

Committee Substitute for
Committee Substitute for Senate Bill No. 1912

An act relating to insurance agents and agencies; amending s. 624.317, F.S.; including insurance agencies among entities the Department of Financial Services is authorized to investigate; amending s. 624.318, F.S.; providing for electronic scanning in the course of investigations and examinations; amending s. 624.501, F.S.; clarifying a license fee; amending s. 626.015, F.S.; redefining the term "home state"; defining the term "resident"; amending s. 626.016, F.S.; including insurance agencies among entities subject to regulation by the Chief Financial Officer; amending s. 626.025, F.S.; correcting cross-references; amending s. 626.112, F.S.; delaying the effective date by which agencies must obtain a license; providing that an agency may file for registration in lieu of licensure, under specified conditions; imposing a fine on any agency that fails to timely apply for licensure or registration; deleting certain agency licensure requirement provisions; amending s. 626.171, F.S.; specifying licensure and registration application requirements for insurance entities other than insurance agencies; deleting a provision applying to insurance agency license application requirements; amending s. 626.172, F.S.; revising insurance agency licensure application requirements; providing procedures and limitations; providing duties of the department; amending s. 626.221, F.S.; revising examination requirements; amending s. 626.2815, F.S.; revising continuing education requirements; amending ss. 626.292 and 626.321, F.S.; correcting cross-references, to conform; amending s. 626.342, F.S.; including insurance agencies under provisions prohibiting furnishing supplies to certain unlicensed agents and imposing civil liability under certain circumstances; amending s. 626.382, F.S.; providing for renewal of licenses; amending s. 626.451, F.S.; revising requirements for appointment; amending s. 626.536, F.S.; including insurance agencies under an action reporting requirement; amending s. 626.561, F.S.; including insurance agencies under provisions providing funds reporting and accounting requirements and imposing criminal penalties; amending s. 626.572, F.S.; including insurance agencies under provision prohibiting rebating under certain circumstances; amending s. 626.601, F.S.; including insurance agencies under provisions authorizing the department to inquire into improper conduct; creating s. 626.602, F.S.; authorizing the department to disapprove the use of certain names under certain circumstances; amending s. 626.6115, F.S.; providing an additional ground for the department to take compulsory adverse insurance agency license actions; providing that the existence of grounds for adverse action against a licensed agency does not constitute grounds for adverse action against another licensed agency; amending s. 626.6215, F.S.; providing an additional ground for the department to take discretionary adverse insurance agency license actions; providing that the existence of grounds for adverse action against a

licensed agency does not constitute grounds for adverse action against another licensed agency; amending s. 626.747, F.S.; revising agent requirements for branch agencies to include life or health agents; amending s. 626.621, F.S.; revising criteria for the department's refusal, suspension or revocation of a license or appointment; amending s. 626.641, F.S.; providing requirements for reinstatement of a previously suspended license or appointment; revising criteria for reapplication and requalification for a previously revoked license or appointment; amending s. 626.7351, F.S.; revising the qualifications for a customer representative's license; amending ss. 626.7355 and 626.8411, F.S.; deleting cross-references, to conform; creating s. 626.84201, F.S.; providing for the issuance of a nonresident title insurance agent license; amending s. 648.50, F.S.; revising the persons whose license or appointment may be revoked or suspended when a bail bond's license or appointment is revoked or suspended; repealing s. 626.592, F.S., relating to primary agents; creating s. 624.1275, F.S.; providing a restriction for state agencies or political subdivisions from preventing a licensed agent from responding to a bid or negotiation for an insurance product; providing an effective date.

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

Section 1. Subsection (1) of section 624.317, Florida Statutes, is amended to read:

624.317 Investigation of agents, adjusters, administrators, service companies, and others.—If it has reason to believe that any person has violated or is violating any provision of this code, or upon the written complaint signed by any interested person indicating that any such violation may exist:

(1) The department shall conduct such investigation as it deems necessary of the accounts, records, documents, and transactions pertaining to or affecting the insurance affairs of any general agent, surplus lines agent, adjuster, managing general agent, insurance agent, insurance agency, customer representative, service representative, or other person subject to its jurisdiction, subject to the requirements of s. 626.601.

