

Council Substitute for
Council Substitute for House Bill No. 1381

An act relating to insurance; amending s. 626.112, F.S.; authorizing certain agencies designated as a branch office to file an application for registration in lieu of licensure; amending s. 626.221, F.S.; providing an exemption from the required written examination to certain applicants for licensure as a claims adjuster; amending s. 626.7851, F.S.; authorizing certain programs to offer correspondence courses to applicants for licensure as a life insurance agent; amending s. 626.8311, F.S.; authorizing certain programs to offer correspondence courses to applicants for licensure as a health insurance agent; amending s. 626.747, F.S.; authorizing certain licensed agents to be the agent in charge of branch locations under certain circumstances; amending s. 626.865, F.S.; requiring public adjusters to maintain their surety bond unimpaired for a certain period; amending s. 626.869, F.S.; authorizing an extension of time to complete continuing education requirements for public adjusters; amending s. 626.8698, F.S.; designating the Department of Financial Services as the appropriate agency responsible for disciplinary action against public adjusters; amending s. 626.921, F.S.; providing that the department is responsible for approval of the surplus lines agent manual; amending s. 626.9531, F.S.; revising requirements for identification of insurers, agents, and insurance contracts; specifying absence of liability and prohibiting causes of action against certain agents for insolvency of certain entities under certain circumstances; providing definitions; amending s. 626.9611, F.S.; requiring that the department and Financial Services Commission adopt rules prohibiting the use of unfair and deceptive practices in the sale of insurance to members of the United States Armed Forces; providing limitations; providing an appropriation; providing effective dates.

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

Section 1. Paragraph (a) of 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, 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, each agency designated and subject to supervision and inspection as a branch office under the rules of the National Association of Securities Dealers, 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.

Section 2. Paragraph (k) of 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:

(k) An applicant for license as an independent or company employee adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state, Professional Claims Adjuster (PCA) from the Professional Career Institute, Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy, Certified Adjuster (CA) from ALL LINES Training, or Certified Claims Adjuster (CCA) from the Association of Property and Casualty Claims Professionals 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.

Section 2. Subsection (2) of section 626.7851, Florida Statutes, is 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:

(2) Successfully completed a correspondence course in insurance, 3 hours of which shall be on the subject matter of ethics, satisfactory to the department and regularly offered by accredited institutions of higher learning in this state or by independent programs 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

Nonprofit Multiple-Employer Welfare Arrangement Act and the Employee Retirement Income Security Act, 29 U.S.C. ss. 1001 et seq., as it relates to the provision of life insurance by employers to their employees and the regulation thereof;

Section 3. Subsection (2) of section 626.8311, Florida Statutes, is 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 immediately preceding the date the application for license is filed with the department he or she has:

(2) Successfully completed a correspondence course in insurance, 3 hours of which shall be on the subject matter of ethics, satisfactory to the department and regularly offered by accredited institutions of higher learning in this state or by independent programs 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 Nonprofit Multiple-Employer Welfare Arrangement Act and the Employee Retirement Income Security Act, 29 U.S.C. ss. 1001 et seq., as it relates to the provision of health insurance by employers to their employees and the regulation thereof;

Section 4. Effective January 1, 2008, subsection (1) of section 626.747, Florida Statutes, is amended to read:

626.747 Branch agencies.—

(1)(a) 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.

(b) Notwithstanding paragraph (a), the licensed agent in charge of an insurance agency may also be the agent in charge of additional branch office locations of the agency if insurance activities requiring licensure as an insurance agent do not occur at any location when the agent is not physically present and unlicensed employees at the location do not engage in any insurance activities requiring licensure as an insurance agent or customer service representative.

Section 5. Subsection (2) of section 626.865, Florida Statutes, is amended to read:

626.865 Public adjuster's qualifications, bond.—

(2) At the time of application for license as a public adjuster, the applicant shall file with the department a bond executed and issued by a surety

insurer authorized to transact such business in this state, in the amount of \$50,000, conditioned for the faithful performance of his or her duties as a public adjuster under the license for which the applicant has applied, and thereafter maintain the bond unimpaired throughout the existence of the license and for at least 1 year after termination of the license ~~for~~. The bond shall be in favor of the department and shall specifically authorize recovery by the department of the damages sustained in case the licensee is guilty of fraud or unfair practices in connection with his or her business as public adjuster. The aggregate liability of the surety for all such damages shall in no event exceed the amount of the bond. Such bond shall not be terminated unless at least 30 days' written notice is given to the licensee and filed with the department.

