate amount of surplus advanced to the underwriting member under subparagraph 29.

28. Dividends from earned surplus.—A dividend otherwise lawful may be payable out of an underwriting member's earned surplus even though the total surplus of the underwriting member is then less than the aggregate of its past contributed surplus resulting from issuance of its capital stock at a price in excess of the par value thereof.

29. Borrowing of money by underwriting members.—

a. An underwriting member may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that such money is required to be repaid only out of the underwriting member's surplus in excess of that stipulated in such agreement. The agreement may provide for interest not exceeding 15 percent simple interest per annum. The interest shall or shall not constitute a liability of the underwriting member as to its funds other than such excess of surplus, as stipulated in the agreement. No commission or promotion expense shall be paid in connection with any such loan. The use of any surplus note and any repayments thereof shall be subject to the approval of the department.

b. Money so borrowed, together with any interest thereon if so stipulated in the agreement, shall not form a part of the underwriting member's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement, nor be the basis of any setoff; but until repayment, financial statements filed or published by an underwriting member shall show as a footnote thereto the amount thereof then unpaid, together with any interest thereon accrued but unpaid.

30. Liquidation, rehabilitation, and restrictions.—The department, upon a showing that a member or associate broker of an exchange has met one or more of the grounds contained in part I of chapter 631, may restrict sales by type of risk, policy or contract limits, premium levels, or policy or contract provisions; increase surplus or capital requirements of underwriting members; issue cease and desist orders; suspend or restrict a member's or associate broker's right to transact business; place an underwriting member

under conservatorship or rehabilitation; or seek an order of liquidation as authorized by part I of chapter 631.

31. Prohibited conduct.—The following acts by a member, associate broker, or affiliated person shall constitute prohibited conduct:

a. Fraud.

b. Fraudulent or dishonest acts committed by a member or associate broker prior to admission to an exchange, if the facts and circumstances were not disclosed to the department upon application to become a member or associate broker.

c. Conduct detrimental to the welfare of an exchange.

d. Unethical or improper practices or conduct, inconsistent with just and equitable principles of trade as set forth in, but not limited to, ss. 626.951-626.9641 and 626.973.

e. Failure to use due diligence to ascertain the insurance needs of a client or a principal.

f. Misstatements made under oath or upon an application for membership on an exchange.

g. Failure to testify or produce documents when requested by the department.

h. Willful violation of any law of this state.

i. Failure of an officer or principal to testify under oath concerning a member, associate broker, or other person's affairs as they relate to the operation of an exchange.

j. Violation of the constitution and bylaws of the exchange.

32. Penalties for participating in prohibited conduct.—

a. The department may order the suspension of further transaction of business on the exchange of any member or associate broker found to have engaged in prohibited conduct. In addition, any member or associate broker found to have engaged in prohibited conduct may be subject to reprimand, censure, and/or a fine not exceeding \$25,000 imposed by the department.

b. Any member which has an affiliated person who is found to have engaged in prohibited conduct shall be subject to involuntary withdrawal or in addition thereto may be subject to suspension, reprimand, censure, and/or a fine not exceeding \$25,000.

33. Reduction of penalties.—Any suspension, reprimand, censure, or fine may be remitted or reduced by the department on such terms and conditions as are deemed fair and equitable.

34. Other offenses.—Any member or associate broker that is suspended shall be deprived, during the period of suspension, of all rights and privi-

leges of a member or of an associate broker and may be proceeded against by the department for any offense committed either before or after the date of suspension.

35. Reinstatement.—Any member or associate broker that is suspended may be reinstated at any time on such terms and conditions as the department may specify.

36. Remittance of fines.—Fines imposed under this section shall be remitted to the department and shall be paid into the Insurance Commissioner's Regulatory Trust Fund.

37. Failure to pay fines.—When a member or associate broker has failed to pay a fine for 15 days after it becomes payable, such member or associate broker shall be suspended, unless the department has granted an extension of time to pay such fine.

38. Changes in ownership or assets.—In the event of a major change in the ownership or a major change in the assets of an underwriting member, the underwriting member shall report such change in writing to the department within 30 days of the effective date thereof. The report shall set forth the details of the change. Any change in ownership or assets of more than 5 percent shall be considered a major change.

39. Retaliation.—

a. When by or pursuant to the laws of any other state or foreign country any taxes, licenses, or other fees, in the aggregate, and any fines, penalties, deposit requirements, or other material obligations, prohibitions, or restrictions are or would be imposed upon an exchange or upon the agents or representatives of such exchange which are in excess of such taxes, licenses, and other fees, in the aggregate, or which are in excess of such fines, penalties, deposit requirements, or other obligations, prohibitions, or restrictions directly imposed upon similar exchanges or upon the agents or representatives of such exchanges of such other state or country under the statutes of this state, so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses, and other fees, in the aggregate, or fines, penalties, deposit requirements, or other material obligations, prohibitions, or restrictions of whatever kind shall be imposed by the department upon the exchanges, or upon the agents or representatives of such exchanges, of such other state or country doing business or seeking to do business in this state.

b. Any tax, license, or other obligation imposed by any city, county, or other political subdivision or agency of a state, jurisdiction, or foreign country on an exchange, or on the agents or representatives on an exchange, shall be deemed to be imposed by such state, jurisdiction, or foreign country within the meaning of sub-subparagraph a.

