

PCS HB 565

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A bill to be entitled
 An act relating to insurance; amending s. 626.221, F.S.;
 expanding list of applicants eligible for exemption from
 certain examination requirements; amending s. 626.2815,
 F.S.; revising certain continuing education applicability
 requirements; prohibiting certain entities from imposing
 certain continuing education requirements; providing
 exceptions and limitations; providing an exception to
 certain examination monitoring requirements; providing
 exception requirements; revising duties of a continuing
 education advisory board; amending s. 626.311, F.S.;
 authorizing agents qualifying as unaffiliated insurance
 consultants to transact insurance business within the
 scope of the agent's license; providing a definition;
 providing requirements for qualifying or continuing to
 qualify as an unaffiliated insurance consultant;
 specifying prohibited activities for unaffiliated
 insurance consultants; amending s. 626.381, F.S.;
 authorizing appointing entities to impose certain training
 program requirements; providing a limitation; limiting
 appointment authority of appointing entities to persons
 meeting continuing education requirements; prohibiting
 appointments contingent upon certain continuing education
 course attendance; providing an effective date.

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

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28 Section 1. Paragraph (j) of subsection (2) of section
 29 626.221, Florida Statutes, is amended to read:

30 626.221 Examination requirement; exemptions.--

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

33 (j) An applicant for license as a customer representative
 34 who has earned the designation of Accredited Advisor in
 35 Insurance (AAI) from the Insurance Institute of America, the
 36 designation of Certified Insurance Counselor (CIC) from the
 37 Society of Certified Insurance Service Counselors, the
 38 designation of Accredited Customer Service Representative (ACSR)
 39 from the Independent Insurance Agents of America, the
 40 designation of Certified Professional Service Representative
 41 (CPSR) from the National Foundation for Certified Professional
 42 Service Representatives, the designation of Certified Insurance
 43 Service Representative (CISR) from the Society of Certified
 44 Insurance Service Representatives. Also, an applicant for
 45 license as a customer representative who has earned an Associate
 46 of Arts degree, Associate of Science degree, or Associate of
 47 Applied Science degree in insurance from an accredited college
 48 or university with at least 9 academic hours of property and
 49 casualty insurance curriculum, or has earned the designation of
 50 Certified Customer Service Representative (CCSR) from the
 51 Florida Association of Insurance Agents, or the designation of
 52 Registered Customer Service Representative (RCSR) from a
 53 regionally accredited postsecondary institution in this state,
 54 or the designation of Professional Customer Service
 55 Representative (PCSR) from the Professional Career Institute,

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56 | whose curriculum has been approved by the department and whose
 57 | curriculum includes comprehensive analysis of basic property and
 58 | casualty lines of insurance and testing at least equal to that
 59 | of standard department testing for the customer representative
 60 | license. The department shall adopt rules establishing standards
 61 | for the approval of curriculum.

62 | Section 2. Subsection (2), paragraph (f) of subsection
 63 | (3), paragraph (j) of subsection (4), and paragraph (a) of
 64 | subsection (6) of section 626.2815, Florida Statutes, are
 65 | amended to read:

66 | 626.2815 Continuing education required; application;
 67 | exceptions; requirements; penalties.--

68 | (2) Except as otherwise provided in this section, the
 69 | provisions of this section apply to persons licensed to engage
 70 | in the sale of insurance in this state for all lines of
 71 | insurance for which an examination is required for licensing and
 72 | to any insurer, employer, or appointing entity, including those
 73 | created or existing pursuant to s. 627.351. The provisions of
 74 | this section shall not apply to any person holding a license for
 75 | the sale of any line of insurance for which an examination is
 76 | not required by the laws of this state, nor shall the provisions
 77 | of this section apply to any limited license as the department
 78 | may exempt by rule.

79 | (3)

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

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84 1. An appointing entity, except those that appoint
 85 individuals who are employees or exclusive independent
 86 contractors of the appointing entity, may not require, directly
 87 or indirectly, as a condition of such appointment or the
 88 continuation of such appointment, the taking of an approved
 89 course or program by any appointee or potential appointee that
 90 is not of the appointee's choosing.

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

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

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

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

117 2. An independent study program of instruction presented
 118 by correspondence for insurance agents and adjusters that
 119 imposes a final closed book examination that meets the
 120 requirements of the department's rule for self-study courses.
 121 The examination may be taken without a proctor provided the
 122 student presents to the department a sworn affidavit certifying
 123 that the student did not consult any written materials or
 124 receive outside assistance of any kind or from any person,
 125 directly or indirectly, while taking the examination. If the
 126 student is an employee of an agency or corporate entity, the
 127 student's supervisor or a manager or owner of the agency or
 128 corporate entity must also sign the sworn affidavit. If the
 129 student is self-employed, a sole proprietor, or a partner, or if
 130 the examination is administered online, the sworn affidavit must
 131 also be signed by a disinterested third party. The sworn
 132 affidavit must be received by the approved provider prior to
 133 reporting continuing education credits to the department.

134 (6) (a) There is created an 11-member continuing education
 135 advisory board to be appointed by the Chief Financial Officer.
 136 Appointments shall be for terms of 4 years. The purpose of the
 137 board is to advise the department in determining standards by
 138 which courses may be evaluated and categorized as basic,
 139 intermediate, or advanced, and to advise on issues related to

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140 appointments based upon appointees meeting continuing education
 141 requirements. The board shall submit recommendations to the
 142 department of changes needed in such criteria not less
 143 frequently than every 2 years. The department shall require all
 144 approved course providers to submit courses for approval to the
 145 department using the criteria. All materials, brochures, and
 146 advertisements related to the approved courses must specify the
 147 level assigned to the course.