Section 6. Paragraph (c) of subsection (4) of section 626.869, Florida Statutes, is amended to read:

626.869 License, adjusters.—

(4)

(c) The department shall adopt rules necessary to implement and administer the continuing education requirements of this subsection. 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.

Section 7. Subsection (1) of section 626.8698, Florida Statutes, is amended to read:

626.8698 Disciplinary guidelines for public adjusters.—The department may deny, suspend, or revoke the license of a public adjuster, and administer a fine not to exceed \$5,000 per act, for any of the following:

(1) Violating any provision of this chapter or a rule or order of the department office or commission;

Section 8. Paragraphs (a) and (c) of section 626.921, Florida Statutes, are amended to read:

626.921 Florida Surplus Lines Service Office.—

(5)(a) The association shall submit to the office a plan of operation, and any amendments thereto, to provide operating procedures for the administration of the service office. The plan of operation and any amendments thereto shall become effective upon approval by order of the office. The association shall submit to the department an agents' manual, and any amendments thereto, which shall provide administrative procedures that surplus lines insurance agents must follow with respect to their duties to the service office. The manual shall be prepared in cooperation with the department, and any changes, updates, or amendments shall be submitted to the department before distribution. The manual shall be approved by order of the department.

(c) All surplus lines agents licensed in this state must comply with the plan of operation and the agent's manual.

Section 9. Section 626.9531, Florida Statutes, is amended to read:

626.9531 Identification of insurers, agents, and insurance contracts.—

(1) Advertising materials and other communications developed by insurers, or other risk bearing entities authorized under this code and approved by the office to do business in this state, regarding insurance products shall clearly indicate that the communication relates to insurance products. When soliciting or selling insurance products, agents shall clearly indicate to prospective insureds that they are acting as insurance agents with regard to insurance products and identified insurers, or other risk bearing entities authorized under this code and approved by the office to do business in this state.

(2) There shall be no liability to the insured on the part of, and no cause of action of any nature shall arise against, any licensed and appointed insurance agent for the insolvency of any risk bearing entity when such entity has been duly authorized or approved by the office to do business in this state. However if the licensed and appointed agent was a controlling producer, as defined in s. 626.7491(2), of the risk bearing entity within 2 years preceding the insolvency, the agent is subject to penalty as provided in s. 626.7491(8).

(3) For the purposes of this section, the term "risk bearing entity" means a reciprocal insurer as defined in s. 629.021, a commercial self-insurance fund as defined in s. 624.462, a group self-insurance fund as defined in s. 624.4621, a local government self-insurance fund as defined in s. 624.4622, a self-insured public utility as defined in s. 624.46225, or an independent educational institution self-insurance fund as defined in s. 624.4623. For the purposes of this section, the term "risk bearing entity" does not include an authorized insurer as defined in s. 624.09.

Section 10. Section 626.9611, Florida Statutes, is amended to read:

626.9611 Rules.—

(1) The department or commission may, in accordance with chapter 120, adopt reasonable rules as are necessary or proper to identify specific methods of competition or acts or practices which are prohibited by s. 626.9541 or s. 626.9551, but the rules shall not enlarge upon or extend the provisions of ss. 626.9541 and 626.9551.

(2) The department and the commission shall, in accordance with chapter 120, adopt rules to protect members of the United States Armed Forces from dishonest or predatory insurance sales practices by insurers and insurance agents. The rules shall identify specific false, misleading, deceptive, or unfair methods of competition, acts, or practices which are prohibited by s. 626.9541 or s. 626.9551. The rules shall be based upon model rules or model laws adopted by the National Association of Insurance Commissioners which identify certain insurance practices involving the solicitation or sale

of insurance and annuities to members of the United States Armed Forces which are false, misleading, deceptive, or unfair.

Section 11. For the 2007-2008 fiscal year, the sum of \$132,000 in nonrecurring funds is appropriated from the Insurance Regulatory Trust Fund to the Department of Financial Services for computer system changes necessary to implement the provisions of s. 626.747, Florida Statutes.

Section 12. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2007.

Approved by the Governor June 19, 2007.

Filed in Office Secretary of State June 19, 2007.