40. Agents.—

a. Agents as defined in ss. ~~626.015~~ 626.041, ~~626.051~~, ~~626.062~~, and 626.914 who are broker members or associate broker members of an exchange shall be allowed only to place on an exchange the same kind or kinds

of business that the agent is licensed to place pursuant to Florida law. Direct Florida business as defined in s. 626.916 or s. 626.917 shall be written through a broker member who is a surplus lines agent as defined in s. 626.914. The activities of each broker member or associate broker with regard to an exchange shall be subject to all applicable provisions of the insurance laws of this state, and all such activities shall constitute transactions under his or her license as an insurance agent for purposes of the Florida insurance law.

b. Premium payments and other requirements.—If an underwriting member has assumed the risk as to a surplus lines coverage and if the premium therefor has been received by the surplus lines agent who placed such insurance, then in all questions thereafter arising under the coverage as between the underwriting member and the insured, the underwriting member shall be deemed to have received the premium due to it for such coverage; and the underwriting member shall be liable to the insured as to losses covered by such insurance, and for unearned premiums which may become payable to the insured upon cancellation of such insurance, whether or not in fact the surplus lines agent is indebted to the underwriting member with respect to such insurance or for any other cause.

41. Improperly issued contracts, riders, and endorsements.—

a. Any insurance policy, rider, or endorsement issued by an underwriting member and otherwise valid which contains any condition or provision not in compliance with the requirements of this section shall not be thereby rendered invalid, except as provided in s. 627.415, but shall be construed and applied in accordance with such conditions and provisions as would have applied had such policy, rider, or endorsement been in full compliance with this section. In the event an underwriting member issues or delivers any policy for an amount which exceeds any limitations otherwise provided in this section, the underwriting member shall be liable to the insured or his or her beneficiary for the full amount stated in the policy in addition to any other penalties that may be imposed.

b. Any insurance contract delivered or issued for delivery in this state governing a subject or subjects of insurance resident, located, or to be performed in this state which, pursuant to the provisions of this section, the underwriting member may not lawfully insure under such a contract shall be cancelable at any time by the underwriting member, any provision of the contract to the contrary notwithstanding; and the underwriting member shall promptly cancel the contract in accordance with the request of the department therefor. No such illegality or cancellation shall be deemed to relieve the underwriting syndicate of any liability incurred by it under the contract while in force or to prohibit the underwriting syndicate from retaining the pro rata earned premium thereon. This provision does not relieve the underwriting syndicate from any penalty otherwise incurred by the underwriting syndicate.

42. Satisfaction of judgments.—

a. Every judgment or decree for the recovery of money heretofore or hereafter entered in any court of competent jurisdiction against any under-

writing member shall be fully satisfied within 60 days from and after the entry thereof or, in the case of an appeal from such judgment or decree, within 60 days from and after the affirmance of the judgment or decree by the appellate court.

b. If the judgment or decree is not satisfied as required under sub-subparagraph a., and proof of such failure to satisfy is made by filing with the department a certified transcript of the docket of the judgment or the decree together with a certificate by the clerk of the court wherein the judgment or decree remains unsatisfied, in whole or in part, after the time provided in sub-subparagraph a., the department shall forthwith prohibit the underwriting member from transacting business. The department shall not permit such underwriting member to write any new business until the judgment or decree is wholly paid and satisfied and proof thereof is filed with the department under the official certificate of the clerk of the court wherein the judgment was recovered, showing that the judgment or decree is satisfied of record, and until the expenses and fees incurred in the case are also paid by the underwriting syndicate.

43. Tender and exchange offers.—No person shall conclude a tender offer or an exchange offer or otherwise acquire 5 percent or more of the outstanding voting securities of an underwriting member or controlling company or purchase 5 percent or more of the ownership of an underwriting member or controlling company unless such person has filed with, and obtained the approval of, the department and sent to such underwriting member a statement setting forth:

a. The identity of, and background information on, each person by whom, or on whose behalf, the acquisition is to be made; and, if the acquisition is to be made by or on behalf of a corporation, association, or trust, the identity of and background information on each director, officer, trustee, or other natural person performing duties similar to those of a director, officer, or trustee for the corporation, association, or trust.

b. The source and amount of the funds or other consideration used, or to be used, in making the acquisition.

c. Any plans or proposals which such person may have to liquidate such member, to sell its assets, or to merge or consolidate it.

d. The percentage of ownership which such person proposes to acquire and the terms of the offer or exchange, as the case may be.

e. Information as to any contracts, arrangements, or understandings with any party with respect to any securities of such member or controlling company, including, but not limited to, information relating to the transfer of any securities, option arrangements, or puts or calls or the giving or withholding of proxies, naming the party with whom such contract, arrangements, or understandings have been entered and giving the details thereof.

