

CHAPTER 2014-123

Committee Substitute for Committee Substitute for House Bill No. 633

An act relating to the Division of Insurance Agents and Agency Services; amending s. 20.121, F.S.; revising the name of the division; amending s. 624.310, F.S.; revising service delivery methods; amending s. 624.318, F.S.; prohibiting the removal of specified original documents under certain conditions; amending s. 624.501, F.S.; revising original appointment and renewal fees related to certain insurance representatives; amending s. 626.015, F.S.; prohibiting new limited customer representative licenses from being issued after a specified date; defining the term “unaffiliated insurance agent”; amending s. 626.0428, F.S.; revising prohibitions relating to binding insurance and soliciting insurance; requiring a branch place of business to have an agent in charge; authorizing an agent to be in charge of more than one branch office under certain circumstances; providing requirements relating to the designation of an agent in charge; providing that the agent in charge is accountable for misconduct and violations committed by the licensee and any person under his or her supervision; prohibiting an insurance agency from conducting insurance business at a location without a designated agent in charge; providing for expiration of an agency license under specified circumstances; amending s. 626.112, F.S.; providing licensure exemptions that allow specified individuals or entities to conduct insurance business at specified locations under certain circumstances; revising licensure requirements and penalties with respect to registered insurance agencies; providing that the registration of an approved registered insurance agency automatically converts to an insurance agency license on a specified date; amending s. 626.171, F.S.; providing an exemption from certain licensure application fees; amending s. 626.172, F.S.; revising requirements relating to applications for insurance agency licenses; amending s. 626.207, F.S.; conforming a cross-reference; amending s. 626.241, F.S.; revising the scope of the examination for a limited agent; amending s. 626.261, F.S.; deleting a provision requiring certain costs to be paid by applicants who request licensure examinations in Spanish; amending s. 626.311, F.S.; limiting the types of business that may be transacted by certain agents; amending s. 626.321, F.S.; providing that a limited license to offer motor vehicle rental insurance issued to a business that rents or leases motor vehicles encompasses employees and authorized representatives of such business; amending s. 626.382, F.S.; providing that an insurance agency license continues in force until canceled, suspended, revoked, terminated, or expired; amending s. 626.601, F.S.; revising terminology relating to investigations conducted by the Department of Financial Services and the Office of Insurance Regulation with respect to individuals and entities involved in the insurance industry; amending s. 626.611, F.S.; requiring the department to suspend certain licenses and appointments; amending s. 626.641, F.S.; conforming a cross-reference; amending s. 626.733, F.S.;

revising applicability of certain appointment provisions; amending s. 626.7355, F.S.; revising qualifications for a temporary customer representative's license; repealing s. 626.747, F.S., relating to branch agencies, agents in charge, and the payment of additional county tax under certain circumstances on a specified date; amending s. 626.7845, F.S.; revising a prohibition against unlicensed transaction of life insurance; amending ss. 626.8411, 626.861, and 626.862, F.S.; conforming cross-references; amending s. 626.9272, F.S.; revising requirements for the licensure of non-resident surplus lines agents; creating s. 627.4553, F.S.; requiring an insurance agent who recommends the surrender of certain annuity or life insurance to provide certain information to the department; amending s. 627.7015, F.S.; revising the rulemaking authority of the department with respect to qualifications and specified types of penalties covered under the property insurance mediation program; amending s. 627.706, F.S.; revising definitions; amending s. 627.7074, F.S.; providing grounds for the department to deny an application, or suspend or revoke approval of certification, of a neutral evaluator; requiring the department to adopt rules; amending s. 627.745, F.S.; revising qualifications for approval as a mediator by the department; providing grounds for the department to deny an application, or suspend or revoke approval, of a mediator; authorizing the department to adopt rules; amending s. 627.952, F.S.; providing that certain persons who are not residents of this state must be licensed and appointed as nonresident surplus lines agents in this state in order to engage in specified activities with respect to servicing insurance contracts, certificates, or agreements for purchasing or risk retention groups; deleting a fidelity bond requirement applicable to certain nonresident agents who are licensed as surplus lines agents in another state; amending s. 648.43, F.S.; revising requirements for the submission of a power of attorney; amending s. 648.49, F.S.; revising provisions relating to the duration of suspension or revocation of a license; amending ss. 943.0585 and 943.059, F.S.; prohibiting persons seeking to be licensed by the Division of Insurance Agent and Agency Services from denying or failing to acknowledge certain expunged or sealed records; conforming cross-references; providing an effective date.

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

Section 1. Paragraph (g) of subsection (2) of section 20.121, Florida Statutes, is amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions:

(g) The Division of Insurance Agent Agents and Agency Services.

