

Committee Substitute for
Committee Substitute for Senate Bill No. 2012

An act relating to insurance; amending s. 624.46226, F.S.; revising provisions authorizing public housing authorities to form self-insurance funds; specifying requirements; providing a definition; providing construction relating to self-insurance funds; providing for application of certain provisions of law to premiums, contributions, and assessments of public authority's self-insurance funds; specifying an alternative tax rate; providing for application of certain provisions of law to public authority's self-insurance funds not meeting certain requirements; amending s. 624.501, F.S.; providing for filing fees for an application for reinstatement of a suspended license; amending s. 626.015, F.S.; redefining the term "adjuster" to include a public adjuster apprentice; amending s. 626.221, F.S.; providing that certain company employee adjusters and independent adjusters seeking reinstatement of a suspended license are not required to take an examination; amending s. 626.241, F.S.; requiring that the Department of Financial Services create an examination for applicants seeking licensure as a public adjuster and a separate examination for applicants seeking licensure as a company employee adjuster or independent adjuster; providing that an examination on worker's compensation insurance or health insurance may not be required for public adjusters; amending s. 626.641, F.S.; providing that a suspended license may not be reinstated unless the individual seeking reinstatement files an application for reinstatement which is subsequently approved by the department; prohibiting the department from approving such an application under certain circumstances; amending s. 626.854, F.S.; prohibiting a public adjuster from soliciting or entering into a contract with any insured or claimant under an insurance policy for a specified period after the occurrence of an event that may be the subject of a claim; providing an exception; providing that a public adjuster's contract to adjust a claim may be canceled by the client without penalty within a specified period after the execution of the contract; requiring that a public adjuster disclose to a client his or her right to cancel a contract by specified means; providing an exception during a state of emergency; specifying an unfair and deceptive insurance trade practice; prohibiting a public adjuster, apprentice, or his or her agent from giving or offering a monetary loan or an article in excess of a specified value to a client or prospective client; prohibiting a public adjuster from basing any charge, fee, payment, commission, or compensation relating to a supplemental claim on the corresponding previous settlement or claim payment; prohibiting a public adjuster from charging, agreeing to, or accepting a fee, payment, commission, or any compensation in excess of certain amounts; providing application; requiring public adjusters to provide claimants or insureds a written estimate of certain losses relating to claims for payment of insurance proceeds; requiring adjusters to retain estimates for a specified time

and make estimates available to claimants, insureds, and the department; creating s. 626.8541, F.S.; defining the term “public adjuster apprentice”; amending s. 626.865, F.S.; providing qualifications that an applicant must possess before the issuance of a license by the department; requiring that certain persons applying for a license after the completion of a period of suspension, termination, cancellation, revocation, or expiration must pass the examination required for licensure as a public adjuster; creating s. 626.8651, F.S.; providing requirements for licensure as a public adjuster apprentice; requiring that the department approve an application under certain circumstances; requiring that all license fees be paid before the department issues a license; requiring the applicant to file a bond in a specified amount in favor of the department; providing for termination of the bond; requiring that the apprentice’s work be supervised by a licensed adjuster in good standing; authorizing the department to adopt rules governing employment requirements; providing that the supervising adjuster is responsible for the acts of the apprentice; providing a period of effectiveness for an apprentice license; providing that an individual licensed as an apprentice may file an application for licensure as a public adjuster after a specified period of employment as an apprentice; requiring that a sworn affidavit containing certain information accompany such application; prohibiting an apprentice from performing any functions for which a license is required after the expiration of his or her license for apprenticeship without first obtaining a license to work as a public adjuster; limiting the authority of a public adjuster apprentice; amending s. 626.869, F.S.; providing that an examination on worker’s compensation insurance or health insurance may not be required for public adjusters; providing for continuing education for company employee adjusters, independent adjusters, and public adjusters; providing for the satisfaction of continuing education requirements for nonresident adjusters; amending s. 626.8698, F.S.; providing disciplinary guidelines for public adjusters and public adjuster apprentices; amending s. 626.870, F.S.; providing requirements for the reinstatement of a suspended license, an appointment, or eligibility; providing for the notification of approval of an application for reinstatement; amending s. 626.8732, F.S.; revising requirements for licensure as a nonresident public adjuster; providing exceptions to such requirements; requiring that an applicant for licensure as a nonresident public adjuster provide certain information with his or her application; requiring that the department verify the nonresident applicant’s licensing status; creating s. 626.8796, F.S.; requiring that all contracts for services by a public adjuster be in writing and contain a specified statement regarding fraud; creating s. 626.8797, F.S.; requiring that proof of loss statements contain a specified statement regarding fraud; amending s. 624.443, F.S.; authorizing the Office of Insurance Regulation to waive the requirement that each multiple-employer welfare arrangement maintain its principal place of business in this state if the arrangement meets certain specified conditions and has a minimum specified fund balance at the time of licensure; amending s. 395.106, F.S.; expanding