f. The department may disapprove any acquisition subject to the provisions of this subparagraph by any person or any affiliated person of such person who:

(I) Willfully violates this subparagraph;

(II) In violation of an order of the department issued pursuant to subparagraph j., fails to divest himself or herself of any stock obtained in violation of this subparagraph, or fails to divest himself or herself of any direct or indirect control of such stock, within 25 days after such order; or

(III) In violation of an order issued by the department pursuant to subparagraph j., acquires additional stock of the underwriting member or controlling company, or direct or indirect control of such stock, without complying with this subparagraph.

g. The person or persons filing the statement required by this subparagraph have the burden of proof. The department shall approve any such acquisition if it finds, on the basis of the record made during any proceeding or on the basis of the filed statement if no proceeding is conducted, that:

(I) Upon completion of the acquisition, the underwriting member will be able to satisfy the requirements for the approval to write the line or lines of insurance for which it is presently approved;

(II) The financial condition of the acquiring person or persons will not jeopardize the financial stability of the underwriting member or prejudice the interests of its policyholders or the public;

(III) Any plan or proposal which the acquiring person has, or acquiring persons have, made:

(A) To liquidate the insurer, sell its assets, or merge or consolidate it with any person, or to make any other major change in its business or corporate structure or management; or

(B) To liquidate any controlling company, sell its assets, or merge or consolidate it with any person, or to make any major change in its business or corporate structure or management which would have an effect upon the underwriting member

is fair and free of prejudice to the policyholders of the underwriting member or to the public;

(IV) The competence, experience, and integrity of those persons who will control directly or indirectly the operation of the underwriting member indicate that the acquisition is in the best interest of the policyholders of the underwriting member and in the public interest;

(V) The natural persons for whom background information is required to be furnished pursuant to this subparagraph have such backgrounds as to indicate that it is in the best interests of the policyholders of the underwriting member, and in the public interest, to permit such persons to exercise control over such underwriting member;

(VI) The officers and directors to be employed after the acquisition have sufficient insurance experience and ability to assure reasonable promise of successful operation;

(VII) The management of the underwriting member after the acquisition will be competent and trustworthy and will possess sufficient managerial experience so as to make the proposed operation of the underwriting member not hazardous to the insurance-buying public;

(VIII) The management of the underwriting member after the acquisition will not include any person who has directly or indirectly through ownership, control, reinsurance transactions, or other insurance or business relations unlawfully manipulated the assets, accounts, finances, or books of any insurer or underwriting member or otherwise acted in bad faith with respect thereto;

(IX) The acquisition is not likely to be hazardous or prejudicial to the underwriting member's policyholders or the public; and

(X) The effect of the acquisition of control would not substantially lessen competition in insurance in this state or would not tend to create a monopoly therein.

h. No vote by the stockholder of record, or by any other person, of any security acquired in contravention of the provisions of this subparagraph is valid. Any acquisition of any security contrary to the provisions of this subparagraph is void. Upon the petition of the underwriting member or controlling company, the circuit court for the county in which the principal office of such underwriting member is located may, without limiting the generality of its authority, order the issuance or entry of an injunction or other order to enforce the provisions of this subparagraph. There shall be a private right of action in favor of the underwriting member or controlling company to enforce the provisions of this subparagraph. No demand upon the department that it perform its functions shall be required as a prerequisite to any suit by the underwriting member or controlling company against any other person, and in no case shall the department be deemed a necessary party to any action by such underwriting member or controlling company to enforce the provisions of this subparagraph. Any person who makes or proposes an acquisition requiring the filing of a statement pursuant to this subparagraph, or who files such a statement, shall be deemed to have thereby designated the Insurance Commissioner, or his or her assistant or deputy or another person in charge of his or her office, as such person's agent for service of process under this subparagraph and shall thereby be deemed to have submitted himself or herself to the administrative jurisdiction of the department and to the jurisdiction of the circuit court.

i. Any approval by the department under this subparagraph does not constitute a recommendation by the department for an acquisition, tender offer, or exchange offer. It is unlawful for a person to represent that the department's approval constitutes a recommendation. A person who violates the provisions of this sub-subparagraph is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The statute-of-limitations period for the prosecution of an offense committed under this sub-subparagraph is 5 years.

j. Upon notification to the department by the underwriting member or a controlling company that any person or any affiliated person of such person

has acquired 5 percent or more of the outstanding voting securities of the underwriting member or controlling company without complying with the provisions of this subparagraph, the department shall order that the person and any affiliated person of such person cease acquisition of any further securities of the underwriting member or controlling company; however, the person or any affiliated person of such person may request a proceeding, which proceeding shall be convened within 7 days after the rendering of the order for the sole purpose of determining whether the person, individually or in connection with any affiliated person of such person, has acquired 5 percent or more of the outstanding voting securities of an underwriting member or controlling company. Upon the failure of the person or affiliated person to request a hearing within 7 days, or upon a determination at a hearing convened pursuant to this sub-subparagraph that the person or affiliated person has acquired voting securities of an underwriting member or controlling company in violation of this subparagraph, the department may order the person and affiliated person to divest themselves of any voting securities so acquired.

k.(I) The department shall, if necessary to protect the public interest, suspend or revoke the certificate of authority of any underwriting member or controlling company:

(A) The control of which is acquired in violation of this subparagraph;

(B) That is controlled, directly or indirectly, by any person or any affiliated person of such person who, in violation of this subparagraph, has obtained control of an underwriting member or controlling company; or

(C) That is controlled, directly or indirectly, by any person who, directly or indirectly, controls any other person who, in violation of this subparagraph, acquires control of an underwriting member or controlling company.

