



Insurance & Banking Subcommittee

Wednesday, January 11, 2012

8:00 AM

404 HOB

REVISED



The Florida House of Representatives

Economic Affairs Committee

Insurance & Banking Subcommittee

Dean Cannon
Speaker

Bryan Nelson
Chair

AGENDA

January 11, 2012

404 House Office Building - 8:00 a.m. - 10:30 a.m.

- I. Introductory Remarks
- II. HB 505 **Mortgages** by *Rep. Bernard*
- III. HB 669 **Public Depositories** by *Rep. Brodeur*
- IV. HB 725 **Insurance Agents and Adjusters** by *Rep. Hager*
- V. HB 1053 **Long-Term Care Insurance** by *Rep. Metz*
- VI. HB 4145 **Continuing Education Advisory Board** by *Rep. Frishe*
- VII. HB 4149 **Preferred Worker Program** by *Rep. Boyd*
- VIII. PCS for HB 119 **Motor Vehicle Insurance**
- IX. Public testimony
- X. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 505 Mortgages
SPONSOR(S): Bernard
TIED BILLS: IDEN./SIM. BILLS: SB 1050

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Gault <i>D.G.</i>	Cooper <i>MC</i>
2) Civil Justice Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Current law allows mortgagors to request and receive, within 14 days, information about their loan from the mortgagee. The bill allows other owners of interest in the property encumbered by the mortgage to also request and receive this information.

To receive information about the mortgage, the bill requires an owner of an interest in the encumbered property to provide an instrument proving that ownership interest to the mortgagee. The mortgagee must then provide the total unpaid balance, but may include more information.

Owners of an interest in the property encumbered by the mortgage would likely include, but not be limited to, an heir or devisee through probate, an individual receiving ownership through homestead laws, and parties in a tenancy in common relationship.

The public sector should not experience any economic impact.

The private sector impact is indeterminate, though it is likely that mortgagees would receive more information requests than under current law.

The bill will become effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Chapter 701 specifically allows the person who takes out a mortgage (the mortgagor) to request and receive¹ from the mortgage holder (the mortgagee) information about the unpaid balance of the loan secured by the mortgage.² The information requested is returned in a document known as an estoppel letter. Generally, only the mortgagor is able to request and receive this information from the mortgagee.³ HB 505 extends the right to request and receive information on the unpaid balance to any owners of interest in the property encumbered by the mortgage.

As with current law, the bill requires the estoppel letter requested by the mortgagor to contain the principal, interest, and any other charges properly due under or secured by the mortgage and interest on a per-day basis for the unpaid balance. The bill differs, however, because it adds requirements specific to a request from an owner of an interest in the mortgaged property. An owner of an interest in the mortgaged property must provide an instrument with one's request that proves one's ownership interest in the property. The mortgagee's returned document may contain all of the information provided to the mortgagor, but must at least contain the total unpaid balance on a per-day basis.

Owner of an Interest in Property

By including the term "owner," parties without ownership interest in the property are excluded. For instance, lienholders⁴ have an interest in property, but a lienholder holds a security interest, not an ownership interest. An owner is one with the right to possess, use, and convey something; a person in whom one or more interests are vested.⁵ Owning land is a combination of physical control and use and enjoyment of the land.⁶ Lienholders do not have the right of use and enjoyment of land nor the right to convey interest in the land. While lienholders would be excluded from the mortgagor's information, owners would likely include, but not be limited to, an heir or devisee through probate, an individual receiving ownership through homestead laws, and parties in a tenancy in common⁷ relationship.

Privacy Laws

If the mortgagee is a financial institution,⁸ the mortgagee may be violating privacy laws by releasing the mortgagor's mortgage information to other owners of interest in the property encumbered by the mortgage. The books and records of a financial institution are confidential and shall be made available for inspection and examination only in specifically enumerated circumstances or by specifically listed individuals,⁹ none of which are owners of an interest in the mortgaged property.¹⁰

¹ The mortgagee must deliver the information within 14 days after receipt of the written request by the mortgagor. s. 701.04, F.S.

² s. 701.04, F.S.

³ Access to a financial institution's books, for persons other than the mortgagor, is appropriate under certain circumstances. s. 655.059, F.S.

⁴ "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien. s. 726.102(8), F.S. (see also: s. 727.103(11), F.S.).

⁵ Garner, Bryan (2009). *Black's Law Dictionary* (9th Edition). 1214. Thomson Reuters.

⁶ *Morgan v. Cornell*, 939 So.2d 344, 346 (Fla. 2d DCA 2006)

⁷ Tenancy in common is a type of shared ownership of property, where each owner owns a share of the property. Unlike in a joint tenancy, these shares can be of unequal size, and can be freely transferred to other owners both during life and via a will. Even if owners own unequal shares, however, all owners have the right to occupy and use all of the property. http://www.law.cornell.edu/wex/tenancy_in_common (last viewed January 5, 2012).

⁸ "Financial institution" means a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust company representative office, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq. s. 655.005(1)(i), F.S.

⁹ s. 655.059, F.S.

¹⁰ An amendment addressing this point is anticipated.

B. SECTION DIRECTORY:

Section 1. Amends s. 701.04, F.S., by adding parties that may request an estoppel letter from the mortgagee and making other revisions.

Section 2. Provides that the act will become effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Mortgagees may have to increase their time and costs to accommodate additional requests. The amount of additional requests will depend on the number of parties qualifying as owners of interest in the mortgaged property and the need for those owners to obtain the mortgage information.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to mortgages; amending s. 701.04,
 F.S.; requiring a mortgage holder to provide certain
 information within a specified time relating to the
 unpaid loan balance due under a mortgage if an owner
 of an interest in the property makes a written request
 under certain circumstances; providing an effective
 date.

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

Section 1. Section 701.04, Florida Statutes, is amended to
 read:

701.04 Cancellation of mortgages, liens, and judgments.—

(1) Within 14 days after receipt of the written request of
 a mortgagor or an owner of an interest in property encumbered by
 a mortgage, the holder of a mortgage shall deliver or cause the
 servicer of the mortgage to deliver to the person making the
 request ~~mortgagor~~ at a place designated in the written request
 an estoppel letter setting forth the unpaid balance of the loan
 secured by the mortgage.

(a) If the mortgagor makes the request, the estoppel
 letter must include an itemization of the ~~including~~ principal,
 interest, and any other charges properly due under or secured by
 the mortgage and interest on a per-day basis for the unpaid
 balance.

(b) If an owner of an interest in the property makes the
 request, the request must include a copy of the instrument

29 showing the owner's ownership interest in the property, and the
 30 estoppel letter may include the itemization of information
 31 required under paragraph (a), but must at a minimum include the
 32 total unpaid balance due under or secured by the mortgage on a
 33 per-day basis.

34 (2) Whenever the amount of money due on any mortgage,
 35 lien, or judgment has been ~~shall be~~ fully paid to the person or
 36 party entitled to the payment thereof, the mortgagee, creditor,
 37 or assignee, or the attorney of record in the case of a
 38 judgment, to whom the such payment was ~~shall have been~~ made,
 39 shall execute in writing an instrument acknowledging
 40 satisfaction of the said mortgage, lien, or judgment and have
 41 the instrument ~~same~~ acknowledged, or proven, and duly entered ~~of~~
 42 ~~record in the book provided by law for such purposes~~ in the
 43 official records of the proper county. Within 60 days after ~~of~~
 44 the date of receipt of the full payment of the mortgage, lien,
 45 or judgment, the person required to acknowledge satisfaction of
 46 the mortgage, lien, or judgment shall send or cause to be sent
 47 the recorded satisfaction to the person who has made the full
 48 payment. In the case of a civil action arising out of ~~the~~
 49 ~~provisions of~~ this section, the prevailing party is ~~shall be~~
 50 entitled to attorney ~~attorney's~~ fees and costs.

51 (3)~~(2)~~ Whenever a writ of execution has been issued,
 52 docketed, and indexed with a sheriff and the judgment upon which
 53 it was issued has been fully paid, it is ~~shall be~~ the
 54 responsibility of the party receiving payment to request, in
 55 writing, addressed to the sheriff, return of the writ of
 56 execution as fully satisfied.

HB 505



2012

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Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 669 Public Depositories
SPONSOR(S): Brodeur
TIED BILLS: **IDEN./SIM. BILLS:** SB 936

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Barnum 	Cooper 
2) Economic Affairs Committee			

SUMMARY ANALYSIS

State and local governments are authorized to deposit funds in excess of those required to meet disbursement needs or expenses in a qualified public depository. The term "qualified public depository" applies only to a bank, savings bank, or savings association which meets specific criteria. The criteria include designation as a qualified public depository by the Chief Financial Officer (CFO). Under current law, by statutory definition, a credit union cannot be a qualified public depository.

The law provides that funds deposited in a qualified public depository can then be placed in financial deposit instruments in one or more federally insured bank or savings and loan association. The full amount of the principal and accrued interest must be insured by the Federal Deposit Insurance Corporation. The standard maximum deposit insurance amount is \$250,000.

When a qualified public depository accepts or retains a public deposit which is required to be secured, it deposits collateral with a custodian in an amount determined according to statutory guidelines. In lieu of utilizing a custodian, other collateral options include an irrevocable letter of credit and cash to be held in the Treasury Cash Deposit Trust Fund.