Section 2. Subsection (7) is added to section 624.318, Florida Statutes, to read:

624.318 Conduct of examination or investigation; access to records; correction of accounts; appraisals.—

(7)(a) The department or office or its examiners or investigators may electronically scan accounts, records, documents, files, and information, relating to the subject of the examination or investigation, in the possession or control of the person being examined or investigated.

(b) The provisions of this subsection are applicable to all investigations and examinations authorized by any provision of the Florida Insurance Code.

Section 3. Subsection (20) of section 624.501, Florida Statutes, is amended to read:

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

(20) ~~Insurance agency or~~ Adjusting firm, original or renewal 3-year license \$60.00

Section 4. Subsections (7) and (16) of section 626.015, Florida Statutes, are amended to read:

626.015 Definitions.—As used in this part:

(7) “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 or principal place of business and is licensed to act as an insurance agent.

(16) “Resident” means an individual whose home state is the State of Florida ~~domiciled and residing in this state.~~

Section 5. Subsection (1) of section 626.016, Florida Statutes, is amended to read:

626.016 Powers and duties of department, commission, and office.—

(1) The powers and duties of the Chief Financial Officer and the department specified in this part apply only with respect to insurance agents, insurance agencies, managing general agents, insurance adjusters, reinsurance intermediaries, viatical settlement brokers, customer representatives, service representatives, and agencies.

Section 6. Subsections (7) and (12) of section 626.025, Florida Statutes, are amended to read:

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

(7) Required licensure or registration of ~~certain~~ insurance agencies under s. 626.112 ~~s. 626.172~~.

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

Section 7. Subsection (7) of section 626.112, Florida Statutes, is amended to read:

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

(7)(a) Effective October 1, 2006, no individual, firm, partnership, corporation, association, or any other entity shall act in its own name or under a trade name, directly or indirectly, as an insurance agency, when required to be licensed by this subsection, unless it complies with s. 626.172 with respect to possessing an insurance agency license for each place of business at which it engages in any activity which may be performed only by a licensed insurance agent. Each agency engaged in business in this state before January 1, 2003, which is wholly owned by insurance agents currently licensed and appointed under this chapter, each incorporated agency whose voting shares are traded on a securities exchange, and each agency whose primary function is offering insurance as a service or member benefit to members of a nonprofit corporation may file an application for registration in lieu of licensure in accordance with s. 626.172(3). Each agency engaged in business before October 1, 2006, shall file an application for licensure or registration on or before October 1, 2006.

1. If an agency is required to be licensed but fails to file an application for licensure in accordance with this section, the department shall impose on the agency an administrative penalty in an amount of up to \$10,000.

2. If an agency is eligible for registration but fails to file an application for registration or an application for licensure in accordance with this section, the department shall impose on the agency an administrative penalty in an amount of up to \$5,000.

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

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

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

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

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

a. Solicited or handled controlled business. This subparagraph shall not prohibit the licensing of any lending or financing institution or creditor, with

respect to insurance only, under credit life or disability insurance policies of borrowers from the institutions, which policies are subject to part IX of chapter 627.

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

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

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

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

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

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

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

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

j. Willfully overinsured any property insurance risk.

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

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

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

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

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

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

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

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

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

Section 8. Section 626.171, Florida Statutes, is amended to read:

626.171 Application for license as an agent, customer representative, adjuster, service representative, managing general agent, or reinsurance intermediary.—

(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.

(2) In the application, the applicant shall set forth:

(a) His or her full name, age, social security number, residence address, business address, and mailing address.

(b) Proof that he or she has completed or is in the process of completing any required preclicensing course.

(c) Whether he or she has been refused or has voluntarily surrendered or has had suspended or revoked a license to solicit insurance by the department or by the supervising officials of any state.

(d) Whether any insurer or any managing general agent claims the applicant is indebted under any agency contract or otherwise and, if so, the name of the claimant, the nature of the claim, and the applicant's defense thereto, if any.

(e) Proof that the applicant meets the requirements for the type of license for which he or she is applying.

(f) Such other or additional information as the department may deem proper to enable it to determine the character, experience, ability, and other qualifications of the applicant to hold himself or herself out to the public as an insurance representative.