(II) If any underwriting member is subject to suspension or revocation pursuant to sub-sub-subparagraph (I), the underwriting member shall be deemed to be in such condition, or to be using or to have been subject to such methods or practices in the conduct of its business, as to render its further transaction of insurance presently or prospectively hazardous to its policyholders, creditors, or stockholders or to the public.

l.(I) For the purpose of this sub-sub-subparagraph, the term “affiliated person” of another person means:

(A) The spouse of such other person;

(B) The parents of such other person and their lineal descendants and the parents of such other person’s spouse and their lineal descendants;

(C) Any person who directly or indirectly owns or controls, or holds with power to vote, 5 percent or more of the outstanding voting securities of such other person;

(D) Any person 5 percent or more of the outstanding voting securities of which are directly or indirectly owned or controlled, or held with power to vote, by such other person;

(E) Any person or group of persons who directly or indirectly control, are controlled by, or are under common control with such other person; or any officer, director, partner, copartner, or employee of such other person;

(F) If such other person is an investment company, any investment adviser of such company or any member of an advisory board of such company;

(G) If such other person is an unincorporated investment company not having a board of directors, the depositor of such company; or

(H) Any person who has entered into an agreement, written or unwritten, to act in concert with such other person in acquiring or limiting the disposition of securities of an underwriting member or controlling company.

(II) For the purposes of this section, the term “controlling company” means any corporation, trust, or association owning, directly or indirectly, 25 percent or more of the voting securities of one or more underwriting members.

m. The department is authorized to adopt, amend, or repeal rules that are necessary to implement the provisions of this subparagraph, pursuant to chapter 120.

44. Background information.—The information as to the background and identity of each person about whom information is required to be furnished pursuant to sub-subparagraph 43.a. shall include, but shall not be limited to:

a. Such person’s occupations, positions of employment, and offices held during the past 10 years.

b. The principal business and address of any business, corporation, or other organization in which each such office was held or in which such occupation or position of employment was carried on.

c. Whether, at any time during such 10-year period, such person was convicted of any crime other than a traffic violation.

d. Whether, during such 10-year period, such person has been the subject of any proceeding for the revocation of any license and, if so, the nature of such proceeding and the disposition thereof.

e. Whether, during such 10-year period, such person has been the subject of any proceeding under the federal Bankruptcy Act or whether, during such 10-year period, any corporation, partnership, firm, trust, or association in which such person was a director, officer, trustee, partner, or other official has been subject to any such proceeding, either during the time in which such person was a director, officer, trustee, partner, or other official, or within 12 months thereafter.

f. Whether, during such 10-year period, such person has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from violating any federal or state law regulating the business of insurance, securities, or banking, or from carrying out any particular practice or prac-

tices in the course of the business of insurance, securities, or banking, together with details of any such event.

45. Security fund.—All underwriting members shall be members of the security fund of any exchange.

46. Underwriting member defined.—Whenever the term “underwriting member” is used in this subsection, it shall be construed to mean “underwriting syndicate.”

47. Offsets.—Any action, requirement, or constraint imposed by the department shall reduce or offset similar actions, requirements, or constraints of any exchange.

48. Restriction on member ownership.—

a. Investments existing prior to July 2, 1987.—The investment in any member by brokers, agents, and intermediaries transacting business on the exchange, and the investment in any such broker, agent, or intermediary by any member, directly or indirectly, shall in each case be limited in the aggregate to less than 20 percent of the total investment in such member, broker, agent, or intermediary, as the case may be. After December 31, 1987, the aggregate percent of the total investment in such member by any broker, agent, or intermediary and the aggregate percent of the total investment in any such broker, agent, or intermediary by any member, directly or indirectly, shall not exceed 15 percent. After June 30, 1988, such aggregate percent shall not exceed 10 percent and after December 31, 1988, such aggregate percent shall not exceed 5 percent.

b. Investments arising on or after July 2, 1987.—The investment in any underwriting member by brokers, agents, or intermediaries transacting business on the exchange, and the investment in any such broker, agent, or intermediary by any underwriting member, directly or indirectly, shall in each case be limited in the aggregate to less than 5 percent of the total investment in such underwriting member, broker, agent, or intermediary.