Section 2. Subsection (6) of section 624.310, Florida Statutes, is amended to read:

624.310 Enforcement; cease and desist orders; removal of certain persons; fines.—

(6) ADMINISTRATIVE PROCEDURES.—All administrative proceedings under subsections (3), (4), and (5) shall be conducted in accordance with chapter 120. Any service required or authorized to be made by the department or office under this code shall be made:

(a)1. By certified mail, return receipt requested, delivered to the addressee only; or

2. If service by certified mail cannot be obtained at the last address provided to the department by the recipient, then by e-mail, delivery receipt required, sent to the most recent e-mail address provided to the department by the applicant or licensee in accordance with s. 626.171, s. 626.551, s. 648.34, or s. 648.421;

(b) By personal delivery, including hand delivery by a department investigator;

(c) By publication in accordance with s. 120.60; or

(d) In accordance with chapter 48.

The service provided for in this subsection ~~herein~~ shall be effective from the date of delivery.

Section 3. Subsection (5) of section 624.318, Florida Statutes, is amended to read:

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

(5) ~~Neither The department, the office, or an nor any examiner may not~~ shall remove any original record, account, document, file, or other property of the person being examined from the offices of such person except with the written consent of such person given in advance of such removal or pursuant to an order of court duly obtained.

Section 4. Paragraphs (a) and (c) of subsection (6) and subsections (7) and (8) of section 624.501, Florida Statutes, are 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:

(6) Insurance representatives, property, marine, casualty, and surety insurance.

(a) Agent's original appointment and biennial renewal or continuation thereof, each insurer or unaffiliated agent making an appointment:

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

(c) Nonresident agent’s original appointment and biennial renewal or continuation thereof, appointment fee, each insurer or unaffiliated agent making an appointment..... \$60.00

(7) Life insurance agents.

(a) Agent’s original appointment and biennial renewal or continuation thereof, each insurer or unaffiliated agent making an appointment:

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

(b) Nonresident agent’s original appointment and biennial renewal or continuation thereof, appointment fee, each insurer or unaffiliated agent making an appointment..... \$60.00

(8) Health insurance agents.

(a) Agent’s original appointment and biennial renewal or continuation thereof, each insurer or unaffiliated agent making an appointment:

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

(b) Nonresident agent’s original appointment and biennial renewal or continuation thereof, appointment fee, each insurer or unaffiliated agent making an appointment..... \$60.00

Section 5. Subsection (11) of section 626.015, Florida Statutes, is amended, subsection (18) of that section is renumbered as subsection (19), and a new subsection (18) is added to that section, to read:

626.015 Definitions.—As used in this part:

(11) “Limited customer representative” means a customer representative appointed by a general lines agent or agency to assist that agent or agency in transacting only the business of private passenger motor vehicle insurance from the office of that agent or agency. A limited customer representative is subject to the Florida Insurance Code in the same manner as a customer representative, unless otherwise specified. Effective October 1, 2014, a new limited customer representative license may not be issued.

(18) “Unaffiliated insurance agent” means a licensed insurance agent, except a limited lines agent, who is self-appointed and who practices as an independent consultant in the business of analyzing or abstracting insurance policies, providing insurance advice or counseling, or making specific recommendations or comparisons of insurance products for a fee established in advance by written contract signed by the parties. An unaffiliated insurance agent may not be affiliated with an insurer, insurer-appointed insurance agent, or insurance agency contracted with or employing insurer-appointed insurance agents.

Section 6. Effective January 1, 2015, subsections (2) and (3) of section 626.0428, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

626.0428 Agency personnel powers, duties, and limitations.—

(2) An employee or an authorized representative located at a designated branch of an agent or agency may not bind insurance coverage unless licensed and appointed as an agent or customer representative.

(3) An employee or an authorized representative located at a designated branch of an agent or agency may not initiate contact with any person for the purpose of soliciting insurance unless licensed and appointed as an agent or customer representative. As to title insurance, an employee of an agent or agency may not initiate contact with any individual proposed insured for the purpose of soliciting title insurance unless licensed as a title insurance agent or exempt from such licensure pursuant to s. 626.8417(4).

(4)(a) Each place of business established by an agent or agency, firm, corporation, or association must be in the active full-time charge of a licensed and appointed agent holding the required agent licenses to transact the lines of insurance being handled at the 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 an agent is not physically present and unlicensed employees at the location do not engage in insurance activities requiring licensure as an insurance agent or customer representative.

(c) An insurance agency and each branch place of business of an insurance agency shall designate an agent in charge and file the name and license number of the agent in charge and the physical address of the insurance agency location with the department at the department's designated website. The designation of the agent in charge may be changed at the option of the agency. A change of the designated agent in charge is effective upon notification to the department, which shall be provided within 30 days after such change.