Public depositors are protected against loss caused by the default or insolvency of a qualified public depository. Losses are satisfied first through any applicable deposit insurance and then through demanding payment under letters of credit or the sale of collateral pledged or deposited by the defaulting depository. If that is insufficient, the CFO provides coverage through assessment against the other qualified public depositories.

Chapter 657, F.S. is the Florida Credit Union Act (Act). Per the Act, the purpose of a credit union is to encourage thrift among its members, create sources of credit at fair and reasonable rates of interest, and provide an opportunity for its members to use and control their resources on a democratic basis in order to improve their economic and social condition.

The shares in a credit union are insured by the National Credit Union Share Insurance Fund, which is managed by the National Credit Union Administration. The standard maximum share insurance amount is \$250,000.

HB 669 expands the definition of "Qualified public depository", which will make a credit union eligible to apply for designation by the CFO as a qualified public depository. Approval for designation would be contingent upon meeting all provisions and requirements specified by law. After designation as a qualified public depository, a credit union will be eligible to receive deposits of state and local government funds in excess of those required to meet disbursement needs or expenses.

The bill expands the deposit insurance requirement for a qualified public depository to include the National Credit Union Share Insurance Fund.

The bill expands the current mutual responsibility and contingent liability provision to encompass any financial institution rather than only banks and savings associations.

The fiscal impact on state and local governments is indeterminate. The impact on a credit union which becomes a qualified public depository may be positive.

The bill provides for an effective date of July 1, 2012.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0669.INBS.DOCX

DATE: 1/9/2012

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

State and local governments are authorized to deposit funds in excess of those required to meet disbursement needs or expenses in a qualified public depository. The term "qualified public depository" applies only to a bank, savings bank, or savings association which meets specific criteria. The criteria include designation as a qualified public depository by the Chief Financial Officer (CFO).^{1, 2} Under current law, by statutory definition, a credit union cannot be a qualified public depository.

The law provides that funds deposited in a qualified public depository can then be placed in financial deposit instruments³ in one or more federally insured bank or savings and loan association.⁴ The full amount of the principal and accrued interest must be insured by the Federal Deposit Insurance Corporation (FDIC), a federal government corporation created by the Glass-Steagall Act of 1933. FDIC insurance covers funds in deposit accounts, including checking and savings accounts, money market deposit accounts, and certificates of deposit in member banks. With enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act on July 21, 2010, the standard maximum deposit insurance amount was permanently raised to \$250,000.⁵ Banks are not mandated to be FDIC insured. FDIC insurance does not cover other financial products and services that insured banks may offer such as stocks, bonds, mutual fund shares, life insurance policies, annuities, or municipal securities.

When a qualified public depository accepts or retains a public deposit which is required to be secured, it must deposit collateral⁶ with custodians in an amount determined according to statutory guidelines.⁷ The collateral requirements include calculations based upon a financial condition ranking which is used to calculate the qualified public depository's financial strengths and weaknesses.⁸ Two nationally recognized financial institution rating services are used to rank the financial condition of each participant and applicant. This ranking is based on a scale of 0 to 100. Currently, Financial Information Systems and IDC Financial Publishing rating services are used. Criteria for eligible collateral and restrictions are detailed in statute⁹ and the Florida Administrative Code.¹⁰

Banks, savings associations, and trust companies that hold collateral for qualified public depositories pledged to secure public deposits are described as "regular" custodians. Qualified public depositories can select the "regular" custodians they wish to use and submit Collateral Control Agreement to them for signatures. These collateral control agreements, available through the Department of Financial Services website,¹¹ contain the requirements for custodians holding pledged collateral.

In lieu of utilizing a "regular" custodian, other collateral options include an irrevocable letter of credit and cash to be held in the Treasury Cash Deposit Trust Fund.¹² Interest earned on cash deposited into this Fund is to be prorated and paid to the depositing entities.¹³

¹ s. 280.02(26), F.S.

² 69C-2.005, F.A.C.

³ Financial deposit instruments include checking and savings accounts, money market deposit accounts and certificates of deposit, as well as other financial instruments which are or may become eligible for insurance by the FDIC.

⁴ s. 17.57(7), F.S.

⁵ H.R. 4173, Public Law 111-203, Sec. 335.

⁶ s. 280.13, F.S.

⁷ s. 280.04(2), F.S.

⁸ 69C-2.024, F.A.C.

⁹ s. 280.13, F.S.

¹⁰ 69C-2.007, F.A.C.

¹¹ https://apps.fldfs.com/CAP_Web/PublicDeposits/reg_custodian_info.aspx (Last visited on January 6, 2012).

¹² s. 280.13, F.S.

¹³ s. 17.60(2), F.S.

A Qualified Public Depository Oversight Board is created in law for the purpose of safeguarding the integrity of the Public Deposits Program and preventing the need for loss assessments. The board consists of six members. The CFO nominates two members and alternates from each of three groups of eligible qualified public depositories, categorized by average asset size. If the qualified public depository fails to respond or declines the nomination, the Florida Bankers Association selects a member and alternate to represent that average asset category.¹⁴

Public depositors are protected against loss caused by the default or insolvency of a qualified public depository. Losses are satisfied first through any applicable deposit insurance and then through demanding payment under letters of credit or the sale of collateral pledged or deposited by the defaulting depository. If that is insufficient, the CFO provides coverage through assessment against the other qualified public depositories.^{15, 16}

Chapter 657, F.S. is the Florida Credit Union Act (Act). Per the Act, the purpose of a credit union¹⁷ is to encourage thrift among its members, create sources of credit at fair and reasonable rates of interest, and provide an opportunity for its members to use and control their resources on a democratic basis in order to improve their economic and social condition.¹⁸ This is consistent with U.S. Congressional findings that their specified mission is to meet the credit and savings needs of consumers, especially persons of modest means.¹⁹

The shares in a credit union²⁰ are insured by the National Credit Union Share Insurance Fund (NCUSIF). Established by Congress in 1970 to insure member share accounts at federally insured credit unions, the NCUSIF is managed by the National Credit Union Administration (NCUA) under the direction of the three-person NCUA Board. NCUA regulates, charters, and insures the nation's federal credit unions. In addition, NCUA insures state-chartered credit unions that desire and qualify for federal insurance. The standard maximum share insurance amount is also \$250,000.

Effect of the bill:

HB 669 expands the definition of "Qualified public depository" by substituting the term "financial institution" for "bank, savings bank, or savings association". This will make credit unions eligible to apply for designation by the CFO as a qualified public depository. Approval for designation would be contingent upon meeting all provisions and requirements specified by statute and the Florida Administrative Code. After designation as a qualified public depository, a credit union will be eligible to receive deposits of state and local government funds in excess of those required to meet disbursement needs or expenses.

The bill expands the deposit insurance requirement for a qualified public depository to include the National Credit Union Share Insurance Fund.

The bill expands the current mutual responsibility and contingent liability provision to encompass any financial institution rather than only banks and savings associations.

The bill adds a reporting requirement specific to credit unions to the Public Deposits Program. The reporting is consistent with the existing unique requirements for a bank and a savings and loan association.

The bill provides for an effective date of July 1, 2012.

B. SECTION DIRECTORY:

¹⁴ s. 280.071, F.S.

¹⁵ s. 280.07, F.S.

¹⁶ s. 280.08, F.S.

¹⁷ s. 657.002(4), F.S. – Credit union is defined as a cooperative society organized pursuant to the Florida Credit Union Act.

¹⁸ s. 657.03, F.S.

¹⁹ Pub. L. 105–219, § 2, Aug. 7, 1998, 112 Stat. 913.

²⁰ s. 657.02(10), F.S. - "Shares" means the money placed into the credit union by members on which dividends may be paid.

- Section 1. Amends s. 280.02, F.S., by revising definitions.
- Section 2. Amends s. 280.052, F.S., by conforming terms.
- Section 3. Amends s. 280.053, F.S., by conforming terms
- Section 4. Amends s. 280.07, F.S., by expanding entities operating under mutual responsibility and contingent liability.
- Section 5. Amends s. 280.10, F.S., by conforming terms.
- Section 6. Amends s. 280.13, F.S., by conforming terms.
- Section 7. Amends s. 280.16, F.S., by providing for credit union reporting.
- Section 8. Amends s. 280.17, F.S., by providing for credit union evidence of insurance.
- Section 9. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. Accrued interest is dependent upon the amount of principal, interest rate, and protocols for crediting interest.

2. Expenditures:²¹

Recurring: \$4,000 per fiscal year for the cost of "credit union ranking" from two services that are used to calculate financial strengths and weaknesses in order to determine the pledge percent of the collateral requirement.

Non-recurring: Indeterminate cost to modify the Collateral Administration Program in order to accommodate credit unions in the analysis and collateral tracking process.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. Accrued interest is dependent upon the amount of principal, interest rate, and protocols for crediting interest.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

A credit union which becomes a qualified public depository and is utilized by state or local governments for the deposit of funds, may generate income for the credit union from those deposits.