49. “Underwriting manager” defined.—“Underwriting manager” as used in this subparagraph includes any person, partnership, corporation, or organization providing any of the following services to underwriting members of the exchange:

a. Office management and allied services, including correspondence and secretarial services.

b. Accounting services, including bookkeeping and financial report preparation.

c. Investment and banking consultations and services.

d. Underwriting functions and services including the acceptance, rejection, placement, and marketing of risk.

50. Prohibition of underwriting manager investment.—Any direct or indirect investment in any underwriting manager by a broker member or any

affiliated person of a broker member or any direct or indirect investment in a broker member by an underwriting manager or any affiliated person of an underwriting manager is prohibited. “Affiliated person” for purposes of this subparagraph is defined in subparagraph 43.

51. An underwriting member may not accept reinsurance on an assumed basis from an affiliate or a controlling company, nor may a broker member or management company place reinsurance from an affiliate or controlling company of theirs with an underwriting member. “Affiliate and controlling company” for purposes of this subparagraph is defined in subparagraph 43.

52. Premium defined.—“Premium” is the consideration for insurance, by whatever name called. Any “assessment” or any “membership,” “policy,” “survey,” “inspection,” “service” fee or charge or similar fee or charge in consideration for an insurance contract is deemed part of the premium.

53. Rules.—The department shall promulgate rules necessary for or as an aid to the effectuation of any provision of this section.

Section 43. Subsection (7) of section 648.27, Florida Statutes, is amended to read:

648.27 Licenses and appointments; general.—

(7) Any person who represents a surety company, whose duties are restricted to bail bonds, and who comes under the definition of “service representative” as provided in s. 626.015 ~~626.081~~ shall be licensed and appointed as a bail bond agent.

Section 44. Paragraphs (b) and (c) of subsection (4) of section 624.311, Florida Statutes, are amended to read:

624.311 Records; reproductions; destruction.—

(4) To facilitate the efficient use of floor space and filing equipment in its offices, the department may destroy the following records and documents pursuant to chapter 257:

(b) Agent, ~~solicitor~~, adjuster, and similar license files, including license files of the Division of State Fire Marshal, over 2 years old; except that the department shall preserve by reproduction or otherwise a copy of the original records upon the basis of which each such licensee qualified for her or his initial license, except a competency examination, and of any disciplinary proceeding affecting the licensee;

(c) All agent, ~~solicitor~~, adjuster, and similar license files and records, including original license qualification records and records of disciplinary proceedings 5 years after a licensee has ceased to be qualified for a license;

Section 45. Paragraphs (e) and (o) of subsection (1) of section 624.523, Florida Statutes, are amended to read:

624.523 Insurance Commissioner’s Regulatory Trust Fund.—

(1) There is created in the State Treasury a trust fund designated “Insurance Commissioner’s Regulatory Trust Fund” to which shall be credited all payments received on account of the following items:

(e) All payments received on account of items provided for under respective provisions of s. 624.501, as follows:

1. Subsection (1) (certificate of authority of insurer).
2. Subsection (2) (charter documents of insurer).
3. Subsection (3) (annual license tax of insurer).
4. Subsection (4) (annual statement of insurer).
5. Subsection (5) (application fee for insurance representatives).
6. The “appointment fee” portion of any appointment provided for under paragraphs (6)(a) and (b) (insurance representatives, property, marine, casualty and surety insurance, and agents, ~~and solicitors~~).
7. Paragraph (6)(c) (nonresident agents).
8. Paragraph (6)(d) (service representatives).
9. The “appointment fee” portion of any appointment provided for under paragraph (7)(a) (life insurance agents, original appointment, and renewal or continuation of appointment).
10. Paragraph (7)(b) (nonresident agent license).
11. The “appointment fee” portion of any appointment provided for under paragraph (8)(a) (health insurance agents, agent’s appointment, and renewal or continuation fee).
12. Paragraph (8)(b) (nonresident agent appointment).
13. The “appointment fee” portion of any appointment provided for under subsections (9) and (10) (limited licenses and fraternal benefit society agents).
14. Subsection (11) (vending machines).
15. Subsection (12) (surplus lines agent).
16. Subsection (13) (adjusters’ appointment).
17. Subsection (14) (examination fee).
18. Subsection (15) (temporary license and appointment as agent or adjuster).
19. Subsection (16) (reissuance, reinstatement, etc.).
20. Subsection (17) (additional license continuation fees).

21. Subsection (18) (filing application for permit to form insurer).
22. Subsection (19) (license fee of rating organization).
23. Subsection (20) (miscellaneous services).
24. Subsection (21) (insurance agencies).

(o) All state tax portions of agents' ~~and solicitors'~~ licenses collected under s. 624.501.

Section 46. Section 624.507, Florida Statutes, is amended to read:

624.507 Municipal tax.—Municipal corporations may require a tax of insurance agents ~~and solicitors~~ not to exceed 50 percent of the state tax specified as to such agents ~~and solicitors~~ under this part, and unless otherwise authorized by law. Such a tax may be required only by a municipal corporation within the boundaries of which is located the agent's business office, or if no such office is required under this code, by the municipal corporation of the agent's place of residence.