~~(3) An application for an insurance agency license shall be signed by the owner or owners of the agency. If the agency is incorporated, the application shall be signed by the president and secretary of the corporation.~~

~~(3)(4)~~ Each application shall be accompanied by payment of any applicable fee.

~~(4)(5)~~ An application for a license as an agent, customer representative, 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. Fingerprints shall be used to investigate the applicant's qualifications pursuant to s. 626.201. The fingerprints shall be taken by a law enforcement agency or other department-approved entity.

~~(5)(6)~~ The application for license filing fee prescribed in s. 624.501 is not subject to refund.

~~(6)(7)~~ Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement shall be limited to the purpose of administration of the Title IV-D program for child support enforcement.

Section 9. Section 626.172, Florida Statutes, is amended to read:

626.172 Application for insurance agency license.—

(1) The department may issue a license as an insurance agency to any person only after such person files a written application with the department and qualifies for such license. If any majority owner, partner, officer, or director of an insurance agency:

~~(a) Has been found guilty of, or has pleaded guilty or nolo contendere to, a felony relating to the business of insurance in this state or any other state or federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases; or~~

~~(b) Has been denied a license relating to the business of insurance, or has had his or her license to practice or conduct any regulated profession, business, or vocation relating to the business of insurance revoked or suspended, by this or any other state, any nation, any possession or district of the United States, or any court, or any lawful agency thereof;~~

~~the insurance agency and any subsidiary or branch thereof shall obtain a license from the department pursuant to this section.~~

(2) An application for an insurance agency license shall be signed by the owner or owners of the agency. If the agency is incorporated, the application

shall be signed by the president and secretary of the corporation. The application for an insurance agency license shall include:

(a) The name of each majority owner, partner, officer, and director of the insurance agency.

(b) The residence address of each person required to be listed in the application under paragraph (a).

(c) The name of the insurance agency and its principal business address.

(d) The location of each agency office and the name under which each agency office conducts or will conduct business.

(e) The name of each agent to be in full-time charge of an agency office and specification of which office.

(f) The fingerprints of each of the following:

1. A sole proprietor;

2. Each partner;

3. Each owner of an unincorporated agency;

4. Each owner who directs or participates in the management or control of an incorporated agency whose shares are not traded on a securities exchange;

5. The president, senior vice presidents, treasurer, secretary, and directors of the agency; and

6. Any other person who directs or participates in the management or control of the agency, whether through the ownership of voting securities, by contract, or otherwise.

Fingerprints must be taken by a law enforcement agency or other entity approved by the department and must be accompanied by the fingerprint processing fee specified in s. 624.501. Fingerprints shall be processed in accordance with s. 624.34. However, fingerprints need not be filed for any individual who is currently licensed and appointed under this chapter. This paragraph does not apply to corporations whose voting shares are traded on a securities exchange. The name of any person to whom subsection (1) applies.

(g) Such additional information as the department requires by promulgated rule to ascertain the trustworthiness and competence of persons required to be listed on the application and to ascertain that such persons meet the requirements of this code. However, the department may not require that credit or character reports be submitted for persons required to be listed on the application.

(h) Beginning October 1, 2005, the department shall accept the uniform application for nonresident agency licensure. The department may adopt by rule revised versions of the uniform application.

(3) The department shall issue a registration as an insurance agency to any agency that files a written application with the department and qualifies for registration. The application for registration shall require the agency to provide the same information required for an agency licensed under subsection (2), the agent identification number for each owner who is a licensed agent, proof that the agency qualifies for registration as provided in s. 626.112(7), and any other additional information that the department determines is necessary in order to demonstrate that the agency qualifies for registration. The application must be signed by the owner or owners of the agency. If the agency is incorporated, the application must be signed by the president and the secretary of the corporation. An agent who owns the agency need not file fingerprints with the department if the agent obtained a license under this chapter, and the license is currently valid.

(a) If an application for registration is denied, the agency must file an application for licensure no later than 30 days after the date of the denial of registration.

(b) A registered insurance agency must file an application for licensure no later than 30 days after the date that any person who is not a licensed and appointed agent in this state acquires any ownership interest in the agency. If an agency fails to file an application for licensure in compliance with this paragraph, the department shall impose an administrative penalty in an amount of up to \$5,000 on the agency.