²¹ Department of Financial Services CS/HB 999 Bill Analysis updated March 28, 2011, on file with the Insurance & Banking Subcommittee. HB 669 is identical to CS/HB 999 which was reported out of the Insurance & Banking Subcommittee favorably during the 2011 session of the Legislature.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Enactment of this legislation will necessitate amendment of existing rules for the purpose of conforming language. Chapter 69C-2, F.A.C. provides procedures for administering the Florida Security for Public Deposits Act. Almost all of the 20 rules contain specific reference to "a bank or savings association" rather than "a financial institution", the all-encompassing term substituted in the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to public depositories; amending s.
 3 280.02, F.S.; revising definitions applicable to the
 4 Florida Security for Public Deposits Act; amending ss.
 5 280.03, 280.052, 280.053, 280.07, 280.10, and 280.13,
 6 F.S.; conforming terminology to changes made by the
 7 act; amending s. 280.16, F.S.; revising credit union
 8 reporting requirements; amending s. 280.17, F.S.;
 9 revising evidence of insurance required to be
 10 submitted by a public depositor to the Chief Financial
 11 Officer; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Subsections (6), (9), (23), and (26) of section
 16 280.02, Florida Statutes, are amended to read:

17 280.02 Definitions.—As used in this chapter, the term:

18 (6) "Capital account" means total equity capital, as
 19 defined on the balance-sheet portion of the Consolidated Reports
 20 of Condition and Income (call report), the National Credit Union
 21 Administration 5300 Call Report, or the Thrift Financial Report,
 22 less intangible assets, as submitted to the regulatory financial
 23 ~~banking~~ authority.

24 (9) "Custodian" means the Chief Financial Officer or any
 25 financial institution ~~bank, savings association, or trust~~
 26 ~~company~~ that:

27 (a) Is organized and existing under the laws of this
 28 state, any other state, or the United States;

29 (b) Has executed all forms required under this chapter or
 30 any rule adopted hereunder;

31 (c) Agrees to be subject to the jurisdiction of the courts
 32 of this state, or of courts of the United States which are
 33 located within this state, for the purpose of any litigation
 34 arising out of this chapter; and

35 (d) Has been approved by the Chief Financial Officer to
 36 act as a custodian.

37 (23) "Public deposit" means the moneys of the state or of
 38 any state university, county, school district, community college
 39 district, special district, metropolitan government, or
 40 municipality, including agencies, boards, bureaus, commissions,
 41 and institutions of any of the foregoing, or of any court, and
 42 includes the moneys of all county officers, including
 43 constitutional officers, that are placed on deposit in a
 44 financial institution ~~bank, savings bank, or savings association~~
 45 and for which the financial institution ~~bank, savings bank, or~~
 46 ~~savings association~~ is required to maintain reserves. This
 47 includes, but is not limited to, time deposit accounts, demand
 48 deposit accounts, and nonnegotiable certificates of deposit.
 49 Moneys in deposit notes and in other nondeposit accounts such as
 50 repurchase or reverse repurchase operations are not public
 51 deposits. Securities, mutual funds, and similar types of
 52 investments are not considered public deposits and shall not be
 53 subject to the provisions of this chapter.

54 (26) "Qualified public depository" means any financial
 55 institution ~~bank, savings bank, or savings association~~ that:

56 (a) Is organized and exists under the laws of the United

57 States, the laws of this state, or the laws of any other state
 58 or territory of the United States.

59 (b) Has its principal place of business in this state or
 60 has a branch office in this state which is authorized under the
 61 laws of this state or of the United States to receive deposits
 62 in this state.

63 (c) Is insured by the Federal Deposit Insurance
 64 Corporation or the National Credit Union Share Insurance Fund
 65 ~~Has deposit insurance under the provision of the Federal Deposit~~
 66 ~~Insurance Act, as amended, 12 U.S.C. ss. 1811 et seq.~~

67 (d) Has procedures and practices for accurate
 68 identification, classification, reporting, and collateralization
 69 of public deposits.

70 (e) Meets all the requirements of this chapter.

71 (f) Has been designated by the Chief Financial Officer as
 72 a qualified public depository.

73 Section 2. Paragraph (a) of subsection (3) of section
 74 280.03, Florida Statutes, is amended to read:

75 280.03 Public deposits to be secured; prohibitions;
 76 exemptions.—

77 (3) The following are exempt from the requirements of, and
 78 protection under, this chapter:

79 (a) Public deposits deposited in a financial institution
 80 ~~bank or savings association~~ by a trust department or trust
 81 company which are fully secured under trust business laws.

82 Section 3. Subsection (1) of section 280.052, Florida
 83 Statutes, is amended to read:

84 280.052 Order of suspension or disqualification;

85 procedure.-

86 (1) The suspension or disqualification of a financial
 87 institution ~~bank or savings association~~ as a qualified public
 88 depository must be by order of the Chief Financial Officer and
 89 must be mailed to the qualified public depository by registered
 90 or certified mail.

91 Section 4. Paragraph (c) of subsection (1) and paragraph
 92 (c) of subsection (2) of section 280.053, Florida Statutes, are
 93 amended to read:

94 280.053 Period of suspension or disqualification;
 95 obligations during period; reinstatement.-

96 (1)

97 (c) Upon expiration of the suspension period, the
 98 financial institution ~~bank or savings association~~ may, by order
 99 of the Chief Financial Officer, be reinstated as a qualified
 100 public depository, unless the cause of the suspension has not
 101 been corrected or the financial institution ~~bank or savings~~
 102 ~~association~~ is otherwise not in compliance with this chapter or
 103 any rule adopted pursuant to this chapter.

104 (2)

105 (c) Upon expiration of the disqualification period, the
 106 financial institution ~~bank or savings association~~ may reapply
 107 for qualification as a qualified public depository. If a
 108 disqualified financial institution ~~bank or savings association~~
 109 is purchased or otherwise acquired by new owners, it may reapply
 110 to the Chief Financial Officer to be a qualified public
 111 depository prior to the expiration date of the disqualification
 112 period. Redesignation as a qualified public depository may occur

113 only after the Chief Financial Officer has determined that all
 114 requirements for holding public deposits under the law have been
 115 met.

116 Section 5. Section 280.07, Florida Statutes, is amended to
 117 read:

118 280.07 Mutual responsibility and contingent liability.—Any
 119 financial institution ~~bank or savings association~~ that is
 120 designated as a qualified public depository and that is not
 121 insolvent shall guarantee public depositors against loss caused
 122 by the default or insolvency of other qualified public
 123 depositories. Each qualified public depository shall execute a
 124 form prescribed by the Chief Financial Officer for such
 125 guarantee which shall be approved by the board of directors and
 126 shall become an official record of the institution.

127 Section 6. Subsection (1) of section 280.10, Florida
 128 Statutes, is amended to read:

129 280.10 Effect of merger, acquisition, or consolidation;
 130 change of name or address.—

131 (1) When a qualified public depository is merged into,
 132 acquired by, or consolidated with a financial institution ~~bank,~~
 133 ~~savings bank, or savings association~~ that is not a qualified
 134 public depository:

135 (a) The resulting institution shall automatically become a
 136 qualified public depository subject to the requirements of the
 137 public deposits program.

138 (b) The contingent liability of the former institution
 139 shall be a liability of the resulting institution.

140 (c) The public deposits and associated collateral of the

141 former institution shall be public deposits and collateral of
 142 the resulting institution.

143 (d) The resulting institution shall, within 90 calendar
 144 days after the effective date of the merger, acquisition, or
 145 consolidation, deliver to the Chief Financial Officer:

146 1. Documentation in its name as required for participation
 147 in the public deposits program; or

148 2. Written notice of intent to withdraw from the program
 149 as provided in s. 280.11 and a proposed effective date of
 150 withdrawal which shall be within 180 days after the effective
 151 date of the acquisition, merger, or consolidation of the former
 152 institution.

153 (e) If the resulting institution does not meet
 154 qualifications to become a qualified public depository or does
 155 not submit required documentation within 90 calendar days after
 156 the effective date of the merger, acquisition, or consolidation,
 157 the Chief Financial Officer shall initiate mandatory withdrawal
 158 actions as provided in s. 280.11 and shall set an effective date
 159 of withdrawal that is within 180 days after the effective date
 160 of the acquisition, merger, or consolidation of the former
 161 institution.

162 Section 7. Subsection (1) of section 280.13, Florida
 163 Statutes, is amended to read:

164 280.13 Eligible collateral.—

165 (1) Securities eligible to be pledged as collateral by
 166 qualified public depositories ~~banks and savings associations~~
 167 shall be limited to:

168 (a) Direct obligations of the United States Government.

169 (b) Obligations of any federal agency that are fully
 170 guaranteed as to payment of principal and interest by the United
 171 States Government.

172 (c) Obligations of the following federal agencies:

- 173 1. Farm credit banks.
- 174 2. Federal land banks.
- 175 3. The Federal Home Loan Bank and its district banks.
- 176 4. Federal intermediate credit banks.
- 177 5. The Federal Home Loan Mortgage Corporation.
- 178 6. The Federal National Mortgage Association.
- 179 7. Obligations guaranteed by the Government National
 180 Mortgage Association.

181 (d) General obligations of a state of the United States,
 182 or of Puerto Rico, or of a political subdivision or municipality
 183 thereof.

184 (e) Obligations issued by the Florida State Board of
 185 Education under authority of the State Constitution or
 186 applicable statutes.

187 (f) Tax anticipation certificates or warrants of counties
 188 or municipalities having maturities not exceeding 1 year.

189 (g) Public housing authority obligations.

190 (h) Revenue bonds or certificates of a state of the United
 191 States or of a political subdivision or municipality thereof.

192 (i) Corporate bonds of any corporation that is not an
 193 affiliate or subsidiary of the qualified public depository.