Section 47. Subsections (1) and (3) of section 626.0428, Florida Statutes, are amended to read:

626.0428 Agency personnel powers, duties, and limitations.—

(1) An individual employed by an agent or agency on salary who devotes full time to clerical work, with incidental taking of insurance applications or quoting or receiving premiums on incoming inquiries in the office of the agent or agency, is not deemed to be an agent or, customer representative, ~~or solicitor~~ if his or her compensation does not include in whole or in part any commissions on such business and is not related to the production of applications, insurance, or premiums.

(3) No employee of an agent or agency may initiate contact with any person for the purpose of soliciting insurance unless licensed and appointed as a general lines agent or, customer representative, ~~or solicitor~~.

Section 48. Subsections (1) and (2) of section 626.112, Florida Statutes, are amended to read:

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

(1)(a) No person may 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.

(b) Except as provided in subsection (6) or in applicable department rules, and in addition to other conduct described in this chapter with respect to particular types of agents, a license as an insurance agent, service representative, ~~solicitor~~, customer representative, or limited customer representative is required in order to engage in the solicitation of insurance. For

purposes of this requirement, as applicable to any of the license types described in this section, the solicitation of insurance is the attempt to persuade any person to purchase an insurance product by:

1. Describing the benefits or terms of insurance coverage, including premiums or rates of return;
2. Distributing an invitation to contract to prospective purchasers;
3. Making general or specific recommendations as to insurance products;
4. Completing orders or applications for insurance products; or
5. Comparing insurance products, advising as to insurance matters, or interpreting policies or coverages.

However, an employee leasing company licensed pursuant to chapter 468 which is seeking to enter into a contract with an employer that identifies products and services offered to employees may deliver proposals for the purchase of employee leasing services to prospective clients of the employee leasing company setting forth the terms and conditions of doing business; classify employees as permitted by s. 468.529; collect information from prospective clients and other sources as necessary to perform due diligence on the prospective client and to prepare a proposal for services; provide and receive enrollment forms, plans, and other documents; and discuss or explain in general terms the conditions, limitations, options, or exclusions of insurance benefit plans available to the client or employees of the employee leasing company were the client to contract with the employee leasing company. Any advertising materials or other documents describing specific insurance coverages must identify and be from a licensed insurer or its licensed agent or a licensed and appointed agent employed by the employee leasing company. The employee leasing company may not advise or inform the prospective business client or individual employees of specific coverage provisions, exclusions, or limitations of particular plans. As to clients for which the employee leasing company is providing services pursuant to s. 468.525(4), the employee leasing company may engage in activities permitted by ss. 626.041, 626.051, and 626.062, subject to the restrictions specified in those sections. If a prospective client requests more specific information concerning the insurance provided by the employee leasing company, the employee leasing company must refer the prospective business client to the insurer or its licensed agent or to a licensed and appointed agent employed by the employee leasing company.

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

Section 49. 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 ~~or~~, customer representative, ~~or~~ ~~solicitor~~ or an agent or, customer representative, ~~or~~ ~~solicitor~~ who has not been appointed.

Section 50. Subsection (5) of section 626.171, Florida Statutes, is amended to read:

626.171 Application for license.—

(5) An application for a license as an agent, customer representative, ~~solicitor~~, adjuster, insurance agency, service representative, managing general agent, or reinsurance intermediary must be accompanied by a set of the individual applicant's fingerprints, or, if the applicant is not an individual, by a set of the fingerprints of the sole proprietor, majority owner, partners, officers, and directors, on a form adopted by rule of the department and accompanied by the fingerprint processing fee set forth in s. 624.501. The fingerprints shall be certified by a law enforcement officer.

Section 51. Subsections (1) and (3) of section 626.221, Florida Statutes, are amended to read:

626.221 Examination requirement; exemptions.—

(1) The department shall not issue any license as agent, ~~solicitor~~, customer representative, or adjuster to any individual who has not qualified for, taken, and passed to the satisfaction of the department a written examination of the scope prescribed in s. 626.241.

(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 52. Paragraph (d) of subsection (3) of section 626.2815, Florida Statutes, is amended to read:

626.2815 Continuing education required; application; exceptions; requirements; penalties.—

(3)

(d) Any person who holds a license as a customer representative, limited customer representative, administrative agent, title agent, ~~solicitor~~, motor vehicle physical damage and mechanical breakdown insurance agent, crop or hail and multiple-peril crop insurance agent, or as an industrial fire insurance or burglary insurance agent and who is not a licensed life or health insurance agent, shall be required to complete 14 hours of continuing education courses every 2 years, except, for compliance periods beginning on January 1, 1998, each licensee subject to this paragraph shall be required to complete 10 hours of continuing education courses every 2 years.

Section 53. Paragraphs (b) and (f) of subsection (1) of section 626.321, Florida Statutes, are 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:

(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.

(f) Credit insurance.—License covering only credit insurance, as such insurance is defined in s. 624.605(1)(i), and no individual or entity 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). The same licensing provisions as outlined in paragraph (e) apply to entities licensed as credit insurance agents under this paragraph.