(c) Sections 626.6115 and 626.6215 do not apply to agencies registered under this subsection.

(4) The department shall issue a license or registration to each agency upon approval of the application and each agency shall display the license or registration prominently in a manner that makes it clearly visible to any customer or potential customer who enters the agency.

Section 10. Subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

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

(a) An applicant for renewal of appointment as an agent, 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, in-transit and storage personal property insurance, or communications equipment property insurance or communication equipment inland marine 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 4 2 years prior to the date of application or written request for reinstatement.

(d) An applicant who, within 4 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 4 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 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 48 months prior to the date of filing the application with the department.~~

~~(e)(f)~~ A person who has been licensed and appointed 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, as to these kinds of insurance, without additional written examination if an application for licensure appointment is filed with the department within 48 months following the date of cancellation or expiration of the prior appointment.

~~(f)(g)~~ A person who has been licensed 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 licensure appointment is filed with the department within 48 months after cancellation or expiration of the prior license.

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

~~(h)(i)~~ 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 may be examined on pertinent provisions of this code.

~~(i)(j)~~ An applicant for license as a general lines agent, 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 may be examined on pertinent provisions of this code.

~~(j)(k)~~ 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 Foundation for Certified Professional Service Representatives, 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.

(k)~~(4)~~ 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.

(l)~~(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 department;

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.

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

1. Has successfully completed prelicensing examination requirements in the applicant's home state which are substantially equivalent to the examination requirements in this state, as determined by the department, 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.

Section 11. 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), and (d),~~ complete a minimum of 24 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 his or her required number of continuing education hours, 3 hours of continuing education, approved by the department, every 2 years on the subject matter of ethics.

(b) ~~For compliance periods beginning on January 1, 1998,~~ A person who has been licensed for a period of 6 or more years must complete 20 hours every 2 years in intermediate or advanced-level courses prescribed by this section or in other courses approved by the department.

(c) A licensee who has been licensed for 25 years or more and is a CLU or a CPCU or has a Bachelor of Science degree in risk management or insurance with evidence of 18 or more semester hours in upper-level insurance-related courses must complete ~~10 12~~ hours of continuing education courses every 2 years in courses prescribed by this section or in other courses approved by the department, ~~except, for compliance periods beginning January 1, 1998, the licensees described in this paragraph shall be required to complete 10 hours of continuing education courses every 2 years.~~

(d) Any person who holds a license as a customer representative, limited customer representative, title agent, 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 ~~10 12~~ 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.~~

(e) Any person who holds a license to solicit or sell life or health insurance and a license to solicit or sell property, casualty, surety, or surplus lines insurance must complete the continuing education requirements by completing courses in life or health insurance for one-half of the total hours required and courses in property, casualty, surety, or surplus lines insurance for one-half of the total hours required. However, a licensee who holds an industrial fire or burglary insurance license and who is a licensed life or health agent shall be required to complete 4 hours of continuing education courses every 2 years related to industrial fire or burglary insurance and the remaining number of hours of continuing education courses required related to life or health insurance.

(f) Compliance with continuing education requirements is a condition precedent to the issuance, continuation, reinstatement, or renewal of any appointment subject to this section.

(g) A person teaching any approved course of instruction or lecturing at any approved seminar and attending the entire course or seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar, or program. Credit shall be limited to the number of hours actually taught unless a person attends the entire course or seminar. Any person who is an official of or employed by any governmental entity in this state and serves as a professor, instructor, or in any other position or office the duties and responsibilities of which are determined by the department to require monitoring and review of insurance laws or insurance regulations and practices shall be exempt from this section.

(h) Excess classroom hours accumulated during any compliance period may be carried forward to the next compliance period.

(i) For good cause shown, the department may grant an extension of time during which the requirements imposed by this section may be completed, but such extension of time may not exceed 1 year.