authority for certain hospitals to form an alliance for certain purposes; authorizing reinsurance companies to issue coverage to certain self-insuring alliances under certain circumstances; providing for considering certain alliances as insurers for certain purposes; providing for alliance reinsurance contracts to receive the same tax treatment as reinsurance contracts issued to insurance companies; providing an exception; amending s. 627.351, F.S.; clarifying the right of certain parties to discover underwriting and claims file records; authorizing the corporation to release such records as it deems necessary; amending s. 627.94073, F.S.; revising provisions requiring that insurers notify policyholders of the right to designate a secondary addressee to receive a notice of termination of long-term care insurance policies; requiring that a canceled long-term care policy be reinstated if the policyholder failed to pay the premium due to an extended confinement in a hospital, skilled nursing facility, or assisted living facility; providing for application; amending s. 626.9543, F.S.; extending the period within which certain insurers must permit claims from a Holocaust victim or from a beneficiary, descendant, or heir of such a victim; extending the period within which certain actions brought by such a victim, descendant, or heir seeking proceeds of certain insurance policies may not be dismissed; amending s. 627.736, F.S.; revising the schedule of maximum charges on which an insurer may base a limited reimbursement for certain medical services, supplies, and care for injured persons covered by personal injury protection; specifying a minimum amount for the applicable fee schedule or payment limitation under Medicare for such reimbursements; providing legislative intent relating to certain Uniform Commercial Code insurance products; authorizing title insurers to petition for a rate deviation for certain insurance products under certain circumstances; providing criteria for the Office of Insurance Regulation; amending s. 215.555, F.S.; extending for an additional year the offer of reimbursement coverage for specified insurers; revising the qualifying criteria for such insurers; revising provisions to conform; amending s. 626.221, F.S.; expanding the list of applicants eligible for exemption from certain examination requirements; amending s. 626.2815, F.S.; expanding application of certain continuing education requirements; providing limited exceptions to compliance with continuing education requirements as a condition precedent to certain appointments; providing an exception to certain examination monitoring requirements; providing exception requirements; amending s. 626.381, F.S.; authorizing appointing entities to require appointees to attend certain training and education programs for certain purposes; providing an exception; limiting an appointing entity's appointment authority; prohibiting appointments to be contingent upon an appointee's attendance at certain courses; requiring Citizens Property Insurance Corporation to electronically report certain claims data and histories to certain consumer reporting agencies; providing effective dates.

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

Section 1. Section 624.443, Florida Statutes, is amended to read:

624.443 Place of business; maintenance of records.—Each arrangement shall have and maintain its principal place of business in this state and shall therein make available to the office 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 business transacted. The office may waive this requirement if an arrangement has been operating in another state for at least 25 years, has been licensed in such state for at least 10 years, and has a minimum fund balance of \$25 million at the time of licensure.

Section 2. Subsection (1) of section 395.106, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

395.106 Risk pooling by certain hospitals and hospital systems.—

(1) Notwithstanding any other provision of law, any two or more hospitals licensed in this state and located in this state may form an alliance for the purpose of pooling and spreading liabilities of its members relative to property exposure, implementing self-insurance coverage for its members, or securing such property insurance coverage for the benefit of its members, provided an alliance that is created:

(a) Has annual premiums in excess of \$3 million.

(b) Maintains a continuing program of premium calculation and evaluation and reserve evaluation to protect the financial stability of the alliance in an amount and manner determined by consultants using catastrophic (CAT) modeling criteria or other risk-estimating methodologies, including those used by qualified and independent actuaries.

(c) Causes to be prepared annually a fiscal year-end financial statement based upon generally accepted accounting principles and audited by an independent certified public accountant within 6 months after the end of the fiscal year.

(d) Has a governing body comprised entirely of member entities whose representatives on such governing body are specified by the organizational documents of the alliance.

(5) Reinsurance companies complying with s. 624.610 may issue coverage directly to an alliance self-insuring its liabilities under this section. An alliance purchasing reinsurance shall be considered an insurer for the sole purpose of entering into such reinsurance contracts. Contracts of reinsurance issued to an alliance under this section shall receive the same tax treatment as reinsurance contracts issued to insurance companies. However, the purchase of reinsurance coverage by an alliance self-insuring pursuant to this section shall not be construed as authorizing an alliance to otherwise act as an insurer.

Section 3. Paragraph (w) of subsection (6) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(w)1. The following records of the corporation are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Underwriting files, except that a policyholder or an applicant shall have access to his or her own underwriting files. Confidential and exempt underwriting file records may also be released to other governmental agencies upon written request and demonstration of need; such records held by the receiving agency remain confidential and exempt as provided herein.

b. Claims files, until termination of all litigation and settlement of all claims arising out of the same incident, although portions of the claims files may remain exempt, as otherwise provided by law. Confidential and exempt claims file records may be released to other governmental agencies upon written request and demonstration of need; such records held by the receiving agency remain confidential and exempt as provided ~~for~~ herein.

c. Records obtained or generated by an internal auditor pursuant to a routine audit, until the audit is completed, or if the audit is conducted as part of an investigation, until the investigation is closed or ceases to be active. An investigation is considered “active” while the investigation is being conducted with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings.

d. Matters reasonably encompassed in privileged attorney-client communications.

e. Proprietary information licensed to the corporation under contract and the contract provides for the confidentiality of such proprietary information.

f. All information relating to the medical condition or medical status of a corporation employee which is not relevant to the employee’s capacity to perform his or her duties, except as otherwise provided in this paragraph. Information that ~~which~~ is exempt shall include, but is not limited to, information relating to workers’ compensation, insurance benefits, and retirement or disability benefits.

g. Upon an employee’s entrance into the employee assistance program, a program to assist any employee who has a behavioral or medical disorder, substance abuse problem, or emotional difficulty which affects the employee’s job performance, all records relative to that participation shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except as otherwise provided in s. 112.0455(11).

h. Information relating to negotiations for financing, reinsurance, depopulation, or contractual services, until the conclusion of the negotiations.

i. Minutes of closed meetings regarding underwriting files, and minutes of closed meetings regarding an open claims file until termination of all

litigation and settlement of all claims with regard to that claim, except that information otherwise confidential or exempt by law ~~shall~~ will be redacted.

2. ~~If~~ ~~When~~ an authorized insurer is considering underwriting a risk insured by the corporation, relevant underwriting files and confidential claims files may be released to the insurer provided the insurer agrees in writing, notarized and under oath, to maintain the confidentiality of such files. ~~If~~ ~~When~~ a file is transferred to an insurer that file is no longer a public record because it is not held by an agency subject to the provisions of the public records law. Underwriting files and confidential claims files may also be released to staff ~~of~~ and the board of governors of the market assistance plan established pursuant to s. 627.3515, who must retain the confidentiality of such files, except such files may be released to authorized insurers that are considering assuming the risks to which the files apply, provided the insurer agrees in writing, notarized and under oath, to maintain the confidentiality of such files. Finally, the corporation or the board or staff of the market assistance plan may make the following information obtained from underwriting files and confidential claims files available to licensed general lines insurance agents: name, address, and telephone number of the residential property owner or insured; location of the risk; rating information; loss history; and policy type. The receiving licensed general lines insurance agent must retain the confidentiality of the information received.