(d) For the purposes of this subsection, an "agent in charge" is the licensed and appointed agent who is responsible for the supervision of all individuals within an insurance agency location, regardless of whether the agent in charge handles a specific transaction or deals with the general public in the solicitation or negotiation of insurance contracts or the collection or accounting of moneys.

(e) An agent in charge of an insurance agency is accountable for misconduct or violations of this code committed by the licensee or agent or by any person under his or her supervision while acting on behalf of the agency. This section does not render an agent in charge criminally liable for an act unless the agent in charge personally committed the act or knew or should have known of the act and of the facts constituting a violation of this chapter.

(f) An insurance agency location may not conduct the business of insurance unless an agent in charge is designated by, and providing services to, the agency at all times. If the agent in charge designated with the department ends his or her affiliation with the agency for any reason and the agency fails to designate another agent in charge within the 30 days provided for in paragraph (c) and such failure continues for 90 days, the agency license shall automatically expire on the 91st day from the date the designated agent in charge ended his or her affiliation with the agency.

Section 7. Effective January 1, 2015, 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) ~~An~~ Effective ~~October 1, 2006~~, no individual, firm, partnership, corporation, association, or ~~any~~ other entity shall ~~not~~ 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 an any activity that which may be performed only by a licensed insurance agent. However, an insurance agency that is owned and operated by a single licensed agent conducting business in his or her individual name and not employing or otherwise using the services of or appointing other licensees shall be exempt from the agency licensing requirements of this subsection.

(b) A branch place of business that is established by a licensed agency is considered a branch agency and is not required to be licensed so long as it transacts business under the same name and federal tax identification number as the licensed agency and has designated with the department a licensed agent in charge of the branch location as required by s. 626.0428 and the address and telephone number of the branch location have been submitted to the department for inclusion in the licensing record of the licensed agency within 30 days after insurance transactions begin at the branch location 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.

~~(c)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.

~~(d)(b)~~ Effective October 1, 2015, the department must automatically convert the registration of an approved a registered insurance agency to 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:

~~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.~~

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

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

Section 8. Subsection (6) of section 626.171, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section to read:

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

(6) Members of the United States Armed Forces and their spouses, and veterans of the United States Armed Forces who have retired within 24 months before application for licensure, are exempt from the application filing fee prescribed in s. 624.501. Qualified individuals must provide a copy of a military identification card, military dependent identification card, military service record, military personnel file, veteran record, discharge paper, or separation document, or a separation document that indicates such members of the United States Armed Forces are currently in good standing or were honorably discharged.

Section 9. Subsections (2), (3), and (4) of section 626.172, Florida Statutes, are amended to read:

626.172 Application for insurance agency license.—

(2) An application for an insurance agency license ~~must shall~~ be signed by an individual required to be listed in the application under paragraph (a) 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. An insurance agency may permit a third party to complete, submit, and sign an application on the insurance agency’s behalf; however, the insurance agency is responsible for ensuring that the information on the application is true and correct and is accountable for any misstatements or misrepresentations. The application for an insurance agency license ~~must shall~~ include:

(a) The name of each majority owner, partner, officer, and director, president, senior vice president, secretary, treasurer, and limited liability company member who directs or participates in the management or control of the insurance agency, whether through ownership of voting securities, by contract, by ownership of any agency bank account, or otherwise.

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

(c) The name, principal business street address, and valid e-mail address of the insurance agency and the name, address, and e-mail address of the

agency's registered agent or person or company authorized to accept service on behalf of the agency and its principal business address.

(d) The physical address location of each branch agency, including its name, e-mail address, and telephone number, and the date that the branch location began transacting insurance office and the name under which each agency office conducts or will conduct business.

(e) The name of the each agent to be in full-time charge of the an agency office, including branch locations, and his or her corresponding location specification of which office.

(f) The fingerprints of each of the following:

1. A sole proprietor;
2. Each individual required to be listed in the application under paragraph (a) partner; and
3. ~~Each owner of an unincorporated agency;~~
- 3.4. Each individual 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 must shall be processed in accordance with s. 624.34. However, fingerprints need not be filed for an 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.

(g) Such additional information as the department requires by 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.

~~(3)(h) Beginning October 1, 2005,~~ The department must 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 must shall issue a license or registration to each agency upon approval of the application, and each agency location must 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 location.~~

Section 10. Subsection (7) of section 626.207, Florida Statutes, is amended to read:

626.207 Disqualification of applicants and licensees; penalties against licensees; rulemaking authority.—

(7) After the disqualifying period has been met, the burden is on the applicant to demonstrate that the applicant has been rehabilitated, does not pose a risk to the insurance-buying public, is fit and trustworthy to engage in the business of insurance pursuant to s. 626.611(1)(g) ~~626.611(7)~~, and is otherwise qualified for licensure.