194 Section 8. Paragraph (e) of subsection (1) of section
 195 280.16, Florida Statutes, is amended to read:

196 280.16 Requirements of qualified public depositories;

197 confidentiality.—

198 (1) In addition to any other requirements specified in
 199 this chapter, qualified public depositories shall:

200 (e) Submit to the Chief Financial Officer not later than
 201 the date required to be filed with the federal agency:

202 1. A copy of the quarterly Consolidated Reports of
 203 Condition and Income, and any amended reports, required by the
 204 Federal Deposit Insurance Act, 12 U.S.C. ss. 1811 et seq., if
 205 such depository is a bank; ~~or~~

206 2. A copy of the Thrift Financial Report, and any amended
 207 reports, required to be filed with the Office of Thrift
 208 Supervision if such depository is a savings and loan
 209 association; or

210 3. A copy of the National Credit Union Administration 5300
 211 Call Report, and any amended reports, required to be filed with
 212 the National Credit Union Association if such depository is a
 213 credit union.

214 Section 9. Paragraph (b) of subsection (4) of section
 215 280.17, Florida Statutes, is amended to read:

216 280.17 Requirements for public depositors; notice to
 217 public depositors and governmental units; loss of protection.—In
 218 addition to any other requirement specified in this chapter,
 219 public depositors shall comply with the following:

220 (4) Whenever public deposits are in a qualified public
 221 depository that has been declared to be in default or insolvent,
 222 each public depositor shall:

223 (b) Submit to the Chief Financial Officer for each public
 224 deposit, within 30 days after the date of official notification

HB 669

2012

225 | from the Chief Financial Officer, the following:

226 | 1. A claim form and agreement, as prescribed by the Chief
227 | Financial Officer, executed under oath, accompanied by proof of
228 | authority to execute the form on behalf of the public depositor.

229 | 2. A completed public deposit identification and
230 | acknowledgment form, as described in subsection (2).

231 | 3. Evidence of the insurance afforded the deposit pursuant
232 | to the Federal Deposit Insurance Act or the Federal Credit Union
233 | Act, as appropriate.

234 | Section 10. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 725 Insurance Agents and Adjusters

SPONSOR(S): Hager

TIED BILLS: IDEN./SIM. BILLS: SB 938

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Callaway <i>JL</i>	Cooper <i>MC</i>
2) Rulemaking & Regulation Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

In general, insurance agents transact insurance on behalf of an insurer or insurers. Insurance agents must be licensed by the Department of Financial Services (DFS or department) to act as an agent for an insurer, and be appointed (i.e., given the authority by an insurance company to transact business on its behalf) by at least one insurer to act as the agent for that particular appointing insurer or insurers. Insurance adjusters include public adjusters which represent policyholders in insurance claims, independent adjusters which represent insurers in insurance claims but are not employed by the insurer, and company employee adjusters which represent insurers in insurance claims and work in-house for the insurer. Like insurance agents, insurance adjusters must be licensed by DFS and appointed. Currently, the DFS licenses and regulates approximately 540,000 individuals as insurance agents or adjusters, of which 80,000 are adjusters and 54,000 are insurance agencies. These individuals hold an estimated 726,000 licenses.

The bill makes numerous changes to the agent and adjuster licensure laws. According to DFS, the changes made will streamline regulation and create efficiency. Major changes made by the bill include consolidation of current law relating to examination and continuing education of all licensees of DFS and merging various types of licenses for agents and adjusters issued by DFS into larger license classes, reducing the number of types of licenses that can be issued by DFS. Other provisions make current law relating to licensure of insurance agents also apply to insurance adjusters, codifying certain practices of DFS. The bill also repeals or corrects outdated language in statute.

A \$50,000 bond posted with DFS by surplus lines insurance agents and a \$35,000 bond posted by title insurance agencies are repealed by the bill. A \$200 annual administrative surcharge paid by title insurance agencies to DFS is also repealed. For insurance agents with offices in multiple counties, the bill repeals a \$6 biennial county tax owed to every county where an insurance agent has an office if that county is not the agent's county of residence or place of business and retains the tax for either the county of residence or one county designated by the insurer where a place of business is located.

The bill also lengthens a time period for payment of bail bond forfeiture judgments by surety companies and changes recipients of certain notifications relating to bail bond forfeiture. These changes could present a single subject issue.

Title insurance agencies no longer being required to pay the administrative surcharge will result in a reduction in revenue deposited in the Insurance Regulatory Trust Fund in the amount of approximately \$300,000 to \$400,000 and combining the credit lines of insurance and mortgage guaranty insurance licenses will result in a reduction in revenue of approximately \$12,000 a year in license and appointment fees. Some insurance agents will save \$6 biennially due to repeal of a county tax and counties receiving the tax will no longer receive it. However, last fiscal year \$60 total was collected by DFS for this county tax and remitted to counties. Surplus lines agents will no longer post a \$50,000 bond. Title insurance agencies will no longer post a \$35,000 bond or \$35,000 in securities with DFS or pay a \$200 annual surcharge.

The bill is effective October 1, 2012, unless otherwise provided.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0725.INBS.DOCX

DATE: 1/9/2012

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background on Licensure of Insurance Agents and Adjusters in Florida

Florida law recognizes several types of insurance representatives, including agents, customer representatives, service representatives, and adjusters, among others.

In general, insurance agents transact insurance on behalf of an insurer or insurers. Agents must be licensed by the Department of Financial Services (DFS or department) to act as an agent for an insurer, and be appointed (i.e., given the authority by an insurance company to transact business on its behalf) by at least one insurer to act as the agent for that particular appointing insurer or insurers.¹ Agent is defined to mean general lines agent, life agent, health agent, or title agent, or all such agents, as indicated by context, but does not include a customer representative. License requirements for insurance agents vary by line, or type of insurance, and based upon resident or nonresident license type.

Limited lines insurance agents are individuals, or in some cases entities, licensed as insurance agents but limited to selling one or more of the following forms of insurance (each requiring a separate license): motor vehicle physical damage and mechanical breakdown insurance; industrial fire or burglary; travel insurance; motor vehicle rental insurance; credit life or disability insurance; credit insurance; credit property insurance; crop hail and multiple-peril crop insurance; in-transit and storage personal property insurance; communications equipment property insurance, communications equipment inland marine insurance, or communication equipment service warranty agreement sales.²

Adjusters include public adjusters, independent adjusters, or company employee adjusters.³ Like insurance agents, insurance adjusters must be licensed by DFS and appointed.⁴ Generally, a public adjuster is any person, other than a licensed attorney, who prepares, completes, or files an insurance claim for a policyholder or who negotiates or settles an insurance claim on behalf of an insured.⁵ An independent adjuster is a person who is self-employed or employed by an independent adjusting firm and who works for an insurer to ascertain and determine the amount of an insurance claim, loss, or damage or to settle an insurance claim under an insurance policy.⁶ A company adjuster is a person employed in-house by an insurer who ascertains and determines the amount of an insurance claim, loss, or damage or settles an insurance claim under an insurance policy.⁷

Licensing for agents and adjusters are also broken down into resident or nonresident licenses. Applicants for a resident agent or adjuster license must be Florida residents. Applicants for a nonresident agent or adjuster license must be licensed in good standing in their home state.

Although licensing requirements for insurance agents and insurance adjusters vary by the type of license and particular line(s) of insurance transacted, general requirements for licensure include submitting an application; paying required fees; satisfying pre-licensing examination requirements, when applicable; complying with requirements as to knowledge, experience, or instruction; and submitting fingerprints.⁸ Once licensed, continuing education requirements are required for agents and adjusters to keep their license.⁹

¹ s. 626.112, F.S.

² s. 626.321, F.S.

³ s. 626.015(1), F.S.

⁴ s. 626.112(3), F.S.

⁵ s. 626.854, F.S.

⁶ s. 626.855, F.S.

⁷ s. 626.856, F.S.

⁸ s. 626.171, F.S.

⁹ s. 626.2815, F.S. (for insurance agents), s. 626.869, F.S. (for insurance adjusters).

A limited lines insurance agent license generally has fewer requirements for licensing than other insurance agents. These licensees must, however, file an application with DFS, be fingerprinted¹⁰ and be appointed by an insurance company.

Currently, the DFS licenses and regulates approximately 540,000 individuals as insurance agents or adjusters, of which 80,000 are adjusters and 54,000 are insurance agencies. These individuals hold an estimated 726,000 licenses.¹¹

Effect of Proposed Changes

The bill makes numerous changes to the agent and adjuster licensure laws. Major changes made by the bill include consolidation of current law relating to examination and continuing education of all licensees of DFS and merging various types of licenses for agents and adjusters issued by DFS into larger license classes, reducing the number of types of licenses that can be issued by DFS. Other provisions make current law relating to licensure of insurance agents also apply to insurance adjusters, codifying certain practices of DFS. The bill also repeals or corrects outdated language in statute.