3. A policyholder who has filed suit against the corporation has the right to discover the contents of his or her own claims file to the same extent that discovery of such contents would be available from a private insurer in litigation as provided by the Florida Rules of Civil Procedure, the Florida Evidence Code, and other applicable law. Pursuant to subpoena, a third party has the right to discover the contents of an insured's or applicant's underwriting or claims file to the same extent that discovery of such contents would be available from a private insurer by subpoena as provided by the Florida Rules of Civil Procedure, the Florida Evidence Code, and other applicable law, and subject to any confidentiality protections requested by the corporation and agreed to by the seeking party or ordered by the court. The corporation may release confidential underwriting and claims file contents and information as it deems necessary and appropriate to underwrite or service insurance policies and claims, subject to any confidentiality protections deemed necessary and appropriate by the corporation.

4.2. Portions of meetings of the corporation are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution wherein confidential underwriting files or confidential open claims files are discussed. All portions of corporation meetings which are closed to the public shall be recorded by a court reporter. The court reporter shall record the times of commencement and termination of the meeting, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of any closed meeting shall be off the record. Subject to the provisions hereof and s. 119.07(1)(e)-(g), the court reporter's notes of any closed meeting shall be retained by the corporation for a minimum of 5 years. A copy of the transcript, less any exempt matters, of any closed meeting wherein claims are discussed shall become public as to individual claims after settlement of the claim.

Section 4. Section 624.46226, Florida Statutes, is amended to read:

624.46226 Public housing authorities self-insurance funds; exemption for taxation and assessments.—

~~(1) Notwithstanding any other provision of law, any two or more public housing authorities in the state as defined in chapter 421 may form also create a self-insurance fund for the purpose of pooling and spreading liabilities of its members as to any one or combination of casualty risk or self-insuring real or personal property risk of every kind and every interest in such property against loss or damage from any hazard or cause and against any loss consequential to such loss or damage, provided the self-insurance fund that is created: all the provisions of s. 624.4622 are met.~~

(a) Has annual normal premiums in excess of \$5 million.

(b) Uses a qualified actuary to determine rates using accepted actuarial principles and annually submits to the office a certification by the actuary that the rates are actuarially sound and are not inadequate, as defined in s. 627.062.

(c) Uses a qualified actuary to establish reserves for loss and loss adjustment expenses and annually submits to the office a certification by the actuary that the loss and loss adjustment expense reserves are adequate. If the actuary determines that reserves are not adequate, the fund shall file with the office a remedial plan for increasing the reserves or otherwise addressing the financial condition of the fund, subject to a determination by the office that the fund will operate on an actuarially sound basis and the fund does not pose a significant risk of insolvency.

(d) Maintains a continuing program of excess insurance coverage and reserve evaluation to protect the financial stability of the fund in an amount and manner determined by a qualified and independent actuary. At a minimum, this program must:

1. Purchase excess insurance from authorized insurance carriers or eligible surplus lines insurers.

2. Retain a per-loss occurrence that does not exceed \$350,000.

(e) Submits to the office annually an audited fiscal year-end financial statement by an independent certified public accountant within 6 months after the end of the fiscal year.

(f) Has a governing body which is comprised entirely of commissioners of public housing authorities that are members of the public housing authority self-insurance fund or persons appointed by the commissioners of public housing authorities that are members of the public housing authority self-insurance fund.

(g) Uses knowledgeable persons or business entities to administer or service the fund in the areas of claims administration, claims adjusting, underwriting, risk management, loss control, policy administration, finan-

cial audit, and legal areas. Such persons must meet all applicable requirements of law for state licensure and must have at least 5 years' experience with commercial self-insurance funds formed under s. 624.462, self-insurance funds formed under s. 624.4622, or domestic insurers.

(h) Submits to the office copies of contracts used for its members that clearly establish the liability of each member for the obligations of the fund.

(i) Annually submits to the office a certification by the governing body of the fund that, to the best of its knowledge, the requirements of this section are met.

(2) As used in this section, the term "qualified actuary" means an actuary that is a member of the Casualty Actuarial Society or the American Academy of Actuaries.

(3) A public housing authority's self-insurance fund that meets the requirements of this section is not:

(a) An insurer for purposes of participation in or coverage by any insurance guaranty association established by chapter 631; or

(b) Subject to s. 624.4621 and is not required to file any report with the department under s. 440.38(2)(b) that is uniquely required of group self-insurer funds qualified under s. 624.4621.

(4) Premiums, contributions, and assessments received by a public housing authority's self-insurance fund are subject to ss. 624.509(1) and (2) and 624.5092, except that the tax rate shall be 1.6 percent of the gross amount of such premiums, contributions, and assessments.

(5) If any of the requirements of subsection (1) are not met, a public housing authority's self-insurance fund is subject to the requirements of s. 624.4621 if the fund provides only workers' compensation coverage or is subject to the requirements of ss. 624.460-624.488 if the fund provides coverage for other property, casualty, or surety risks.

(6)(2) Any public housing authority in the state as defined in chapter 421 that is a member of a self-insurance fund pursuant to this section shall be exempt from the assessments imposed under ss. 215.555, 627.351 and 631.57.

Section 5. Effective January 1, 2009, subsection (5) 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:

(5) All insurance representatives, application for license, application for reinstatement of suspended license, each filing, filing fee \$50.00

Section 6. Effective January 1, 2009, subsection (1) of section 626.015, Florida Statutes, is amended to read:

626.015 Definitions.—As used in this part:

(1) “Adjuster” means a public adjuster as defined in s. 626.854, public adjuster apprentice as defined in s. 626.8541, independent adjuster as defined in s. 626.855, or company employee adjuster as defined in s. 626.856.