Section 11. Subsection (5) of section 626.241, Florida Statutes, is amended to read:

626.241 Scope of examination.—

(5) Examinations given applicants for a limited agent license ~~as agent or as customer representative~~ shall be limited in scope to the kind of business to be transacted under such license.

Section 12. Subsection (5) of section 626.261, Florida Statutes, is amended to read:

626.261 Conduct of examination.—

(5) The department may provide licensure examinations in Spanish. ~~Applicants requesting examination or reexamination in Spanish must bear the full cost of the department's development, preparation, administration, grading, and evaluation of the Spanish language examination.~~ When determining whether it is in the public interest to allow the examination to be translated into and administered in Spanish, the department shall consider the percentage of the population who speak Spanish.

Section 13. Subsection (6) of section 626.311, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section to read:

626.311 Scope of license.—

(6) An agent who appoints his or her license as an unaffiliated insurance agent may not hold an appointment from an insurer for any license he or she holds; transact, solicit, or service an insurance contract on behalf of an insurer; interfere with commissions received or to be received by an insurer-appointed insurance agent or an insurance agency contracted with or employing insurer-appointed insurance agents; or receive compensation or any other thing of value from an insurer, an insurer-appointed insurance agent, or an insurance agency contracted with or employing insurer-appointed insurance agents for any transaction or referral occurring after the date of appointment as an unaffiliated insurance agent. An unaffiliated insurance agent may continue to receive commissions on sales that occurred before the date of appointment as an unaffiliated insurance agent if the receipt of such commissions is disclosed when making recommendations or evaluating products for a client that involve products of the entity from which the commissions are received.

Section 14. Paragraph (d) of subsection (1) of section 626.321, Florida Statutes, is amended to read:

626.321 Limited licenses.—

(1) The department shall issue to a qualified applicant a license as agent authorized to transact a limited class of business in any of the following categories of limited lines insurance:

(d) Motor vehicle rental insurance.—

1. License covering only insurance of the risks set forth in this paragraph when offered, sold, or solicited with and incidental to the rental or lease of a motor vehicle and which applies only to the motor vehicle that is the subject of the lease or rental agreement and the occupants of the motor vehicle:

a. Excess motor vehicle liability insurance providing coverage in excess of the standard liability limits provided by the lessor in the lessor's 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.

b. Insurance covering the liability of the lessee to the lessor for damage to the leased or rented motor vehicle.

c. Insurance covering the loss of or damage to baggage, personal effects, or travel documents of a person renting or leasing a motor vehicle.

d. Insurance covering accidental personal injury or death of the lessee and any passenger who is riding or driving with the covered lessee in the leased or rented motor vehicle.

2. Insurance under a motor vehicle rental insurance license may be issued only if the lease or rental agreement is for no more than 60 days, the lessee is not provided coverage for more than 60 consecutive days per lease period, and the lessee is given written notice that his or her personal insurance policy providing coverage on an owned motor vehicle may provide coverage of such risks and that the purchase of the insurance is not required in connection with the lease or rental of a motor vehicle. If the lease is extended beyond 60 days, the coverage may be extended one time only for a period not to exceed an additional 60 days. Insurance may be provided to the lessee as an additional insured on a policy issued to the licensee's employer.

3. The license may be issued only 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 or lease of a motor vehicle.

a. A license issued to a business entity that offers motor vehicles for rent or lease encompasses each office, branch office, employee, authorized representative located at a designated branch, or place of business making use of the entity's business name in order to offer, solicit, and sell insurance pursuant to this paragraph.

b. The application for licensure must list the name, address, and phone number for each office, branch office, or place of business that is to be covered by the license. The licensee shall notify the department of the name, address, and phone number of any new location that is to be covered by the license before the new office, branch office, or place of business engages in the sale of insurance pursuant to this paragraph. The licensee must notify the department within 30 days after closing or terminating an office, branch

office, or place of business. Upon receipt of the notice, the department shall delete the office, branch office, or place of business from the license.

c. A licensed and appointed entity is directly responsible and accountable for all acts of the licensee's employees.

Section 15. Effective January 1, 2015, section 626.382, Florida Statutes, is amended to read:

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

Section 16. 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, approved, or certified licensee, insurance agency, agent, adjuster, service representative, managing general agent, customer representative, title insurance agent, title insurance agency, mediator, neutral evaluator, navigator, 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 individual or entity licensee if it has reasonable cause to believe that the individual or entity licensee has violated any provision of the insurance code. During the course of its investigation, the department or office shall contact the individual or entity licensee being investigated unless it determines that contacting such individual or entity person could jeopardize the successful completion of the investigation or cause injury to the public.