Changes Relating to Licensure of Adjusters

Resident Independent and Company Employee Adjuster Licenses

Currently, DFS issues 12 different licenses for resident company employee and resident independent adjusters. Resident company employee adjusters live in Florida and are employed in-house by an insurance company licensed in Florida. Resident independent adjusters live in Florida and are self-employed or employed by an adjusting firm. In total, over 30,000 adjusters are currently licensed under the 12 different resident licenses. The license types and number of licensees are:

1. Independent All-Lines Adjuster (13,804 licensees),
2. Company Employee All-Lines Adjuster (14,787 licensees),
3. Independent Workers' Compensation Adjuster (731 licensees),
4. Company Employee Workers' Compensation Adjuster (342 licensees),
5. Independent Property and Casualty Adjuster (386 licensees),
6. Company Employee Property and Casualty Adjuster (288 licensees),
7. Independent Motor Vehicle Physical Damage and Mechanical Breakdown Adjuster (34 licensees),
8. Company Employee Motor Vehicle Physical Damage and Mechanical Breakdown Adjuster (121 licensees),
9. Independent Health Adjuster (14 licensees),
10. Company Employee Health Adjuster (11 licensees),
11. Company Employee Casualty Adjuster (1 licensee), and
12. Company Employee Motor Vehicle Physical Damage and Mechanical Breakdown and Fire and Allied Lines including Marine Adjuster (10 licensees).¹²

The bill consolidates all 12 licenses into one license, an all-lines adjuster license. Resident adjusters holding an adjuster license to adjust motor vehicle physical damage and mechanical breakdown, workers' compensation, health or property and casualty insurance claims¹³ as of October 1, 2012 can remain licensed and the license can be renewed, but no new licenses to adjust only these types of claims can be issued after October 1, 2012.¹⁴ DFS asserts the license consolidation will streamline regulation, create efficiencies for the department, and reduce confusion among licensees.¹⁵

¹⁰ Licensees for a limited license as a communications equipment insurance agent do not have to be fingerprinted.

¹¹ Information obtained from DFS on 12/12/11, on file with the Insurance & Banking Subcommittee.

¹² Information obtained from DFS on 12/2/11, on file with the Insurance & Banking Subcommittee.

¹³ Licenses numbered 3-10 above.

¹⁴ No new licenses for company employee motor vehicle physical damage and mechanical breakdown and fire and allied lines including marine insurance adjuster or company employee casualty insurance adjuster (licenses numbered 11 and 12 above) have been issued since October 1, 1990 pursuant to s. 626.869(2), F.S.

¹⁵ Information obtained from DFS on 11/28/11, on file with the Insurance & Banking Subcommittee.

The bill makes numerous conforming changes to reflect the licensure consolidation and renaming. The license consolidation does not make any changes to the qualifications for licensure as a resident adjuster under current law.

Nonresident Independent and Company Employee Adjuster Licenses

DFS issues another 12 nonresident company employee and nonresident independent adjuster licenses. Nonresident company employee adjusters do not live in Florida, hold an adjuster license in another state (the home state), and are employed in-house by an insurance company licensed in Florida. Nonresident independent adjusters do not live in Florida, hold an adjuster license in another state, and are self-employed or employed by an adjusting firm.¹⁶ In total, over 46,000 adjusters are licensed under the 12 different nonresident licenses. The nonresident license types and number of licensees are:

1. Nonresident Company Employee All-Lines Adjuster (13,639 licensees),
2. Nonresident Independent All-Lines Adjuster (6,629 licensees),
3. Nonresident Independent Workers' Compensation Adjuster (250 licensees),
4. Nonresident Company Employee Workers' Compensation Adjuster (502 licensees),
5. Nonresident Independent Property and Casualty Adjuster (7,424 licensees),
6. Nonresident Company Employee Property and Casualty Adjuster (16,360 licensees),
7. Nonresident Independent Motor Vehicle Physical Damage and Mechanical Breakdown Adjuster (44 licensees),
8. Nonresident Company Employee Motor Vehicle Physical Damage and Mechanical Breakdown Adjuster (1,242 licensees),
9. Nonresident Independent Health Adjuster (11 licensees),
10. Nonresident Company Employee Health Adjuster (76 licensees),
11. Nonresident Company Employee Casualty Adjuster (1 licensee), and
12. Nonresident Company Employee Casualty and Fire and Allied Lines including Marine Adjuster (2 licensees).¹⁷

The bill consolidates all 12 licenses into one license, a nonresident all-lines adjuster license. Nonresident adjusters holding an adjuster license to adjust motor vehicle physical damage and mechanical breakdown, workers' compensation, health or property and casualty insurance claims¹⁸ as of October 1, 2012 can remain licensed and the license can be renewed, but no new licenses to adjust only these types of claims can be issued after October 1, 2012.¹⁹ According to DFS, the license consolidation will streamline regulation, create efficiencies for the department, and reduce confusion among licensees.

The bill makes numerous conforming changes to reflect the licensure consolidation and renaming. License qualifications provided by the bill for the new nonresident all-lines license are not substantially different than the qualifications in current law for nonresident company employee adjusters.²⁰ For the new nonresident all-lines license, the bill makes two changes to current law providing license qualifications for nonresident independent adjusters.

First, currently, in order to be licensed as a nonresident independent adjuster, an applicant for licensure must submit a certificate or letter of authorization to DFS indicating the applicant is a licensed adjuster in the applicant's home state. The bill waives this requirement for the new nonresident all-lines adjuster license if the applicant's licensing status can be verified through a database maintained by the National Association of Insurance Commissioners. This same requirement is waived for applicants that are not

¹⁶ Under s. 626.8584, F.S., a nonresident independent adjuster must pass the Florida adjuster examination if the adjuster's home state does not license independent adjusters.

¹⁷ Information obtained from DFS on 12/2/11 on file with the Insurance & Banking Subcommittee staff.

¹⁸ Licenses numbered 3-10 above.

¹⁹ No new licenses for nonresident company employee casualty adjuster or nonresident company employee casualty and fire and allied lines including marine adjuster (licenses numbered 11 and 12 above) have been issued since October 1, 1990 pursuant to s. 626.869(2), F.S.

²⁰ Information received from DFS.

licensed as an adjuster in the applicant's home state, but are a licensed adjuster in another state within the three years prior to the application for a Florida license.²¹

Second, under current law, each licensed nonresident independent adjuster must submit an affidavit by January 1st certifying the adjuster is familiar with the Florida insurance laws and rules. For the new nonresident all-lines adjuster license, the bill removes the requirement that the certification be submitted annually by January 1st. The affidavit is still required but no time period for submission is prescribed.

Temporary Independent and Company Employee Adjuster Licenses

DFS also issues temporary adjuster licenses for independent and company employee adjuster and currently issues ten different temporary licenses. In total, 73 adjusters are licensed as temporary adjusters. The types of temporary licenses and number of licensees are:

1. Temporary Independent All-Lines Adjuster (14 licensees),
2. Temporary Company Employee All-Lines Adjuster (50 licensees),
3. Temporary Independent Workers' Compensation Adjuster (5 licensees),
4. Temporary Company Employee Workers' Compensation Adjuster (1 licensee),
5. Temporary Independent Property & Casualty Adjuster (1 licensee),
6. Temporary Company Employee Property & Casualty Adjuster (2 licensees),
7. Temporary Independent Motor Vehicle Physical Damage & Mechanical Breakdown Adjuster, (0 licensees)
8. Temporary Company Employee Motor Vehicle Physical Damage & Mechanical Breakdown Adjuster (0 licensees),
9. Temporary Independent Health Adjuster (0 licensees),
10. Temporary Company Employee Health Adjuster (0 licensees).²²

The bill consolidates all ten licenses into one license, a temporary all-lines license. Adjusters holding a temporary adjuster license to adjust motor vehicle physical damage and mechanical breakdown, workers' compensation, health or property and casualty insurance claims²³ as of October 1, 2012 can remain licensed and the license can be renewed, but no new licenses to adjust only these types of claims can be issued after October 1, 2012. According to DFS, the license consolidation will streamline regulation, create efficiencies for the department, and reduce confusion among licensees..

The bill makes numerous conforming changes to reflect the licensure consolidation and renaming.

The bill only makes one change to current law relating to the qualifications for a temporary adjuster license. Current law requires an applicant for a temporary adjuster license to provide DFS a certificate of employment and a report from the applicant's employer relating to the applicant's integrity and moral character. This requirement is removed by the bill. Requirements remaining in current law for a temporary adjuster license include: the applicant must be an employee of an adjuster, insurer, or adjusting firm that is licensed in Florida; the applicant must be 18 years old; the applicant must reside in Florida; and the applicant must be trustworthy with a good business reputation.

Public Adjuster Licenses

DFS also licenses public adjusters. Public adjusters represent policyholders in insurance claims. Under current law, public adjusters have a different regulatory scheme than company employee or independent adjusters. Public adjusters have ten different permanent licenses.²⁴ These licenses are:

1. Resident Public All-Lines Adjuster,
2. Nonresident Public All-Lines Adjuster,
3. Resident Public Workers' Compensation Adjuster,
4. Nonresident Public Workers' Compensation Adjuster,

²¹ Because the nonresident independent adjuster license is renamed the nonresident all-lines adjuster license, these changes apply to the nonresident all-lines adjuster license, whereas, current law only applies to the nonresident independent adjuster license.

²² Information obtained from DFS on 12/2/11 on file with the Insurance & Banking Subcommittee staff.

²³ Licenses numbered 3-10 above.

²⁴ Public adjusters cannot be licensed as temporary adjusters.

5. Resident Public Property and Casualty Adjuster,
6. Nonresident Public Property and Casualty Adjuster,
7. Resident Public Motor Vehicle Physical Damage and Mechanical Breakdown Adjuster,
8. Nonresident Public Motor Vehicle Physical Damage and Mechanical Breakdown Adjuster,
9. Resident Public Health Adjuster, and
10. Nonresident Public Health Adjuster

DFS also licenses public adjuster apprentices in accordance with s. 626.8651, F.S.