148 Section 3. Subsection (7) is added to section 626.311,
 149 Florida Statutes, to read:

150 626.311 Scope of license.--

151 (7) Subject to the limitations of paragraph (c) and
 152 notwithstanding any other provisions of this chapter, an agent
 153 who qualifies as an unaffiliated insurance consultant pursuant
 154 to paragraphs (a) and (b) shall be authorized to transact
 155 insurance within the scope of his or her agent's license.

156 (a) For purposes of this subsection, the term
 157 "unaffiliated insurance consultant" means a person who is not
 158 affiliated with any insurer and chooses to practice as an
 159 independent insurance consultant providing objective advice to
 160 the buyers of insurance and who:

161 1. Is licensed as an agent with respect to the type of
 162 insurance for which he or she transacts the business of
 163 insurance.

164 2. Is not appointed by an insurer or other authorized
 165 appointing authority.

166 3. Does not sell or service insurance on behalf of any
 167 insurer, or sell or service insurance on behalf of any insurance

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168 agent or insurance agency, in connection with the sale or
 169 service on behalf of an insurer or by the insurance agent or
 170 insurance agency.

171 4. Does not receive any commission or any other form of
 172 direct or indirect compensation from any insurer for the sale or
 173 servicing of insurance on behalf of such insurer, or receive any
 174 commission or any other form of direct or indirect compensation
 175 from any insurance agent or insurance agency, in connection with
 176 the sale or servicing of insurance on behalf of an insurer or by
 177 the insurance agent or insurance agency.

178 5. Has provided the department with evidence that he or
 179 she:

180 a. Has been licensed as an agent for a minimum of 2 years
 181 with respect to the type of insurance for which he or she will
 182 transact;

183 b. With respect to a general lines agent, holds a
 184 Chartered Property Casualty Underwriter (CPCU), Associate in
 185 Risk Management (ARM), Accredited Advisor in Insurance (AAI), or
 186 Certified Insurance Counselor (CIC) designation;

187 c. With respect to a life or health agent, holds a
 188 Chartered Life Underwriter (CLU) or Certified Employee Benefit
 189 Specialist (CEBS) designation;

190 d. Has earned a bachelor's or graduate degree in risk
 191 management or insurance from an accredited college or
 192 university;

193 e. Has taught a course in risk management or insurance as
 194 a professor at an accredited college or university;

195 f. Is a member of The Florida Bar; or

196 g. Meets any other requirements the department may deem
 197 proper to enable the department to determine the character,
 198 experience, ability, and other qualifications of the person to
 199 hold himself or herself out to the public as an unaffiliated
 200 insurance consultant.

201 (b)1. A person may not initially qualify as an
 202 unaffiliated insurance consultant:

203 a. Except upon written request for such qualification made
 204 in a form acceptable to the department under the oath of, and
 205 signed by, him or her, submitted to and filed with the
 206 department certifying that he or she meets the definition of an
 207 unaffiliated insurance consultant pursuant to paragraph (a).

208 b. Except upon payment in advance by such person of all
 209 applicable fees. For the purposes of this provision, the
 210 applicable fee shall be twice the amount of the fee that would
 211 apply to an insurer for an agent's original appointment. If the
 212 applicant has more than one agent's license, a separate fee
 213 shall be paid for each license for which the person seeks to
 214 qualify as an unaffiliated insurance consultant.

215 2. As a condition to continued qualification as an
 216 unaffiliated insurance consultant, the person shall:

217 a. On a biennial basis submit a request for the
 218 continuation of such qualification in a form acceptable to the
 219 department under the oath of, and signed by, him or her,
 220 submitted to and filed with the department certifying that he or
 221 she meets the definition of an unaffiliated insurance consultant
 222 under paragraph (a).

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223 b. Shall pay all applicable fees. For the purposes of this
 224 provision, the applicable fee shall be twice the amount of the
 225 fee that would apply to an insurer for the continuation of an
 226 agent's original appointment. If the unaffiliated insurance
 227 consultant has more than one license, a separate fee shall be
 228 paid for each license for which the person seeks to continue to
 229 qualify as an unaffiliated insurance consultant.

230 (c) An unaffiliated insurance consultant may not:

231 1. Hold himself or herself out as acting as the agent for
 232 an insurer;

233 2. Act as a countersigning agent for an insurer; or

234 3. Hold himself or herself out as replacing the need for
 235 an appointed agent in the placement or sale of insurance.

236 Section 4. Subsections (6) and (7) of section 626.381,
 237 Florida Statutes, are renumbered as subsections (8) and (9),
 238 respectively, and new subsections (6) and (7) are added to that
 239 section to read:

240 626.381 Renewal, continuation, reinstatement, or
 241 termination of appointment.--

242 (6) An appointing entity may require any appointee to
 243 attend training programs exclusively on the internal procedures
 244 of the appointing entity or exclusively on products
 245 substantially unique to the appointing entity, in order for the
 246 appointee to receive a new appointment or maintain an existing
 247 appointment. However, an appointing entity may not require,
 248 directly or indirectly, any appointee to attend any training
 249 programs that are wholly or partially approved for general
 250 continuing education credit as described in s. 626.2815.

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251 (7) Each appointing entity may appoint only those persons
 252 who have met the continuing education requirements of the
 253 license necessary for such appointment as described in s.
 254 626.2815. However, an appointing entity may not make or allow,
 255 directly or indirectly, any appointment of any appointee or
 256 potential appointee to be contingent, in whole or in part, on
 257 any appointee's attendance at any course that is approved, in
 258 whole or in part, for continuing education credit pursuant to s.
 259 626.2815.

260 Section 5. This act shall take effect June 1, 2008.