Section 7. Effective January 1, 2009, paragraphs (c), (e), and (f) of subsection (2) of section 626.221, Florida Statutes, are amended to read:

626.221 Examination requirement; exemptions.—

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

(c) In the discretion of the department, an applicant for reinstatement of license or appointment as an agent, customer representative, company employee adjuster, or independent adjuster whose license has been suspended within 4 years prior to the date of application or written request for reinstatement.

(e) A person who has been licensed and appointed as ~~an a public adjuster~~, independent adjuster, or company employee adjuster as to all property, casualty, and surety insurances, may be licensed and appointed as a company employee adjuster or, independent, ~~or public~~ adjuster, as to these kinds of insurance, without additional written examination if an application for licensure is filed with the department within 48 months following the date of cancellation or expiration of the prior appointment.

(f) A person who has been licensed as ~~a company employee adjuster or independent~~ 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 is filed with the department within 48 months after cancellation or expiration of the prior license.

Section 8. Effective January 1, 2009, subsection (6) of section 626.241, Florida Statutes, is amended to read:

626.241 Scope of examination.—

(6) In order to reflect the differences between adjusting claims for an insurer and adjusting claims for an insured, the department shall create an examination for applicants seeking licensure as a public adjuster and a separate examination for applicants seeking licensure as a company employee adjuster or independent adjuster. Examinations given applicants for license as an all-lines adjuster shall cover adjusting in all lines of insurance, other than life and annuity; or, in accordance with the application for the license, the examination may be limited to adjusting in:

(a) Automobile physical damage insurance;

- (b) Property and casualty insurance;
- (c) Workers' compensation insurance; or
- (d) Health insurance.

No examination on worker's compensation insurance or health insurance shall be required for public adjusters.

Section 9. Effective January 1, 2009, subsection (1) of section 626.641, Florida Statutes, is 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 that which has been suspended shall not be reinstated except upon the filing and approval of an application for request for such reinstatement and, in the case of a second suspension, completion of continuing education courses prescribed and approved by the department; but the department shall not approve an application for 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, an application 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, and 626.8698.

Section 10. Effective October 1, 2008, subsections (5) through (12) are added to section 626.854, Florida Statutes, to read:

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

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

(6) A public adjuster may not directly or indirectly through any other person or entity initiate contact or engage in face-to-face or telephonic solicitation or enter into a contract with any insured or claimant under an insurance policy until at least 48 hours after the occurrence of an event that may be the subject of a claim under the insurance policy unless contact is initiated by the insured or claimant.

(7) An insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within 3 business days after the

date on which the contract is executed or within 3 business days after the date on which the insured or claimant has notified the insurer of the claim, by phone or in writing, whichever is later. The public adjuster's contract shall disclose to the insured or claimant his or her right to cancel the contract and advise the insured or claimant that notice of cancellation must be submitted in writing and sent by certified mail, return receipt requested, or other form of mailing which provides proof thereof, to the public adjuster at the address specified in the contract; provided, during any state of emergency as declared by the Governor and for a period of 1 year after the date of loss, the insured or claimant shall have 5 business days after the date on which the contract is executed to cancel a public adjuster's contract.

(8) It is an unfair and deceptive insurance trade practice pursuant to s. 626.9541 for a public adjuster or any other person to circulate or disseminate any advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance which is untrue, deceptive, or misleading.

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

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

(11)(a) If a public adjuster enters into a contract with an insured or claimant to reopen a claim or to file a supplemental claim that seeks additional payments for a claim that has been previously paid in part or in full or settled by the insurer, the public adjuster may not charge, agree to, or accept any compensation, payment, commission, fee, or other thing of value based on a previous settlement or previous claim payments by the insurer for the same cause of loss. The charge, compensation, payment, commission, fee, or other thing of value may be based only on the claim payments or settlement obtained through the work of the public adjuster after entering into the contract with the insured or claimant. The contracts described in this paragraph are not subject to the limitations in paragraph (b).

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

1. Ten percent of the amount of insurance claim payments by the insurer for claims based on events that are the subject of a declaration of a state of emergency by the Governor. This provision applies to claims made during the period of 1 year after the declaration of emergency.

2. Twenty percent of the amount of all other insurance claim payments.

(12) Each public adjuster shall provide to the claimant or insured a written estimate of the loss to assist in the submission of a proof of loss or

any other claim for payment of insurance proceeds. The public adjuster shall retain such written estimate for at least 5 years and shall make such estimate available to the claimant or insured and the department upon request.

The provisions of subsections (5)-(12) apply only to residential property insurance policies and condominium association policies as defined in s. 718.111(11).

Section 11. Effective January 1, 2009, section 626.8541, Florida Statutes, is created to read:

626.8541 Public adjuster apprentice.—

(1) A “public adjuster apprentice” is any person who is not a licensed public adjuster, who is employed by or has a contract with a licensed and appointed public adjuster in good standing with the department or a public adjusting firm that employs at least one licensed and appointed public adjuster in good standing with the department to assist a public adjuster in conducting business under the license, and who satisfies the requirements of s. 626.8651.

(2) A public adjuster apprentice must work with a licensed and appointed public adjuster for a period of 12 months as set forth in this section, and who otherwise is in full compliance with this chapter, prior to being eligible for appointment as a licensed public adjuster.

Section 12. Effective January 1, 2009, paragraph (e) of subsection (1) of section 626.865, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

626.865 Public adjuster’s qualifications, bond.—

(1) The department shall issue a license to an applicant for a public adjuster’s license upon determining that the applicant has paid the applicable fees specified in s. 624.501 and possesses the following qualifications:

(e) Has passed the ~~any~~ required written examination.

(3) The department may not issue a license as a public adjuster to any individual who has not passed the examination for a public adjuster’s license. Any individual who is applying for reinstatement of a license after completion of a period of suspension and any individual who is applying for a new license after termination, cancellation, revocation, or expiration of a prior license as a public adjuster must pass the examination required for licensure as a public adjuster after approval of the application for reinstatement or for a new license regardless of whether the applicant passed an examination prior to issuance of the license that was suspended, terminated, canceled, revoked, or expired.