A new qualification for licensure as a public adjuster is added by the bill. In order to be licensed as a public adjuster, an applicant must have been licensed as a public adjuster apprentice and compliant with the apprentice licensing requirements during the apprenticeship. This change is consistent with current law (s. 626.8651(9), F.S.) which allows a public adjuster apprentice to apply for a license as a public adjuster after completing the apprentice requirements.

Changes Relating to Appointment of Adjusters

All adjusters must be appointed after they are licensed. Adjusters are either appointed by an insurer or an employer. Appointment gives a licensed adjuster authority to adjust insurance claims on behalf of the appointing insurer or employer.

Under current law, a resident, nonresident, or temporary adjuster is licensed and appointed as a company employee or independent adjuster. However, under the bill, a resident, nonresident, or temporary adjuster is licensed as the appropriate all-lines adjuster and is appointed as an independent or company employee adjuster, depending on the adjuster's employer. The bill makes numerous conforming changes to current law reflecting the change from licensing and appointing independent and company employee adjusters to just appointing independent and company employee adjusters and licensing all-lines adjusters instead.

Other Changes Relating to Adjusters

The bill adds a ground for refusal, denial, suspension, or revocation of a license of an adjusting firm. Current law allows DFS to refuse, deny, suspend, or revoke a license of an adjusting firm if anyone involved in the operation of the firm violates an order or rule of the Office of Insurance Regulation or Financial Services Commission. Under the bill, a violation of an order or rule of DFS would also be grounds for DFS to refuse, deny, suspend, or revoke a license of an adjusting firm.

The bill allows adjusters licensed and in good standing in another state to transfer their adjuster license to a Florida all-lines adjuster license. Adjusters cannot transfer licenses under current law, only resident agents can. Thus, this change allows license transfers for both agents and adjusters and provides consistency in the regulation of agents and adjusters.

Changes Relating to Application for Licenses & Renewal of Licenses Issued by DFS

The bill allows a third party to complete, submit, and sign an application for licensure as an agent or adjuster as long as the applicant agrees. The applicant is accountable for any misstatements or misrepresentations on the application. No authority for third parties to complete license applications is provided in current law.

Instead of submitting proof of completion of the required pre-licensing course, the bill requires applicants for licensure as an agent or adjuster to provide a statement in the application indicating what method the applicant used to meet the required pre-licensing education, experience, knowledge, or instructional requirements. This change allows a person to apply for licensure while taking a pre-licensing course, rather than having to wait to apply until the completion of the course. The change does not give DFS authority to grant a license until the pre-licensing course is complete.

Any person licensed by DFS must currently notify the agency of any name, address, phone or e-mail address change within 60 days of the change. The bill reduces the notification time period to 30 days. DFS alleges current contact information is critical to the process of notifying licensees of educational

requirements, law changes, and for contacting them in the event of a consumer complaint or investigation.²⁵

DFS is given another ground to deny an application for, suspend, revoke, or refuse to renew or continue a license or appointment of an agent, adjuster, customer representative, service representative, or managing general agent. The bill allows DFS to deny an application for, suspend, revoke, or refuse to renew or continue a license for those licensees who do not comply with any civil, criminal, or administrative action to determine paternity or relating to child support.

The bill changes the appointment renewal time for licensees of DFS. Currently, appointees licensed by DFS must renew their appointment during the original licensure month or birth month. The bill changes the appointment renewal to the month of original appointment or birth month. DFS asserts this change provides equity and reduces a regulatory burden for licensees.²⁶

Changes Relating to Examination for Licensure for DFS Licensees

Under current law, an applicant for an insurance related license can take the examination needed for licensure prior to submission of an application for licensure. To do so, the applicant must submit an application for examination through the DFS internet website. The bill allows applicants to submit an application for examination through the DFS internet website or through the website of a person designated by DFS to give the examination. Additionally, current law requires the application for examination to contain information specified in statute. The bill allows, rather than requires, DFS to require the application for examination to contain specified information.

The bill deletes the requirement in current law that an applicant for examination provides his or her age in the application for examination and instead requires the applicant for examination to provide his or her date of birth.

Presently, DFS must provide written notice of the time and place of a licensure examination by mail. The bill requires notice of the time and place of a licensure examination to be provided by DFS by e-mail, rather than mail. Section 626.171(2)(a), F.S., requires applicants for DFS licensure to provide an e-mail address on the license application and s. 626.551, F.S., requires DFS licensees to notify DFS if their e-mail address changes. According to DFS, the department currently only notifies applicants for licensure of examination information by e-mail, so the bill codifies the current practice of DFS.

The bill restricts all licensure applicants from taking a licensing examination for the same license type more than three times in a 12-month period. There are no limitations on how many times an examination can be taken under current law.

The bill also expands the examination exemption for adjusters applying for reinstatement of their license by DFS when their license has been suspended for no more than four years. Current law gives DFS discretion to exempt only company employee or independent adjusters, and the bill expands the exemption to all adjusters. Thus, public adjusters are included in the examination exemption by the change.

Changes Relating to Continuing Education Requirements for DFS Licensees

The bill consolidates continuing education requirements in current law for all insurance agents, including bail bond agents, and adjusters licensed by DFS into one section of law.

The majority of agents and adjusters licensed by DFS must complete 24 hours of continuing education every two years. But, agents holding an agent license for six or more years are required to take only 20 hours of continuing education every two years. There is no similar reduced continuing education requirement for adjusters licensed for six or more years, but it is the practice of DFS to require 20 hours, rather than 24 hours, of continuing education for these adjusters. The bill codifies the current practice of DFS and reduces the number of continuing education hours from 24 hours every two years to 20 hours every two years for adjusters licensed for six or more years. Thus, consistency is provided in the continuing education requirements for agents and adjusters.

²⁵ Information obtained from DFS on 11/28/11, on file with the Insurance & Banking Subcommittee.

²⁶ Information obtained from DFS on 11/28/11, on file with the Insurance & Banking Subcommittee.

An agent holding any type of limited license is exempt from continuing education under the bill. Current law allows DFS to adopt rules exempting agents holding limited licenses from continuing education.

DFS licensees who cannot complete the required continuing education due to active duty in the military can request a waiver of the continuing education requirements. There is no military waiver for continuing education in current law.

As of October 1, 2012, the bill repeals current law requiring licensed life insurance agents to complete three hours of continuing education on the subject of suitability in annuity and life insurance transactions. However, the bill requires suitability of insurance products to be covered in a seven hour continuing education update course that is required starting October 1, 2014 (discussed below).

The time period for a sponsor of a continuing education course to provide DFS a roster of course attendees is reduced from 30 days to 15 days. Furthermore, the roster no longer must be written or certified by the course sponsor and the fee²⁷ required to be submitted to DFS with the roster is no longer required. According to DFS, rosters are currently submitted electronically and DFS does not collect a fee on electronic submission of rosters. Thus, the change codifies the current practice of DFS.

Section 626.2815(5), F.S., requires DFS to refuse to renew the appointment of an insurance agent that does not complete the required continuing education.²⁸ The bill deletes this requirement and instead allows DFS to use its' discretion to refuse to renew the appointment or to terminate the appointment an agent that does not complete the required continuing education. Additionally, the bill expands which licensees are covered by this statutory provision. The current statute only applies to insurance agents whereas the bill applies the statute to agents and adjusters. According to DFS, the department's current practice is to refuse to renew appointments of adjusters that do not meet the required continuing education, so the expansion of the scope of current law provided in the bill is a codification of agency practice. The change also provides consistency in the regulation of agents and adjusters.

The bill repeals an 11 member continuing education advisory board appointed by the Chief Financial Officer to advise DFS on continuing education courses. According to DFS, this board has not met in recent years.

Starting October 1, 2014, the bill changes the types of courses a DFS licensee must take to satisfy the license continuing education requirements. The bill maintains the 24 hour continuing education requirement required for most DFS licensees, but proposes seven of the 24 hours be an update course specific to the licensee's license and covering insurance law updates, ethics, disciplinary trends, industry trends, and determining suitability of insurance products. The remaining 17 hours of continuing education required are elective hours. DFS licensees that are required to take less than 24 hours of continuing education every two years are still required to take the seven hour update course, but their required elective hours are reduced in accordance with the total number of continuing education hours required for their license.

Furthermore, under current law, licensees are required to take two hours of ethics as part of the 24 hour continuing education requirement. The bill removes the mandatory ethics requirement, but requires ethics to be taught in the seven hour update course required to be taken by all licensees.

For licensees holding two different licenses from DFS, current law specifies how many of the 24 required continuing education hours the licensee must take in each license subject area. The bill repeals this specification but requires licensees holding more than one license from DFS to complete the seven hour update course in the subject area of one license.

²⁷ According to DFS, continuing education course sponsors were required to submit a \$1 fee per person on the course roster when hard copies of the rosters were submitted to the department. Because course rosters are now submitted to DFS electronically, the fee is no longer collected.

²⁸ s. 626.2815, Rule 69B-228.220, F.A.C.

Starting October 1, 2014, current law requiring general lines agents and customer representatives to have one hour of the 24 required continuing education hours on hurricane mitigation premium discounts is repealed.

As of October 1, 2014, the bill removes the requirement in current law that certain agents licensed to sell motor vehicle physical damage and mechanical breakdown insurance, crop or hail insurance, or multi-peril crop insurance complete specified continuing education hours.