(2) In the investigation by the department or office of any the alleged misconduct, an individual or entity the licensee shall, whenever so required by the department or office, cause the individual's or entity's his or her books and records to be open for inspection for the purpose of such investigation inquiries.

(3) The Complaints against an individual or entity any licensee may be informally alleged and are not required to include need not be in any such language as is necessary to charge a crime on an indictment or information.

(4) The expense for any hearings or investigations conducted under this law, as well as the fees and mileage of witnesses, may be paid out of the appropriate fund.

(5) If the department or office, after investigation, has reason to believe that an individual a licensee may have been found guilty of or pleaded guilty

or nolo contendere to a felony or a crime related to the business of insurance in this or any other state or jurisdiction, the department or office may require the individual licensee to file with the department or office a complete set of his or her fingerprints, which shall be accompanied by the fingerprint processing fee set forth in s. 624.501. The fingerprints shall be taken by an authorized law enforcement agency or other department-approved entity.

(6) The complaint and any information obtained pursuant to the investigation by the department or office are confidential and are exempt from the provisions of s. 119.07; unless the department or office files a formal administrative complaint, emergency order, or consent order against the individual or entity licensee. ~~Nothing in This subsection does not shall be construed to prevent the department or office from disclosing the complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, or to share such information with any law enforcement agency or other regulatory body.~~

Section 17. Section 626.611, Florida Statutes, is amended to read:

626.611 Grounds for compulsory refusal, suspension, or revocation of agent's, title agency's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.—

(1) The department shall deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent, and it shall suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(q)(17)~~ In transactions related to viatical settlement contracts as defined in s. 626.9911:

1.~~(a)~~ Commission of a fraudulent or dishonest act.

2.~~(b)~~ No longer meeting the requirements for initial licensure.

3.~~(e)~~ Having received a fee, commission, or other valuable consideration for his or her services with respect to viatical settlements that involved unlicensed viatical settlement providers or persons who offered or attempted to negotiate on behalf of another person a viatical settlement contract as defined in s. 626.9911 and who were not licensed life agents.

4.~~(d)~~ Dealing in bad faith with viators.

(2) The department shall, upon receipt of information or an indictment, immediately temporarily suspend a license or appointment issued under this chapter when the licensee is charged with a felony enumerated in s. 626.207(3). Such suspension shall continue if the licensee is found guilty of, or pleads guilty or nolo contendere to, the crime, regardless of whether a judgment or conviction is entered, during a pending appeal. A person may not transact insurance business after suspension of his or her license or appointment.

Section 18. Subsection (2) of section 626.641, Florida Statutes, is amended to read:

626.641 Duration of suspension or revocation.—

(2) No person or appointee under any license or appointment revoked by the department, nor any person whose eligibility to hold same has been revoked by the department, shall have the right to apply for another license or appointment under this code within 2 years from the effective date of such revocation or, if judicial review of such revocation is sought, within 2 years from the date of final court order or decree affirming the revocation. 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 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(1)(l)~~ ~~626.611(12)~~, the department shall refuse to grant or issue any new license or appointment so applied for.

Section 19. Section 626.733, Florida Statutes, is amended to read:

626.733 Agency firms and corporations; special requirements.—If a sole proprietorship, partnership, corporation, or association holds an agency contract, all members thereof who solicit, negotiate, or effect insurance contracts, and all officers and stockholders of the corporation who solicit, negotiate, or effect insurance contracts, must are required to qualify and be licensed individually as agents or customer representatives,; and all of such agents must be individually appointed as to each property and casualty insurer entering into an agency contract with such agency. Each ~~such~~ appointing insurer ~~as soon as known to it~~ shall comply with this section and shall determine and require that each agent so associated ~~in or so connected~~ with such agency is likewise appointed as to the same such insurer and for the same type and class of license. However, ~~an~~ no insurer is not required to comply with the appointment provisions of this section for an agent within an agency who does not solicit, negotiate, or effect insurance contracts for that insurer if ~~such insurer satisfactorily demonstrates to the department that the insurer has issued an aggregate net written premium, in an agency, in an amount of \$25,000 or less.~~

Section 20. Paragraphs (a) and (g) of subsection (1) of section 626.7355, Florida Statutes, are amended to read:

626.7355 Temporary license as customer representative pending examination.—

(1) The department shall issue a temporary customer representative's license with respect to a person who has applied for such license upon finding that the person:

(a) ~~Has filed an application for a customer representative's license or a limited customer representative's license and has paid any fees required under s. 624.501(5) in connection with such application for a customer representative's license or limited customer representative's license.~~

(g) Is not disqualified from licensure by the department under s. 626.207. ~~Within the last 5 years, has not been convicted, found guilty or pleaded nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of any municipality, county, state, territory, or country, whether or not a judgment of conviction has been entered.~~

Section 21. Effective January 1, 2015, section 626.747, Florida Statutes, is repealed.