Section 13. Effective January 1, 2009, section 626.8651, Florida Statutes, is created to read:

626.8651 Public adjuster apprentice license; qualifications.—

(1) The department shall issue a license as a public adjuster apprentice to an applicant who is:

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

(b) A United States citizen or legal alien who possesses work authorization from the United States Bureau of Citizenship and Immigration Services and is a resident of this state.

(c) Trustworthy and has such business reputation as would reasonably ensure that the applicant will conduct business as a public adjuster apprentice fairly and in good faith and without detriment to the public.

(2) All applicable license fees, as prescribed in s. 624.501, must be paid in full before issuance of the license.

(3) At the time of application for license as a public adjuster apprentice, 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 upon the faithful performance of his or her duties as a public adjuster apprentice 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. 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 commits fraud or unfair practices in connection with his or her business as a public adjuster apprentice. The aggregate liability of the surety for all such damages may not exceed the amount of the bond, and the bond may not be terminated by the issuing insurer unless written notice of at least 30 days is given to the licensee and filed with the department.

(4) A public adjuster apprentice shall complete at a minimum 100 hours of employment per month for 12 months of employment under the supervision of a licensed and appointed all-lines public adjuster in order to qualify for licensure as a public adjuster. The department may adopt rules that establish standards for such employment requirements.

(5) A supervising public adjuster shall be responsible and accountable for the acts of a public adjuster apprentice which are related to transacting business as a public adjuster apprentice.

(6) An apprentice license is effective for 18 months unless the license expires due to lack of maintaining an appointment; is surrendered by the licensee; is terminated, suspended, or revoked by the department; or is canceled by the department upon issuance of a public adjuster license. The department may not issue a public adjuster apprentice license to any individual who has held such a license in this state within 2 years after expiration, surrender, termination, revocation, or cancellation of the license.

(7) After completing the requirements for employment as a public adjuster apprentice, the licensee may file an application for a public adjuster license. The applicant and supervising public adjuster or public adjusting firm must each file a sworn affidavit, on a form prescribed by the depart-

ment, verifying that the employment of the public adjuster apprentice meets the requirements of this section.

(8) In no event shall a public adjuster apprentice licensed under this section perform any of the functions for which a public adjuster's license is required after expiration of the public adjuster apprentice license without having obtained a public adjuster license.

(9) A public adjuster apprentice has the same authority as the licensed public adjuster or public adjusting firm that employs the apprentice except that an apprentice may not execute contracts for the services of a public adjuster or public adjusting firm and may not solicit contracts for the services except under the direct supervision and guidance of the supervisory public adjuster. An individual may not be, act as, or hold himself or herself out to be a public adjuster apprentice unless the individual is licensed and holds a current appointment by a licensed public all-lines adjuster or a public adjusting firm that employs a licensed all-lines public adjuster.

Section 14. Effective October 1, 2008, subsections (1) and (4) of section 626.869, Florida Statutes, are amended to read:

626.869 License, adjusters; continuing education.—

(1) An applicant for a license as an adjuster may qualify and his or her license when issued may cover adjusting in any one of the following classes of insurance:

- (a) All lines of insurance except life and annuities.
- (b) Motor vehicle physical damage insurance.
- (c) Property and casualty insurance.
- (d) Workers' compensation insurance.
- (e) Health insurance.

No examination on worker's compensation insurance or health insurance shall be required for public adjusters.

(4)(a) Any individual holding a license as a company employee adjuster or independent adjuster for 24 consecutive months or longer must, beginning in his or her birth month and every 2 years thereafter, have completed 24 hours of courses, 2 hours of which relate to ethics, in subjects designed to inform the licensee regarding the current insurance laws of this state, so as to enable him or her to engage in business as an insurance adjuster fairly and without injury to the public and to adjust all claims in accordance with the policy or contract and the laws of this state.

(b) Any individual holding a license as a public adjuster for 24 consecutive months or longer, beginning in their birth month and every 2 years thereafter, must have completed 24 hours of courses, 2 hours of which relate to ethics, in subjects designed to inform the licensee regarding the current

laws of this state pertaining to all lines of insurance other than life and annuities, the current laws of this state pertaining to the duties and responsibilities of public adjusters as set forth in this part, and the current rules of the department applicable to public adjusters and standard or representative policy forms used by insurers, other than forms for life insurance and annuities, so as to enable him or her to engage in business as an adjuster fairly and without injury to the public and to adjust all claims in accordance with the policy or contract and laws of this state. In order to receive credit for continuing education courses, public adjusters must take courses that are specifically designed for public adjusters and approved by the department, provided, however, no continuing education course shall be required for public adjusters for worker's compensation insurance or health insurance.

(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.

(d) A nonresident public adjuster must complete the continuing education requirements provided by this section; provided, a nonresident public adjuster may meet the requirements of this section if the continuing education requirements of the nonresident public adjuster's home state are determined to be substantially comparable to the requirements of this state's continuing education requirements and if the resident's state recognizes reciprocity with this state's continuing education requirements. A nonresident public adjuster whose home state does not have such continuing education requirements for adjusters, and who is not licensed as a nonresident adjuster in a state that has continuing education requirements and reciprocates with this state, must meet the continuing education requirements of this section.

Section 15. Effective October 1, 2008, section 626.8698, Florida Statutes, is amended to read:

626.8698 Disciplinary guidelines for public adjusters and public adjuster apprentices.—The department may deny, suspend, or revoke the license of a public adjuster or public adjuster apprentice, 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;

(2) Receiving payment or anything of value as a result of an unfair or deceptive practice;

(3) Receiving or accepting any fee, kickback, or other thing of value pursuant to any agreement or understanding, oral or otherwise; entering into a split-fee arrangement with another person who is not a public adjuster; or being otherwise paid or accepting payment for services that have not been performed;

(4) Violating s. 316.066 or s. 817.234;

(5) Soliciting or otherwise taking advantage of a person who is vulnerable, emotional, or otherwise upset as the result of a trauma, accident, or other similar occurrence; or

(6) Violating any ethical rule of the department.