Under current law, bail bond agents must take 14 hours of continuing education every two years.²⁹ Starting October 1, 2014, bail bond agents must still complete 14 hours of continuing education every two years, but the hours must include a seven hour update course and seven hours of elective courses.

Other Changes Relating to DFS Licensees

Current law prohibits a DFS licensee with a suspended or revoked license from transacting business requiring an insurance license or owning, controlling or being employed by any insurance entity licensed by DFS. The bill extends this prohibition until the revoked or suspended license is reinstated or a new license issued. This change is consistent with the practice of DFS.

Generally, s. 626.536, F.S., requires insurance agents and agencies to notify DFS of administrative actions taken against the agent or agency by a Florida governmental agency or a governmental agency in another state or jurisdiction. The bill expands current law to require all DFS licensees, rather than only agents and agencies, to report administrative actions taken against the licensee. Thus, this change requires insurance adjusters to report any administrative actions, whereas, current law does not require adjusters to report any actions. Furthermore, the bill expands the types of administrative actions required to be reported from actions by governmental agencies to actions by governmental agencies or other regulatory agencies.

For insurance agents or customer representatives holding two or more licenses from DFS, if DFS suspends, revokes, or does not renew one of the licenses, current law requires DFS to also suspend or revoke all other licenses or appointments for that agent or customer representative. To provide consistency in the regulation of all DFS licensees, the bill expands the application of this provision from applying only to agents or customer representatives to applying to all insurance representatives. Thus, insurance adjusters would have all insurance related licenses suspended if their adjuster license was suspended.

Changes Relating to Licensing of Limited Lines Insurance Agents

The bill consolidates many of the types of licenses for limited lines insurance agents. A limited lines insurance agent license allows the agent to sell only certain types of insurance. Limited lines agents are licensed as a resident agent or a nonresident agent. Under current law, a limited lines insurance agent license can be obtained for the following types of insurance:

- Motor vehicle physical damage and mechanical breakdown,
- Industrial fire or burglary,
- Travel,
- Motor vehicle rental,
- Credit life or disability,
- Credit,
- Credit property,
- Mortgage Guaranty,
- Crop hail and multiple-peril crop,
- In-transit and storage personal property,
- Communications equipment property,
- Communications equipment inland marine, and
- Communications equipment service warranty agreement sales.

²⁹ s. 648.385(2), F.S.

The bill allows a limited lines insurance agent license for the following types of insurance:

- Motor vehicle physical damage and mechanical breakdown,
- Industrial fire or burglary,
- Travel,
- Motor vehicle rental,
- Credit,
- Crop hail and multiple-peril crop,
- In-transit and storage personal property, and
- Portable electronics insurance.

License for Motor Vehicle Physical Damage and Mechanical Breakdown Insurance

Currently, DFS has 31 licensees holding an agent's limited license for motor vehicle physical damage and mechanical breakdown insurance. The bill prevents DFS from issuing new licenses for this limited license after October 1, 2012. Those licensees licensed as of October 1, 2012 can renew their license, but no new licenses can be issued. After October 1, 2012, only general lines agents³⁰ will be able to sell motor vehicle physical damage and mechanical breakdown insurance.

License for Credit Insurance

The limited licenses for credit life or disability, credit property, and mortgage guaranty insurance are consolidated into the credit insurance limited license and the scope of the license is expanded to cover credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection, and any other type of insurance covering the extension of credit to extinguish a credit obligation.³¹ The parameters of a limited license for credit insurance in current law are repealed and no new parameters enacted for this license.

All currently existing licenses covering the types of insurance being consolidated into the credit insurance limited license are converted to a credit insurance limited license as of October 1, 2012. If a licensee whose license is converted wants to obtain a new license reflecting the new name and type of the license, the licensee must pay the \$5 fee currently prescribed in law for issuance, reissuance, reinstatement, or modification of a license.

Current law setting forth parameters on the limited license for credit life or disability insurance and credit property insurance is repealed as a conforming change. Such parameters include who can be issued licenses to sell credit life or disability and credit property insurance and what additional licenses these agents can possess.

License for Mortgage Guaranty Insurance

Generally, mortgage guaranty insurance is insurance that insures lenders against financial loss due to nonpayment of monies owed under a note, bond, mortgage, deed of trust, or other document constituting a lien on real estate or nonpayment of rent or other monies owed under a lease. Section 635.051, F.S., provides for the licensing and appointment of mortgage guaranty insurance agents. A license as a mortgage guaranty insurance agent is a limited license which limits the agent to handling only mortgage guaranty insurance.

The bill repeals the mortgage guaranty insurance agent license and its associated licensing requirements as of October 1, 2012 because this license is subsumed into the expanded credit insurance license. Mortgage guaranty insurance agents licensed before October 1, 2012 are transferred to a credit insurance agent. After October 1, 2012, in order to transact mortgage guaranty insurance, an agent must be licensed and appointed as a credit insurance agent.

³⁰ A general lines insurance agent is an insurance agent authorized to transact one or more of the following kinds of insurance: property insurance, casualty insurance, surety insurance, health insurance, or marine insurance.

³¹ Resident and nonresident limited licenses for credit life or disability and mortgage guaranty insurance are consolidated.

License for Communications Equipment Insurance

Current law outlining the scope and restrictions associated with all limited agent licenses relating to communications equipment insurance is repealed and a new limited license related to the sale of portable electronics insurance is created by the bill. This license is in lieu of the current license for insurance for communications equipment. The scope of a portable electronics license is greater than that of a communications equipment license. Specifically, the new license allows retail vendors selling portable electronics, instead of only communications equipment, to sell or offer customers insurance covering the portable electronics, instead of only covering communications equipment. The insurance sold on portable electronics will cover loss, theft, mechanical failure, malfunction or damage on these electronics.

The definition of portable electronics is much broader than the definition of communications equipment in current law, so the newly created portable electronics license will cover more types of equipment than is currently covered by the communications equipment license. For example, the portable electronics license covers insurance for cellular phones, pagers, portable computers, GPS units, gaming systems, docking stations, digital cameras and video cameras. However, the communications equipment license in current law primarily covers cellular phones, pagers, and portable computers.

The bill provides parameters for the portable electronics insurance limited license. Some of the parameters are the same as those that applied to the communications equipment limited license. However, many new parameters are added. New parameters cover subjects such as:

- Licensing of employees of licensed portable electronics insurance agents,
- Payment of commissions for the sale of portable electronics insurance,
- Required disclosures in brochures related to portable electronics insurance,
- Exemptions from the portable electronics insurance limited license,
- Billing and collection of premiums for portable electronics insurance by a licensee,
- Terms for termination or modification of coverage under a portable electronics insurance policy, and
- Requirements for required notices or correspondence under the portable electronics insurance policy.

Other Changes Relating to Insurance Agents

The bill expands current law relating to who can bind insurance coverage. Only general lines agents or customer representatives can bind insurance coverage under current law and the bill gives this authority to all agents or customer representatives. By definition, general lines agents transact only property, casualty, surety, or health insurance. The definition of agent is broader than that of general lines agent and includes agents transacting any kind of insurance and specifically includes general lines agents, agents transacting life insurance, agents transacting health insurance, and agents transacting title insurance. Personal lines agents are also allowed to bind coverage under the bill and are not allowed under current law.

Changes Relating to Licensing of Bail Bond Agents

DFS also licenses bail bond agents. As part of the licensing requirements, applicants for a bail bond agent license must pass an examination. Under current law, DFS must mail notice of the bail bond agent examination to applicants. The bill requires only notice of the exam by e-mail and repeals the requirement that notice be mailed to the applicant. This change is consistent with the change made in the bill requiring only notification by e-mail of license examination information to other DFS licensees. According to DFS, the department currently only notifies applicants for licensure of examination information by e-mail, so this change is a codification of current agency practice.

Changes Relating to Licensing of General Lines Agents

A general lines insurance agent is an insurance agent authorized to transact, for commercial or noncommercial purposes, one or more of the following kinds of insurance: property insurance, casualty insurance, surety insurance, health insurance, or marine insurance. A personal lines agent is a general lines agent who can only transact property and casualty insurance for noncommercial purposes.

Current law setting forth license requirements for general lines agents and personal lines agents relating to knowledge, experience or instruction are comingled. For clarity, the bill separates these requirements and specifically outlines what requirements are required for licensure as a general lines agent and what requirements are required for a personal lines agent.

Changes Relating to Licensing of Title Insurance Agents and Agencies

Title insurance agents are appointed by title insurance companies to issue and countersign title insurance policies.³² Title insurance agents are licensed by DFS. The number of licensed title insurance agencies has decreased in recent years, from 3,996 in 2007 to 1,911 in 2011.

Under current law, specified provisions that apply to general lines agents also apply to title insurance agents or agencies. The bill adds two provisions that apply to general lines agents to also make them apply to title insurance agents and the bill deletes one provision from also applying to title insurance agents. One provision that will now apply to title insurance agents allows title insurance agents to work at their place of residence if specified conditions are met. The other provision requires a title insurance agency to provide the name of each title insurance agent that is charge of the agency office on a full-time basis on the title insurance agency license application. The provision that is removed from applying to title insurance agents is allowance for a temporary title agent license

Currently, as a qualification for licensure, title insurance agencies are required to deposit \$35,000 in securities with DFS or post and maintain a \$35,000 surety bond with DFS as a mechanism to protect title insurers from fraudulent behavior of their agents.³³ If a claim is filed by a title insurer against a title insurance agency for violation of the contract between the insurer and the agency, DFS can use the bond or deposit to pay the claim. However, DFS does not decide the merits of a claim against the bond; the merits are determined by the surety company issuing the bond. DFS is merely a payment conduit because the department holds the bond. DFS must return the securities on deposit or the bond posted to the title insurance agency one year after the agency has ended all appointments with title insurers, if no claim against the deposit or bond has been made.