Section 54. Subsections (5) and (6) of section 626.451, Florida Statutes, are amended 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 55. Subsection (1) of section 626.511, Florida Statutes, 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, 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.

Section 56. Subsection (1) of section 626.521, Florida Statutes, is 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, 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 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.

Section 57. 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 trust funds 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 such funds or any portion thereof or deprives the other person of a benefit therefrom commits the offense specified below:

(a) If the funds diverted or misappropriated 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 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 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 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 58. 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 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, title insurance agency, continuing education course provider, instructor, school official, or monitor group 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 59. 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 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, 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, 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 or, 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.

(16) Sale of an unregistered security that was required to be registered, pursuant to chapter 517.

Section 60. 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 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, 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)(1).

(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 IX 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 61. Subsections (2) and (3) 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 or, 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 or, 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.

Section 62. Subsections (1) and (2) of section 626.651, Florida Statutes, are 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 or, 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 other agents who are members of such agency, whether incorporated or unincorporated, and any ~~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 63. Subsections (1) and (2) of section 626.730, Florida Statutes, are amended to read:

626.730 Purpose of license.—

(1) The purpose of a license issued under this code to a general lines agent or, 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 or, customer representative, ~~or solicitor~~ with respect to the 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 or,

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 or; customer representative, ~~or solicitor~~.

(2) The department shall not grant, renew, continue, or permit to exist any license or appointment as such agent or; 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, 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 64. Section 626.745, Florida Statutes, is amended to read:

626.745 Service representatives, managing general agents; managers; activities.—Individuals employed by insurers or their managers, general agents, or representatives as service representatives, and as managing general agents employed for the purpose of or engaged in assisting agents and solicitors in negotiating and effecting contracts of insurance, shall engage in such activities when, and only when, accompanied by an agent ~~or solicitor~~ duly licensed and appointed as a resident licensee and appointee under this code.

Section 65. Paragraphs (h) and (u) of subsection (1) of section 626.9541, Florida Statutes, are amended to read:

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

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

(h) Unlawful rebates.—

1. Except as otherwise expressly provided by law, or in an applicable filing with the department, knowingly:

a. Permitting, or offering to make, or making, any contract or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon;

b. Paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance contract, any unlawful rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract;

c. Giving, selling, or purchasing, or offering to give, sell, or purchase, as inducement to such insurance contract or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the insurance contract.

2. Nothing in paragraph (g) or subparagraph 1. of this paragraph shall be construed as including within the definition of discrimination or unlawful rebates:

a. In the case of any contract of life insurance or life annuity, paying bonuses to all policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance; provided that any such bonuses or abatement of premiums is fair and equitable to all policyholders and for the best interests of the company and its policyholders.

b. In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses.

c. Readjustment of the rate of premium for a group insurance policy based on the loss or expense thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

d. Issuance of life insurance policies or annuity contracts at rates less than the usual rates of premiums for such policies or contracts, as group insurance or employee insurance as defined in this code.

e. Issuing life or disability insurance policies on a salary savings, bank draft, preauthorized check, payroll deduction, or other similar plan at a reduced rate reasonably related to the savings made by the use of such plan.

3.a. No title insurer, or any member, employee, attorney, agent, agency, or solicitor thereof, shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as inducement to title insurance, or after such insurance has been effected, any rebate or abatement of the agent's, agency's, or title insurer's share of the premium or any charge for related title services below the cost for providing such services, or provide any special favor or advantage, or any monetary consideration or inducement whatever. Nothing herein contained shall preclude an abatement in an attorney's fee charged for legal services.

b. Nothing in this subparagraph shall be construed as prohibiting the payment of fees to attorneys at law duly licensed to practice law in the courts of this state, for professional services, or as prohibiting the payment of earned portions of the premium to duly appointed agents or agencies who actually perform services for the title insurer.

c. No insured named in a policy, or any other person directly or indirectly connected with the transaction involving the issuance of such policy, including, but not limited to, any mortgage broker, real estate broker, builder, or

attorney, any employee, agent, agency, or representative, ~~or solicitor~~ thereof, or any other person whatsoever, shall knowingly receive or accept, directly or indirectly, any rebate or abatement of said charge, or any monetary consideration or inducement, other than as set forth in sub-subparagraph b.

(u) False claims; obtaining or retaining money dishonestly.—

1. Any agent, physician, claimant, or other person who causes to be presented to any insurer a false claim for payment, knowing the same to be false; or

2. Any agent, ~~solicitor~~, collector, or other person who represents any insurer or collects or does business without the authority of the insurer, secures cash advances by false statements, or fails to turn over when required, or satisfactorily account for, all collections of such insurer,

shall, in addition to the other penalties provided in this act, be guilty of a misdemeanor of the second degree and, upon conviction thereof, shall be subject to the penalties provided by s. 775.082 or s. 775.083.