Section 16. Effective January 1, 2009, subsection (4) is added to section 626.870, Florida Statutes, to read:

626.870 Application for license.—

(4) A license, an appointment, or eligibility that has been suspended may not be reinstated except upon the filing and approval of an application for reinstatement in accordance with s. 626.641. In addition, for reinstatement of a public adjuster's license, appointment, or eligibility, the individual must pass the public adjuster licensing examination. An application for reinstatement must be accompanied by any applicable examination fee. Successful completion of the examination does not entitle the applicant to have a license reinstated. The application is subject to denial pursuant to ss. 626.207, 626.611, 626.621, and 626.8698. If the department approves an application for reinstatement, the applicant shall be notified that the license will be reinstated upon payment by the applicant of the reinstatement fee contained in s. 624.501(15).

Section 17. Effective January 1, 2009, paragraphs (b) and (e) of subsection (1) and paragraphs (b) and (c) of subsection (2) of section 626.8732, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

626.8732 Nonresident public adjuster's qualifications, bond.—

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

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

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

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

~~(e) Has been licensed and employed as a public adjuster in the applicant's state of residence on a continual basis for the past 3 years, or, if the applicant's state of residence does not issue licenses to individuals who act as public adjusters, the applicant has been licensed and employed as a resident insurance company or independent adjuster, insurance agent, insurance broker, or other insurance representative in his or her state of residence or any other state on a continual basis for the past 3 years. This paragraph does not apply to individuals who are licensed to transact only life insurance and annuity business had sufficient experience, training, or instruction concerning the adjusting of damages or losses under insurance contracts, other than life and annuity contracts; is sufficiently informed as to the terms and effects of the provisions of those types of insurance contracts; and possesses adequate knowledge of the laws of this state relating to such contracts as to enable and qualify him or her to engage in the business of insurance adjuster fairly and without injury to the public or any member thereof with whom he or she may have business as a public adjuster.~~

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

(b) If currently licensed as a resident public adjuster in the applicant's state of residence, a certificate or letter of authorization from the licensing authority of the applicant's state of residence, stating that the applicant holds a current or comparable license to act as a public adjuster and has held the license continuously for the past 3 years. The certificate or letter of authorization must be signed by the insurance commissioner or his or her deputy or the appropriate licensing official and must disclose whether the adjuster has ever had any license or eligibility to hold any license declined, denied, suspended, revoked, or placed on probation or whether an administrative fine or penalty has been levied against the adjuster and, if so, the reason for the action.

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

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

Section 18. Effective October 1, 2008, section 626.8796, Florida Statutes, is created to read:

626.8796 Public adjuster contracts; fraud statement.—All contracts for public adjuster services must be in writing and must prominently display the following statement on the contract: “Pursuant to s. 817.234, Florida Statutes, any person who, with the intent to injure, defraud, or deceive any insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains any false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.803, or s. 775.084, Florida Statutes.”

Section 19. Effective October 1, 2008, section 626.8797, Florida Statutes, is created to read:

626.8797 Proof of loss; fraud statement.—All proof of loss statements must prominently display the following statement: “Pursuant to s. 817.234, Florida Statutes, any person who, with the intent to injure, defraud, or deceive any insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains any false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.803, or s. 775.084, Florida Statutes.”

Section 20. Effective January 1, 2009, and applicable to policies issued or renewed on or after that date, section 627.94073, Florida Statutes, is amended to read:

627.94073 Notice of cancellation; grace period.—

(1) A long-term care policy shall provide that the insured is entitled to a grace period of not less than 30 days, within which payment of any premium after the first may be made. The insurer may require payment of an interest charge not in excess of 8 percent per year for the number of days elapsing before the payment of the premium, during which period the policy shall continue in force. If the policy becomes a claim during the grace period before the overdue premium is paid, the amount of such premium or premiums with interest not in excess of 8 percent per year may be deducted in any settlement under the policy.

(2) A long-term care policy may not be canceled for nonpayment of premium unless, after expiration of the grace period in subsection (1), and at least 30 days prior to the effective date of such cancellation, the insurer has mailed a notification of possible lapse in coverage to the policyholder and to a specified secondary addressee if such addressee has been designated in writing by name and address by the policyholder. For policies issued or renewed on or after October 1, 1996, the insurer shall notify the policyholder, at least once annually every 2 years, of the right to designate a secondary addressee. The applicant has the right to designate at least one person who is to receive the notice of termination, in addition to the insured. Designation shall not constitute acceptance of any liability on the third

party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one person. The form must also inform the policyholder to update any change made to the address of the secondary addressee. The designation shall include each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver shall state: "Protection against unintended lapse.—I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care or limited benefit insurance policy for nonpayment of premium. I understand that notice will not be given until 30 days after a premium is due and unpaid. I elect NOT to designate any person to receive such notice." Notice of possible lapse in coverage due to nonpayment of premium shall be given by United States Postal Service proof of mailing or certified or registered mail to the policyholder and secondary designee at the address shown in the policy or the last known address provided to the insurer. ~~first class United States mail, postage prepaid, and~~ Notice may not be given until 30 days after a premium is due and unpaid. Notice shall be deemed to have been given as of 5 days after the date of mailing.

(3) If a policy is canceled due to nonpayment of premium, the policyholder ~~is shall be~~ entitled to have the policy reinstated if, within a period of not less than 5 months after the date of cancellation, the policyholder or any secondary addressee designated pursuant to subsection (2) demonstrates that the failure to pay the premium when due was unintentional and due to the policyholder's cognitive impairment, or loss of functional capacity, or continuous confinement in a hospital, skilled nursing facility, or assisted living facility for a period in excess of 60 days of the policyholder. Policy reinstatement shall be subject to payment of overdue premiums. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria for cognitive impairment or the loss of functional capacity, if any, contained in the policy and certificate. The insurer may require payment of an interest charge not in excess of 8 percent per year for the number of days elapsing before the payment of the premium, during which period the policy shall continue in force if the demonstration of cognitive impairment is made. If the policy becomes a claim during the 180-day period before the overdue premium is paid, the amount of the premium or premiums with interest not in excess of 8 percent per year may be deducted in any settlement under the policy.