Section 22. Subsection (1) of section 626.7845, Florida Statutes, is amended to read:

626.7845 Prohibition against unlicensed transaction of life insurance.

(1) An individual may not solicit or sell variable life insurance, variable annuity contracts, or any other indeterminate value or variable contract as defined in s. 627.8015, unless the individual has successfully completed a

licensure examination relating to variable annuity contracts authorized and approved by the department.

Section 23. Effective January 1, 2015, 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~~ 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 626.0428(4)(a) and (b) 626.747, relating to branch agencies.

(c) Section 626.749, relating to place of business in residence.

(d) Section 626.753, relating to sharing of commissions.

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

Section 24. Subsection (2) of section 626.861, Florida Statutes, is amended to read:

626.861 Insurer's officers, insurer's employees, reciprocal insurer's representatives; adjustments by.—

(2) If any such officer, employee, attorney, or agent in connection with the adjustment of any such claim, loss, or damage engages in any of the misconduct described in or contemplated by s. 626.611(1)(f) ~~626.611(6)~~, the office may suspend or revoke the insurer's certificate of authority.

Section 25. Section 626.862, Florida Statutes, is amended to read:

626.862 Agents; adjustments by.—A licensed and appointed insurance agent may, without being licensed as an adjuster, adjust losses for the insurer represented by him or her as agent if so authorized by the insurer. The license and appointment of the agent may be suspended or revoked for violation of or misconduct prohibited by s. 626.611(1)(f) ~~626.611(6)~~.

Section 26. Subsection (2) of section 626.9272, Florida Statutes, is amended to read:

626.9272 Licensing of nonresident surplus lines agents.—

(2) The department may not issue a license unless the applicant satisfies the same licensing requirements under s. 626.927 as required of a resident surplus lines agent, excluding the required experience or coursework and examination. The department may refuse to issue such license or

appointment when it has reason to believe that any of the grounds exist for denial, suspension, or revocation of a license as set forth in ss. 626.611 and 626.621.

Section 27. Section 627.4553, Florida Statutes, is created to read:

627.4553 Recommendations to surrender.—If an insurance agent recommends the surrender of an annuity or life insurance policy containing a cash value and does not recommend that the proceeds from the surrender be used to fund or purchase another annuity or life insurance policy, before execution of the surrender, the insurance agent, or insurance company if no agent is involved, shall provide, on a form that satisfies the requirements of the rule adopted by the department, information relating to the annuity or policy to be surrendered. Such information shall include, but is not limited to, the amount of any surrender charge, the loss of any minimum interest rate guarantees, the amount of any tax consequences resulting from the transaction, the amount of any forfeited death benefit, and the value of any other investment performance guarantees being forfeited as a result of the transaction. This section also applies to a person performing insurance agent activities pursuant to an exemption from licensure under this part.

Section 28. Paragraph (b) of subsection (4) of section 627.7015, Florida Statutes, is amended to read:

627.7015 Alternative procedure for resolution of disputed property insurance claims.—

(4) The department shall adopt by rule a property insurance mediation program to be administered by the department or its designee. The department may also adopt special rules which are applicable in cases of an emergency within the state. The rules shall be modeled after practices and procedures set forth in mediation rules of procedure adopted by the Supreme Court. The rules shall provide for:

(b) Qualifications, denial of application, suspension, revocation of approval, and other penalties for ~~of~~ mediators as provided in s. 627.745 and in the Florida Rules of Certified and Court Appointed Mediators, ~~and for such other individuals as are qualified by education, training, or experience as the department determines to be appropriate.~~

Section 29. Paragraphs (c) and (f) of subsection (2) of section 627.706, Florida Statutes, are amended to read:

627.706 Sinkhole insurance; catastrophic ground cover collapse; definitions.—

(2) As used in ss. 627.706-627.7074, and as used in connection with any policy providing coverage for a catastrophic ground cover collapse or for sinkhole losses, the term:

(c) “Neutral evaluator” means an a professional engineer licensed under chapter 471 with experience and expertise in the identification of sinkhole activity as well as other potential causes of structural damage or a professional geologist. The engineer or professional geologist must have who has completed a course of study in alternative dispute resolution designed or approved by the department for use in the neutral evaluation process, must be and who is determined by the department to be fair and impartial, and must not be otherwise ineligible for certification as provided in s. 627.7074.