Section 66. Paragraph (b) of subsection (2) of section 627.776, Florida Statutes, is amended to read:

627.776 Applicability or inapplicability of Florida Insurance Code provisions to title insurers.—

(2) The following provisions of this code do not apply to title insurance:

(b) Part II of chapter 626 (general lines agents ~~and solicitors~~; qualifications and requirements).

Section 67. Section 631.155, Florida Statutes, is amended to read:

631.155 Agents' balances; premiums and unearned commissions.—Premiums and unearned commissions which have been collected on behalf of an insurer by an agent, ~~solicitor~~, agency, or other entity or person constitute an asset of the insurer for which the agent, ~~solicitor~~, agency, or other entity or person has a duty to account to the receiver and to pay over amounts as may be due. The duty to account to the receiver shall encompass all persons or entities involved in the handling and transmittal of premium funds. An accounting shall be provided to the receiver within 20 days after receipt of a written demand for an accounting. If there is a dispute regarding the accounting, the court shall hear and decide the matter upon petition of the receiver. Compliance with this section and payment of sums determined to be owed by the court within 30 days of judgment, or within other payment terms approved by the court, shall constitute requirements for continued licensure of a person holding a license under the Florida Insurance Code, and failure to comply with this section shall be sufficient grounds for the license revocation.

Section 68. Subsection (1) of section 631.341, Florida Statutes, is amended to read:

631.341 Notice of insolvency to policyholders by insurer, general agent, or agent.—

(1) The receiver shall, immediately after appointment in any delinquency proceeding against an insurer in which the policies have been canceled, give written notice of such proceeding to each general agent and licensed agent of the insurer in this state. Each general agent and licensed agent of the insurer in this state shall forthwith give written notice of such proceeding to all subagents, producing agents, brokers, ~~solicitors~~, and service representatives writing business through such general agent or licensed agent, whether or not such subagents, producing agents, brokers, ~~solicitors~~, and servicing representatives are licensed or permitted by the insurer and whether or not they are operating under a written agency contract.

Section 69. Section 634.318, Florida Statutes, is amended to read:

634.318 License and appointment of sales representatives.—Sales representatives for home warranty associations and insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated in the same manner as prescribed in chapter 626 for insurance representatives in general, except they shall be exempt from the fingerprinting, photo identification card, education, and examination provisions. License, appointment, and other fees shall be those as prescribed in s. 624.501. No employee or sales representative of a home 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. A home warranty association is not required to be licensed as a sales representative to solicit, sell, issue, or otherwise transact the home warranty agreements issued by the home warranty association.

Section 70. Subsections (3) and (4) of section 641.37, Florida Statutes, are amended to read:

641.37 Prohibited activities; penalties.—

(3) Any agent or representative, ~~solicitor~~, examining physician, applicant, or other person who knowingly makes any false and fraudulent statements or representation in, or with reference to, any application or negotiation for health maintenance organization coverage is, in addition to any other penalty provided by law, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Any agent, representative, ~~solicitor~~, collector, or other person who, while acting on behalf of a health maintenance organization, receives or collects its funds or premium payments and fails to satisfactorily account for or turn over, when required, all such funds or payments is, in addition to the other penalties provided for by law, guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 71. Section 642.041, Florida Statutes, is amended to read:

642.041 Grounds for compulsory refusal, suspension, or revocation of license or appointment of contracting sales representatives.—The depart-

ment shall, pursuant to the insurance code, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any sales representative or the license or appointment of any general lines agent ~~or solicitor~~ if it finds that, as to the sales representative ~~or~~, general lines agent, ~~or solicitor~~, any one or more of the following applicable grounds exist:

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

(2) The license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of ss. 642.011-642.049.

(3) Willful misrepresentation of any legal expense contract or willful deception with regard to any such contract, performed either in person or by any form of dissemination of information or advertising.

(4) In the adjustment of claims, material misrepresentation to a contract holder or other interested party of the terms and coverage of a contract, with the intent and for the purpose of settling such claim on less favorable terms than those provided in and contemplated by the contract.

(5) Demonstrated lack of fitness or trustworthiness to engage in the business of legal expense insurance.

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

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

(8) Misappropriation, conversion, or unlawful withholding of moneys belonging to an insurer or other person and received in the conduct of business under the license or appointment.

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

(10) Willful failure to comply with, or willful violation of, any proper order or rule of the department or willful violation of any provision of ss. 642.011-642.049.

(11) Being found guilty of, or pleading 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 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.

Section 72. Subsection (2) of section 624.505, subsection (2) of section 626.727, sections 626.737 and 626.738, and subsection (2) of section 626.862, Florida Statutes, and sections 626.031, 626.041, 626.051, 626.062, 626.071, 626.072, 626.081, 626.091, 626.094, 626.101, 626.102, 626.103, 626.104, 626.736, 626.737, 626.738, 626.739, 626.740, 626.790, and 626.791, Florida Statutes, are repealed.

Section 73. Except as otherwise provided herein, this act shall take effect October 1, 2002.

Approved by the Governor April 29, 2002.

Filed in Office Secretary of State April 29, 2002.