(4) When the policyholder or certificateholder pays premium for a long-term care insurance policy or certificate policy through a payroll or pension deduction plan, the requirements in subsection (2) need not be met until 60 days after the policyholder or certificateholder is no longer on such a payment plan. The application or enrollment form for such policies or certificates shall clearly indicate the payment plan selected by the applicant.

Section 21. Paragraph (c) of subsection (5) and subsection (6) of section 626.9543, Florida Statutes, are amended to read:

626.9543 Holocaust victims.—

(5) **PROOF OF A CLAIM.**—Any insurer doing business in this state, in receipt of a claim from a Holocaust victim or from a beneficiary, descendant, or heir of a Holocaust victim, shall:

(c) Permit claims irrespective of any statute of limitations or notice requirements imposed by any insurance policy issued, provided the claim is submitted on or before July 1, 2018 ~~within 10 years after the effective date of this section.~~

(6) **STATUTE OF LIMITATIONS.**—Notwithstanding any law or agreement among the parties to an insurance policy to the contrary, any action brought by Holocaust victims or by a beneficiary, heir, or a descendant of a Holocaust victim seeking proceeds of an insurance policy issued or in effect between 1920 and 1945, inclusive, shall not be dismissed for failure to comply with the applicable statute of limitations or laches provided the action is commenced on or before July 1, 2018 ~~within 10 years after the effective date of this section.~~

Section 22. Paragraph (a) of subsection (5) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.—

(5) **CHARGES FOR TREATMENT OF INJURED PERSONS.**—

(a)1. Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge the insurer and injured party only a reasonable amount pursuant to this section for the services and supplies rendered, and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment, if the insured receiving such treatment or his or her guardian has countersigned the properly completed invoice, bill, or claim form approved by the office upon which such charges are to be paid for as having actually been rendered, to the best knowledge of the insured or his or her guardian. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like services or supplies. With respect to a determination of whether a charge for a particular service, treatment, or otherwise is reasonable, consideration may be given to evidence of usual and customary charges and payments accepted by the provider involved in the dispute, and reimbursement levels in the community and various federal and state medical fee schedules applicable to automobile and other insurance coverages, and other information relevant to the reasonableness of the reimbursement for the service, treatment, or supply.

2. The insurer may limit reimbursement to 80 percent of the following schedule of maximum charges:

a. For emergency transport and treatment by providers licensed under chapter 401, 200 percent of Medicare.

b. For emergency services and care provided by a hospital licensed under chapter 395, 75 percent of the hospital's usual and customary charges.

c. For emergency services and care as defined by s. 395.002(10) provided in a facility licensed under chapter 395 rendered by a physician or dentist, and related hospital inpatient services rendered by a physician or dentist, the usual and customary charges in the community.

d. For hospital inpatient services, other than emergency services and care, 200 percent of the Medicare Part A prospective payment applicable to the specific hospital providing the inpatient services.

e. For hospital outpatient services, other than emergency services and care, 200 percent of the Medicare Part A Ambulatory Payment Classification for the specific hospital providing the outpatient services.

f. For all other medical services, supplies, and care, 200 percent of the allowable amount under the participating physicians schedule of applicable Medicare Part B fee schedule. However, if such services, supplies, or care is not reimbursable under Medicare Part B, the insurer may limit reimbursement to 80 percent of the maximum reimbursable allowance under workers' compensation, as determined under s. 440.13 and rules adopted thereunder which are in effect at the time such services, supplies, or care is provided. Services, supplies, or care that is not reimbursable under Medicare or workers' compensation is not required to be reimbursed by the insurer.

3. For purposes of subparagraph 2., the applicable fee schedule or payment limitation under Medicare is the fee schedule or payment limitation in effect at the time the services, supplies, or care was rendered and for the area in which such services were rendered, except that it may not be less than the allowable amount under the participating physicians schedule applicable 2007 Medicare Part B for 2007 fee schedule for medical services, supplies, and care subject to Medicare Part B.

4. Subparagraph 2. does not allow the insurer to apply any limitation on the number of treatments or other utilization limits that apply under Medicare or workers' compensation. An insurer that applies the allowable payment limitations of subparagraph 2. must reimburse a provider who lawfully provided care or treatment under the scope of his or her license, regardless of whether such provider would be entitled to reimbursement under Medicare due to restrictions or limitations on the types or discipline of health care providers who may be reimbursed for particular procedures or procedure codes.

5. If an insurer limits payment as authorized by subparagraph 2., the person providing such services, supplies, or care may not bill or attempt to collect from the insured any amount in excess of such limits, except for amounts that are not covered by the insured's personal injury protection coverage due to the coinsurance amount or maximum policy limits.

Section 23. The Legislature finds that the Uniform Commercial Code insurance product authorized by section 1 of Chapter 2005-153, Laws of Florida, will open new markets in this state and will result in generation of new revenue for the state. Accordingly, title insurers may petition for a rate

deviation as provided by s. 627.783, Florida Statutes, for the uniform commercial code insurance product. In determining whether to approve such petition for a rate deviation for the uniform commercial code insurance product, the office shall be guided by standards for national rates for the product currently being offered in other states.

Section 24. Paragraph (b) of subsection (4) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(4) REIMBURSEMENT CONTRACTS.—

(b)1. The contract shall contain a promise by the board to reimburse the insurer for 45 percent, 75 percent, or 90 percent of its losses from each covered event in excess of the insurer's retention, plus 5 percent of the reimbursed losses to cover loss adjustment expenses.

2. The insurer must elect one of the percentage coverage levels specified in this paragraph and may, upon renewal of a reimbursement contract, elect a lower percentage coverage level if no revenue bonds issued under subsection (6) after a covered event are outstanding, or elect a higher percentage coverage level, regardless of whether or not revenue bonds are outstanding. All members of an insurer group must elect the same percentage coverage level. Any joint underwriting association, risk apportionment plan, or other entity created under s. 627.351 must elect the 90-percent coverage level.