(f) “Professional engineer” means a person, as defined in s. 471.005, who has a bachelor’s degree or higher in engineering. A professional engineer must also have experience and expertise in the identification of sinkhole activity or as well as other potential causes of structural damage.

Section 30. Subsections (7) and (18) of section 627.7074, Florida Statutes, are amended to read:

627.7074 Alternative procedure for resolution of disputed sinkhole insurance claims.—

(7) Upon receipt of a request for neutral evaluation, the department shall provide the parties a list of certified neutral evaluators. The department shall allow the parties to submit requests to disqualify evaluators on the list for cause.

(a) The department shall disqualify neutral evaluators for cause based only on any of the following grounds:

1. A familial relationship exists between the neutral evaluator and either party or a representative of either party within the third degree.
2. The proposed neutral evaluator has, in a professional capacity, previously represented either party or a representative of either party, in the same or a substantially related matter.
3. The proposed neutral evaluator has, in a professional capacity, represented another person in the same or a substantially related matter and that person’s interests are materially adverse to the interests of the parties. The term “substantially related matter” means participation by the neutral evaluator on the same claim, property, or adjacent property.
4. The proposed neutral evaluator has, within the preceding 5 years, worked as an employer or employee of any party to the case.

(b) The department shall deny an application, or suspend or revoke its certification, of a neutral evaluator to serve in such capacity if the department finds that one or more of the following grounds exist:

1. Lack of one or more of the qualifications specified in this section for certification.

2. Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain the certification.

3. Demonstrated lack of fitness or trustworthiness to act as a neutral evaluator.

4. Fraudulent or dishonest practices in the conduct of an evaluation or in the conduct of financial services business.

5. Violation of any provision of this code or of a lawful order or rule of the department or aiding, instructing, or encouraging another party in committing such a violation.

~~(c)~~^(b) The parties shall appoint a neutral evaluator from the department list and promptly inform the department. If the parties cannot agree to a neutral evaluator within 14 business days, the department shall appoint a neutral evaluator from the list of certified neutral evaluators. The department shall allow each party to disqualify two neutral evaluators without cause. Upon selection or appointment, the department shall promptly refer the request to the neutral evaluator.

~~(d)~~^(e) Within 14 business days after the referral, the neutral evaluator shall notify the policyholder and the insurer of the date, time, and place of the neutral evaluation conference. The conference may be held by telephone, if feasible and desirable. The neutral evaluator shall make reasonable efforts to hold the conference within 90 days after the receipt of the request by the department. Failure of the neutral evaluator to hold the conference within 90 days does not invalidate either party's right to neutral evaluation or to a neutral evaluation conference held outside this timeframe.

(18) The department shall adopt rules of procedure for the neutral evaluation process and adopt rules for certifying, denying certification of, suspending certification of, and revoking certification as a neutral evaluator.

Section 31. Subsection (3) of section 627.745, Florida Statutes, is amended, present subsections (4) and (5) of that section are renumbered as subsections (5) and (6), respectively, and a new subsection (4) is added to that section, to read:

627.745 Mediation of claims.—

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

(b) To qualify for approval as a mediator, an individual ~~a person~~ must meet one of the following qualifications:

1. Possess an active certification as a Florida Supreme Court certified circuit court mediator. A Florida Supreme Court certified circuit court mediator in a lapsed, suspended, sanctioned, or decertified status is not

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

2. Be an approved department mediator as of July 1, 2014, and have conducted at least one mediation on behalf of the department within 4 years immediately preceding that the date the application for approval is filed with the department, have completed a minimum of a 40-hour training program approved by the department and successfully passed a final examination included in the training program and approved by the department. The training program shall include and address all of the following:

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

(4) The department shall deny an application, or suspend or revoke its approval, of a mediator to serve in such capacity if the department finds that one or more of the following grounds exist:

(a) Lack of one or more of the qualifications specified in this section for approval.

(b) Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain the approval.

(c) Demonstrated lack of fitness or trustworthiness to act as a mediator.

(d) Fraudulent or dishonest practices in the conduct of mediation or in the conduct of business in the financial services industry.

(e) Violation of any provision of this code or of a lawful order or rule of the department, violation of the Florida Rules of Certified and Court Appointed Mediators, or aiding, instructing, or encouraging another party in committing such a violation.

The department may adopt rules to administer this subsection.