(j) A nonresident who must complete continuing education requirements in his or her home state may use the home state requirements to meet this state's continuing education requirements as well, if the resident's state recognizes reciprocity with this state's continuing education requirements. A nonresident whose home state does not have a continuing education requirement but is licensed for the same class of business in another state which does have a continuing education requirement may comply with this section by furnishing proof of compliance with the other state's requirement if that state has a reciprocal agreement with this state relative to continuing education. A nonresident whose home state does not have such continuing education requirements, and who is not licensed as a nonresident agent in a state that has continuing education requirements and reciprocates with this state, must meet the continuing education requirements of this state.

Section 12. Paragraph (c) of subsection (2) of section 626.292, Florida Statutes, is amended to read:

626.292 Transfer of license from another state.—

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

(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 canceled, 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(4) ~~s. 626.171(5)~~.

Section 13. Paragraph (d) of subsection (1) and paragraph (a) of subsection (2) 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), (e), and (i), a license as agent authorized to transact a limited class of business in any of the following categories:

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

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

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

b. To the full-time salaried employee of a licensed general lines agent or to a business entity that offers motor vehicles for rent or lease if insurance sales activities authorized by the license are in connection with and incidental to the rental of a motor vehicle. An entity applying for a license under this sub-subparagraph:

(I) Is required to submit only one application for a license under s. 626.171. The requirements of s. 626.171(4) ~~s. 626.171(5)~~ shall apply only to the officers and directors of the entity submitting the application.

(II) Is required to obtain a license for each office, branch office, or place of business making use of the entity's business name by applying to the

department for the license on a simplified application form developed by rule of the department for this purpose.

(III) Is required to pay the applicable fees for a license as prescribed in s. 624.501, be appointed under s. 626.112, and pay the prescribed appointment fee under s. 624.501. A licensed and appointed entity shall be directly responsible and accountable for all acts of the licensee's employees.

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

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

3. A business entity that offers motor vehicles for rent or lease, may, as an agent of an insurer, transact insurance that provides coverage for the liability of the lessee to the lessor for damage to the leased or rented motor vehicle if:

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

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

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

(2) An entity applying for a license under this section is required to:

(a) Submit only one application for a license under s. 626.171. The requirements of ~~s. 626.171(4)~~ ~~s. 626.171(5)~~ shall only apply to the officers and directors of the entity submitting the application.

Section 14. Subsections (1) and (2) of section 626.342, Florida Statutes, are amended to read:

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

(1) An insurer, a managing general agent, an insurance agency, or an agent, directly or through any representative, may not furnish to any agent any blank forms, applications, stationery, or other supplies to be used in soliciting, negotiating, or effecting contracts of insurance on its behalf unless such blank forms, applications, stationery, or other supplies relate to a class of business with respect to which the agent is licensed and appointed, whether for that insurer or another insurer.

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

Section 15. Section 626.382, Florida Statutes, is amended to read:

626.382 Continuation, expiration of license; insurance agencies.—The license of any insurance agency shall be issued for a period of 3 years, ~~subject to the payment of the fees prescribed in s. 624.501~~, and shall continue in force until canceled, suspended, revoked, or otherwise terminated. A license may be renewed by submitting a renewal request to the department on a form adopted by department rule.

Section 16. Subsection (3) of section 626.451, Florida Statutes, is amended to read:

626.451 Appointment of agent or other representative.—

(3) By authorizing the effectuation of the appointment of an agent, adjuster, service representative, customer representative, or managing general agent the appointing entity is thereby certifying to the department that it is willing to be bound by the acts of the agent, adjuster, service representative, customer representative, or managing general agent, within the scope of the licensee's employment or appointment.

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

626.536 Reporting of actions.—~~Each~~ An agent and insurance agency, shall submit to the department, within 30 days after the final disposition of any administrative action taken against the agent or insurance agency 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. 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, insurance agency, customer representative, or adjuster in transactions under the ~~his or her~~ license are trust funds received by the licensee in a fiduciary capacity. An agent or insurance agency shall keep the funds belonging to each insurer for which an agent ~~he or she~~ is not appointed, other than a surplus lines insurer, in a separate account so as to allow the department or office 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, insurance agency, customer representative, 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 19. Subsections (1) and (2) of section 626.572, Florida Statutes, are amended to read:

626.572 Rebating; when allowed.—

(1) No insurance agency agent shall rebate any portion of a ~~his or her~~ commission except as follows:

(a) The rebate shall be available to all insureds in the same actuarial class.