3. The contract shall provide that reimbursement amounts shall not be reduced by reinsurance paid or payable to the insurer from other sources.

4. Notwithstanding any other provision contained in this section, the board shall make available to insurers that purchased coverage provided by this subparagraph in 2007 ~~2006~~, insurers qualifying as limited apportionment companies under s. 627.351(6)(c), and insurers that have been ~~were~~ approved to participate in ~~2006 or that are approved in 2007~~ for the Insurance Capital Build-Up Incentive Program pursuant to s. 215.5595, a contract or contract addendum that provides an additional amount of reimbursement coverage of up to \$10 million. The premium to be charged for this additional reimbursement coverage shall be 50 percent of the additional reimbursement coverage provided, which shall include one prepaid reinstatement. The minimum retention level that an eligible participating insurer must retain associated with this additional coverage layer is 30 percent of the insurer's surplus as of December 31, 2007 ~~2006~~. This coverage shall be in addition to all other coverage that may be provided under this section. The coverage provided by the fund under this subparagraph shall be in addition to the claims-paying capacity as defined in subparagraph (c)1., but only with respect to those insurers that select the additional coverage option and meet the requirements of this subparagraph. The claims-paying capacity with respect to all other participating insurers and limited apportionment companies that do not select the additional coverage option shall be limited to their reimbursement premium's proportionate share of the actual claims-paying capacity otherwise defined in subparagraph (c)1.

and as provided for under the terms of the reimbursement contract. Coverage provided in the reimbursement contract ~~shall will~~ not be affected by the additional premiums paid by participating insurers exercising the additional coverage option allowed in this subparagraph. This subparagraph expires on May 31, ~~2009~~ 2008.

Section 25. Effective January 1, 2009, paragraph (j) 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:

(j) An applicant for license as a customer representative who has earned 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 earned an associate's degree or bachelor's degree from an accredited college or university with at least 9 academic hours of property and casualty insurance curriculum, or the equivalent, or has earned 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 post-secondary 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.

Section 26. Subsection (2), paragraph (f) of subsection (3), and paragraph (j) of subsection (4) of section 626.2815, Florida Statutes, are amended to read:

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

(2) Except as otherwise provided in this section, the provisions of this section apply to persons licensed to engage in the sale of insurance in this state for all lines of insurance for which an examination is required for licensing and to each insurer, employer, or appointing entity, including, but not limited to, those created or existing pursuant to s. 627.351. The provisions of this section shall not apply to any person holding a license for the sale of any line of insurance for which an examination is not required by the

laws of this state, nor shall the provisions of this section apply to any limited license as the department may exempt by rule.

(3)

(f)1. Except as provided in subparagraph 2., compliance with continuing education requirements is a condition precedent to the issuance, continuation, reinstatement, or renewal of any appointment subject to this section.

2.a. An appointing entity, except one that appoints individuals who are employees or exclusive independent contractors of the appointing entity, may not require, directly or indirectly, as a condition of such appointment or the continuation of such appointment, the taking of an approved course or program by any appointee or potential appointee that is not of the appointee's choosing.

b. Any entity created or existing pursuant to s. 627.351 may require employees to take training of any type relevant to their employment but may not require appointees who are not employees to take any approved course or program unless the course or program deals solely with the appointing entity's internal procedures or products or with subjects substantially unique to the appointing entity.

(4) The following courses may be completed in order to meet the continuing education course requirements:

(j) Any course, including courses relating to agency management or errors and omissions, developed or sponsored by any authorized insurer or recognized agents' association or insurance trade association or any independent study program of instruction, subject to approval by the department, qualifies for the equivalency of the number of classroom hours assigned thereto by the department. However, unless otherwise provided in this section, continuing education hours may not be credited toward meeting the requirements of this section unless the course is provided by classroom instruction or results in a monitored examination. A monitored examination is not required for:

1. An independent study program of instruction that is presented through interactive, online technology that the department determines has sufficient internal testing to validate the student's full comprehension of the materials presented; or

2. An independent study program of instruction presented on paper or in printed material that imposes a final closed book examination that meets the requirements of the department's rule for self-study courses. The examination may be taken without a proctor provided the student presents to the provider a sworn affidavit certifying that the student did not consult any written materials or receive outside assistance of any kind or from any person, directly or indirectly, while taking the examination. If the student is an employee of an agency or corporate entity, the student's supervisor or a manager or owner of the agency or corporate entity must also sign the sworn affidavit. If the student is self-employed, a sole proprietor, or a partner, or if the examination is administered online, the sworn affidavit must

also be signed by a disinterested third party. The sworn affidavit must be received by the approved provider prior to reporting continuing education credits to the department.

Section 27. Subsections (6) and (7) of section 626.381, Florida Statutes, are renumbered as subsections (8) and (9), respectively, and new subsections (6) and (7) are added to that section to read:

626.381 Renewal, continuation, reinstatement, or termination of appointment.—

(6) An appointing entity may require an appointee to attend training and education programs of the appointing entity in order for the appointee to receive a new appointment or maintain an existing appointment. However, an appointing entity may not require, directly or indirectly, any appointee to attend any training programs that are wholly or partially approved for general continuing education credit as provided in s. 626.2815.

(7) Each appointing entity may appoint only those persons who have met the continuing education requirements of the license necessary for such appointment as provided in s. 626.2815. However, an appointing entity may not make or allow, directly or indirectly, the appointment of any appointee or potential appointee to be contingent, in whole or in part, on any appointee's attendance at any course that is approved, in whole or in part, for continuing education credit pursuant to s. 626.2815.

Section 28. Upon the request of a consumer reporting agency, as defined by the federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., which consumer reporting agency is in compliance with the confidentiality requirements of such act, the Citizens Property Insurance Corporation shall electronically report claims data and histories to such consumer reporting agency which maintains a database of similar data for use in connection with the underwriting of insurance involving a consumer.

Section 29. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2008.

Approved by the Governor June 23, 2008.

Filed in Office Secretary of State June 23, 2008.