Section 32. Paragraph (b) of subsection (1) of section 627.952, Florida Statutes, is amended to read:

627.952 Risk retention and purchasing group agents.—

(1) Any person offering, soliciting, selling, purchasing, administering, or otherwise servicing insurance contracts, certificates, or agreements for any purchasing group or risk retention group to any resident of this state, either directly or indirectly, by the use of mail, advertising, or other means of communication, shall obtain a license and appointment to act as a resident general lines agent, if a resident of this state, or a nonresident general lines agent if not a resident. Any such person shall be subject to all requirements of the Florida Insurance Code.

(b) Any person required to be licensed and appointed under this subsection, in order to place business through Florida eligible surplus lines carriers, must, if a resident of this state, be licensed and appointed as a surplus lines agent. If not a resident of this state, such person must be licensed and appointed as a surplus lines agent in her or his state of residence and be licensed and appointed as a nonresident surplus lines agent in this state ~~file and maintain a fidelity bond in favor of the people of the State of Florida executed by a surety company admitted in this state and payable to the State of Florida; however, such nonresident is limited to the provision of insurance for purchasing groups. The bond must be continuous in form and in the amount of not less than \$50,000, aggregate liability. The bond must remain in force and effect until the surety is released from liability by the department or until the bond is canceled by the surety. The surety may cancel the bond and be released from further liability upon 30 days' prior written notice to the department. The cancellation does not affect any liability incurred or accrued before the termination of the 30-day period. Upon receipt of a notice of cancellation, the department shall immediately notify the agent.~~

Section 33. Subsection (1) of section 648.43, Florida Statutes, is amended to read:

648.43 Power of attorney; to be approved by department; filing of copies; notification of transfer bond.—

(1) Every insurer engaged in the writing of bail bonds through bail bond agents in this state shall submit to and have approved by the office for prior approval ~~department~~ a sample power of attorney, which shall ~~will~~ be the only form of power of attorney the insurer issues ~~will issue~~ to bail bond agents in this state.

Section 34. Subsection (3) of section 648.49, Florida Statutes, is amended to read:

648.49 Duration of suspension or revocation.—

(3) During the period of suspension, or after ~~after~~ revocation of the license and until the license is reinstated or a new license is issued, the former licensee may not engage in or attempt to profess to engage in any transaction or business for which a license or appointment is required under this chapter. A

Any person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 35. Paragraphs (a) and (c) of subsection (4) of section 943.0585, Florida Statutes, are amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically

destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section, s. 943.0583, or s. 943.059;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the disabled, or the elderly; or
6. Is seeking to be employed or licensed by the Department of Education, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity that licenses child care facilities; or
7. Is seeking to be licensed by the Division of Insurance Agent and Agency Services within the Department of Financial Services.

(c) Information relating to the existence of an expunged criminal history record which is provided in accordance with paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the existence of a criminal history record ordered expunged to the entities set forth in subparagraphs (a)1., 4., 5., 6., and 7. ~~7.~~ for their respective licensing, access authorization, and employment purposes, and to criminal justice agencies for their respective criminal justice purposes. It is unlawful for any employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. ~~subparagraph (a)7.~~ to disclose information relating to the existence of an expunged criminal

history record of a person seeking employment, access authorization, or licensure with such entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment, access authorization, or licensure decisions. Any person who violates this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 36. Paragraphs (a) and (c) of subsection (4) of section 943.059, Florida Statutes, are amended to read:

943.059 Court-ordered sealing of criminal history records.—The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for

sealing a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, which include conducting a criminal history background check for approval of firearms purchases or transfers as authorized by state or federal law, to judges in the state courts system for the purpose of assisting them in their case-related decisionmaking responsibilities, as set forth in s. 943.053(5), or to those entities set forth in subparagraphs (a)1., 4., 5., 6., and 8. ~~8.~~ for their respective licensing, access authorization, and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section, s. 943.0583, or s. 943.0585;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the disabled, or the elderly;
6. Is seeking to be employed or licensed by the Department of Education, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity that licenses child care facilities; ~~or~~
7. Is attempting to purchase a firearm from a licensed importer, licensed manufacturer, or licensed dealer and is subject to a criminal history check under state or federal law; or
8. Is seeking to be licensed by the Division of Insurance Agent and Agency Services within the Department of Financial Services.

(c) Information relating to the existence of a sealed criminal record provided in accordance with the provisions of paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the sealed criminal history record to the entities set forth in subparagraphs (a)1., 4., 5., 6., and 8. ~~8.~~ for their respective licensing, access authorization, and employment purposes. It is unlawful for any employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or subparagraph (a)8. ~~subparagraph (a)8.~~ to disclose information relating to the existence of a sealed criminal history record of a person seeking employment, access authorization, or licensure with such entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment, access authorization, or licensure decisions. Any person who violates the provisions of this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 37. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2014.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.