(b) The rebate shall be in accordance with a rebating schedule filed by the agent with the insurer issuing the policy to which the rebate applies.

(c) The rebating schedule shall be uniformly applied in that all insureds who purchase the same policy through the agent for the same amount of insurance receive the same percentage rebate.

(d) Rebates shall not be given to an insured with respect to a policy purchased from an insurer that prohibits its agents from rebating commissions.

(e) The rebate schedule is prominently displayed in public view in the agent's place of doing business and a copy is available to insureds on request at no charge.

(f) The age, sex, place of residence, race, nationality, ethnic origin, marital status, or occupation of the insured or location of the risk is not utilized in determining the percentage of the rebate or whether a rebate is available.

(2) The insurance agency agent shall maintain a copy of all rebate schedules for the most recent 5 years and their effective dates.

Section 20. Subsection (1) of section 626.601, Florida Statutes, is amended to read:

626.601 Improper conduct; inquiry; fingerprinting.—

(1) The department or office may, upon its own motion or upon a written complaint signed by any interested person and filed with the department or office, inquire into any alleged improper conduct of any licensed insurance agency, agent, 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 or office 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 or office 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 21. Section 626.602, Florida Statutes, is created to read:

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

(1) The name interferes with or is too similar to a name already filed and in use by another agency or insurer.

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

(3) The name states or implies that the agency is an insurer, motor club, hospital service plan, state or federal agency, charitable organization, or entity that primarily provides advice and counsel rather than sells or solicits insurance, or is entitled to engage in insurance activities not permitted

under licenses held or applied for. This provision does not prohibit the use of the word “state” or “states” in the name of the agency. The use of the word “state” or “states” in the name of an agency does not in and of itself imply that the agency is a state agency.

Section 22. Section 626.6115, Florida Statutes, is amended to read:

626.6115 Grounds for compulsory refusal, suspension, or revocation of insurance agency license.—The department shall deny, suspend, revoke, or refuse to continue the license of any insurance agency if it finds, as to any insurance agency or as to any majority owner, partner, manager, director, officer, or other person who manages or controls such agency, that any either one or both of the following applicable grounds exist:

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

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

(3) Denial, suspension, or revocation of a license to practice or conduct any regulated profession, business, or vocation relating to the business of insurance by this state, any other state, any nation, any possession or district of the United States, any court, or any lawful agency thereof. However, the existence of grounds for administrative action against a licensed agency does not constitute grounds for action against any other licensed agency, including an agency that owns, is under common ownership with, or is owned by, in whole or in part, the agency for which grounds for administrative action exist.

Section 23. Subsection (6) is added to section 626.6215, Florida Statutes, to read:

626.6215 Grounds for discretionary refusal, suspension, or revocation of insurance agency license.—The department may, in its discretion, deny, suspend, revoke, or refuse to continue the license of any insurance agency if it finds, as to any insurance agency or as to any majority owner, partner, manager, director, officer, or other person who manages or controls such insurance agency, that any one or more of the following applicable grounds exist:

(6) Failure to take corrective action or report a violation to the department within 30 days after an individual licensee’s violation is known or should have been known by one or more of the partners, officers, or managers acting on behalf of the agency. However, the existence of grounds for administrative action against a licensed agency does not constitute grounds for action against any other licensed agency, including an agency that owns, is under common ownership with, or is owned by, in whole or in part, the agency for which grounds for administrative action exist.

Section 24. Subsection (6) of section 626.621, Florida Statutes, is amended to read:

626.621 Grounds for discretionary refusal, suspension, or revocation of agent'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, 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:

(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.~~

Section 25. Subsections (1) and (2) of section 626.641, Florida Statutes, are amended to read:

626.641 Duration of suspension or revocation.—

(1) The department shall, in its order suspending a license or appointment or in its order suspending the eligibility of a person to hold or apply for such license or appointment, specify the period during which the suspension is to be in effect; but such period shall not exceed 2 years. The license, appointment, or eligibility shall remain suspended during the period so specified, subject, however, to any rescission or modification of the order by the department, or modification or reversal thereof by the court, prior to expiration of the suspension period. A license, appointment, or eligibility which has been suspended shall not be reinstated except upon request for such reinstatement and, in the case of a second suspension, completion of continuing education courses prescribed and approved by the department ~~or office~~; but the department shall not grant such reinstatement if it finds that the circumstance or circumstances for which the license, appointment, or eligibility was suspended still exist or are likely to recur. In addition, a request for reinstatement is subject to denial and subject to a waiting period prior to approval on the same grounds that apply to applications for licensure pursuant to ss. 626.207, 626.611, and 626.621.

(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. An applicant for another license or appointment pursuant to this subsection must apply and qualify for licensure in the same manner as a first-time applicant, and the application may be denied on the same grounds that apply to first-time applicants for licensure pursuant to ss. 626.207, 626.611, and 626.621. In addition, 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 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.

Section 26. Subsection (1) of section 626.7351, Florida Statutes, is amended to read:

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

- (1) The applicant is a natural person at least 18 years of age.

Section 27. Subsection (2) of section 626.7355, Florida Statutes, is amended to read:

626.7355 Temporary license as customer representative pending examination.—

(2) There must be no more than one temporary customer representative licensee in the general lines agency location where the temporary licensee is housed and the temporary licensee shall be housed wholly and completely within the actual confines of the office of the agent or agency whom he or she represents. ~~Such agency must be in compliance with the provisions of s. 626.592, commonly referred to as the Primary Agent Law, for the most recent reporting period.~~ No such temporary licensee may be employed from any location except where his or her designated supervising general lines agent spends his or her full time. No general lines agency location may employ more than two temporary customer representative licensees in one calendar year.

Section 28. Subsection (1) of section 626.747, Florida Statutes, is amended to read:

626.747 Branch agencies.—

(1) Each branch place of business established by an agent or agency, firm, corporation, or association shall be in the active full-time charge of a licensed general lines agent or life or health agent who is appointed to represent one or more insurers. Any agent or agency, firm, corporation, or association which has established one or more branch places of business shall be required to have at least one licensed general lines agent who is appointed to represent one or more insurers at each location of the agency including its headquarters location.

Section 29. 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:

- (a) Section 626.734, relating to liability of certain agents.
- (b) Section 626.175, relating to temporary licenses.
- (c) Section 626.747, relating to branch agencies.
- ~~(d) Section 626.749, relating to place of business in residence.~~
- ~~(d)(e)~~ Section 626.753, relating to sharing of commissions.

~~(e)(f)~~ Section 626.754, relating to rights of agent following termination of appointment.

Section 30. Section 626.84201, Florida Statutes, is created to read:

626.84201 Nonresident title insurance agents.—Notwithstanding s. 626.8414(2), the department, upon application and payment of the fees specified in s. 624.501, may issue a license as a nonresident title insurance agent to an individual not a resident of this state in the same manner applicable to the licensure of nonresident general lines agents under the provisions of s. 626.741. Sections 626.742 and 626.743 apply to nonresident title insurance agents.

Section 31. Subsection (2) of section 648.50, Florida Statutes, is amended to read:

648.50 Effect of suspension, revocation upon associated licenses and licenses.—

(2) In case of the suspension or revocation of the license or appointment, or the eligibility to hold a license or appointment, of any bail bond agent, the license, appointment, or eligibility of any and all bail bond agents who are members of a bail bond agency, whether incorporated or unincorporated, and any and all temporary bail bond agents ~~or runners~~ employed by such bail bond agency, who knowingly are parties to the act which formed the ground for the suspension or revocation may likewise be suspended or revoked.

Section 32. Section 626.592, Florida Statutes, is repealed.

Section 33. Section 624.1275, Florida Statutes, is created to read:

624.1275 Insurance agents; prohibited exclusion from public bidding and negotiations.—A licensed insurance agent shall not be prohibited or excluded from competing or negotiating for any insurance product or plan purchased, provided, or endorsed by a state agency or any political subdivision of this state on the basis of the compensation, contractual or employment arrangement granted to the agent by an employer, insurer, or licensed

agency. The term “political subdivision” has the same meaning set forth in s. 1.01.

Section 34. This act shall take effect October 1, 2005.

Approved by the Governor June 17, 2005.

Filed in Office Secretary of State June 17, 2005.