According to DFS, many title insurance agencies regularly fail to maintain the required surety bond. Last year these cases accounted for 23 percent of the administrative complaints filed by the Division of Agent and Agency Services in DFS. DFS alleges these cases require valuable licensing, investigation and prosecution time by the DFS and result in no direct consumer protections. The bill repeals the \$35,000 surety bond required for title insurance agencies and associated parameters for DFS relating to the bond. Thus, DFS will no longer be involved in the claims payment process between the title insurer and the title agency. Going forward, if a title insurer requires a bond in order for a title agency to be appointed and the contract between the insurer and agency is violated by the agency, then the insurer will make a claim against the bond and will receive a claim payment under the bond directly from the surety company issuing the bond. DFS will no longer be used as a payment conduit for claims under title insurance surety bonds.

Current law requires the payment of two \$200 administrative surcharges on title insurance each year. One surcharge is paid by insurers to the Office of Insurance Regulation (OIR) for each title insurance agency appointed by the insurer to sell title insurance and for each retail office of the title insurer. The other is paid by title insurance agencies and is paid to DFS. According to DFS, from 2007-2011, 389 title insurance agencies had their license suspended for failure to pay the \$200 administrative surcharge to DFS. Additionally, from June 1, 2010 – May 31, 2011, DFS investigated 682 violations for failure to pay the surcharge.³⁴

The bill repeals the \$200 title insurance surcharge to be paid each year to DFS. The annual \$200 administrative surcharge paid to OIR is maintained. As a conforming change, the bill also removes current law outlining how the surcharge collected by DFS is to be used by the department. How the surcharge collected by OIR is to be used by OIR is still prescribed in law. DFS asserts the repeal of the

³² s. 626.841, F.S.

³³ s. 626.8418(2), F.S.

³⁴ Information obtained from DFS, on file with the Insurance & Banking Subcommittee.

surcharge paid to DFS would significantly decrease workloads in the Division of Insurance Agent & Agency Service and the Division of Legal Services within DFS, with no change in protection for consumers.

Changes Relating to Bonding of Surplus Lines Insurance Agents

Surplus lines insurance is a category of insurance for which there is no market available through insurance companies licensed to transact insurance in Florida. Surplus lines insurance is sold by surplus lines agents. These agents are licensed by DFS. Under current law, applicants for a license as a surplus lines agent must post a \$50,000 bond with DFS and must maintain the bond during the duration of the license. The bond is used to pay any surplus lines premium tax or service fee required to be paid by the surplus lines agent but not paid. The bill repeals the bond requirement, however, current law allowing DFS to file suit to recover surplus lines premium tax or service fees owed by a surplus lines agent is maintained.

Changes Relating to the County Tax on Insurance Agent Licenses

Under s. 624.501, F.S., biennially, DFS collects a \$6 county tax fee on the appointment and renewal of most insurance agent licenses. The tax is paid by each insurer to DFS who transmits the tax to the appropriate county. The tax must be paid to the county where the agent resides or the county where the agent has a place of business, if this county is different than the agent's county of residence. Insurers with agents having places of business in more than one county, none of which is their county of residence, must pay the tax to each county where the agent has a place of business. For these agents, the bill repeals the county tax owed to each county where an insurance agent has an office if that county is not the agent's county of residence. Thus, the county tax will be paid only to the agent's county of residence or one county where the agent has a place of business, if that county is different than the agent's county of residence.

DFS does not currently identify agents that have places of business in more than one county and thus owe the county tax to more than one county. DFS asserts that although the agency can program agency computers to identify these agents, the costs of programming and auditing for compliance exceed the benefits. Last fiscal year, DFS collected \$60.00 total in county taxes on agent licenses for agents with places of business in more than one county.

Changes Relating to Forfeiture to Judgment of Bail Bonds

In criminal cases, bail is a sum of money, real property, or surety bond that has to be posted by a defendant to guarantee their appearance in court. When bail is posted, the defendant is released from custody. The court system sets the amount of bail required for the defendant's release. If the defendant does not have sufficient funds to pay the full bail amount, the defendant can use a bail bond agent to secure funds to pay the bail amount. Typically, bail bond agents, working with surety companies, offer a type of insurance policy, called a bond, that guarantees payment of the full bail amount to the court if the defendant does not show up for all court appearances. The defendant pays a fee, usually 10 percent of the total bond amount, to the bail bond agent as premium for the bail bond.

Bail bond forfeiture results when a defendant, who posted bond, misses scheduled court appearances. Once a court date is missed, the court sets a forfeiture date by which either the defendant must be located and returned to court or the full bail bond amount paid. If the defendant is not located by the forfeiture date, the bail bond is forfeited to the court and bail bond agent must pay the full bond amount to the court. For bail bonds issued by a surety company, when bond forfeiture occurs, the surety company must pay the full amount of the bond issued by the company to the clerk of court.

When a bail bond is forfeited and the full bond amount is due, current law requires the clerk of court to send a copy of the bond forfeiture judgment to DFS,³⁵ OIR,³⁶ and the surety company. The bill changes the recipients of the forfeiture judgment to the surety company only. The bill also extends the time period, from 35 days to 60 days, for payment of the bond forfeiture judgment by the surety company to the clerk of court. If a bond forfeiture is not paid, then current law requires the clerk to notify DFS, OIR,

³⁵ DFS regulates bail bond agents.

³⁶ OIR regulates surety companies.

the sheriff in the county where the bond was posted, or the official responsible for operating the county jail (if that official is not the sheriff) that the forfeiture judgment has not been paid. The bill removes DFS from the list of recipients of this notification. If the bond forfeiture is later paid, current law requires the clerk to notify the same recipients of the payment. The bill removes DFS from the list of recipients of this notification too.

B. SECTION DIRECTORY:

Section 1: Amends s. 624.501, F.S., relating to filing, license, appointment, and miscellaneous fees.

Section 2: Amends s. 624.505, F.S., relating to county tax; determination; nonresident agents.

Section 3: Amends s. 626.015, F.S., relating to definitions.

Section 4: Amends s. 626.0428, F.S., relating to agency personnel powers, duties, and limitations.

Section 5: Amends s. 626.171, F.S., relating to application for license as an agent, customer representative, adjuster, service representative, managing general agent, or reinsurance intermediary.

Section 6: Amends s. 626.191, F.S., relating to repeated applications.

Section 7: Amends s. 626.221, F.S., relating to examination requirements; exemptions.

Section 8: Amends s. 626.231, F.S., relating to eligibility; application for examination.

Section 9: Amends s. 626.241, F.S., relating to scope of examination.

Section 10: Amends s. 626.251, F.S., relating to time and place of examination; notice.

Section 11: Amends s. 626.2815, F.S., relating to continuing education; requirements.

Section 12: Amends s. 626.2815, F.S., relating to continuing education; requirements.

Section 13: Amends s. 626.2815, F.S., relating to continuing education; requirements. These changes are effective October 1, 2014.

Section 14: Amends s. 626.292, F.S., relating to transfer of license from another state.

Section 15: Amends s. 626.311, F.S., relating to scope of license.

Section 16: Amends s. 626.321, F.S., relating to limited licenses.

Section 17: Amends s. 626.342, F.S., relating to furnishing supplies to unlicensed agent prohibited; civil liability.

Section 18: Amends s. 626.381, F.S., relating to renewal, continuation, reinstatement, or termination of appointment.

Section 19: Amends s. 626.536, F.S., relating to reporting of administrative actions.

Section 20: Amends s. 626.551, F.S., relating to notice of change of address, name.

Section 21: Amends s. 626.621, F.S., relating to grounds for discretionary refusal, suspension, or revocation of agent's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.

- Section 22:** Amends s. s. 626.641, F.S., relating to duration of suspension or revocation.
- Section 23:** Amends s. 626.651, F.S., relating to effect of suspension, revocation upon associated licenses and appointments and licensees and appointees.
- Section 24:** Amends s. 626.730, F.S., relating to purpose of license.
- Section 25:** Amends s. 626.732, F.S., relating to requirement as to knowledge, experience, or instruction.
- Section 26:** Amends s. 626.8422, F.S., relating to application of Florida Insurance Code provisions to title insurance agents or agencies.
- Section 27:** Amends s. 626.8418, F.S., relating to application for title insurance agency license.
- Section 28:** Creates s. 626.8548, F.S., to provide a definition of "all-lines adjuster."
- Section 29:** Amends s. 626.855, F.S., relating to the definition of "independent adjuster."
- Section 30:** Amends s. 626.856, F.S., relating to the definition of "company employee adjuster."
- Section 31:** Repeals s. 626.858, F.S., relating to the definition of "nonresident company employee adjuster."
- Section 32:** Amends s. 626.8584, F.S., relating to the definition of "nonresident all-lines adjuster."
- Section 33:** Amends s. 626.863, F.S., relating to claims referrals to independent adjusters.
- Section 34:** Amends s. 626.864, F.S., relating to adjuster license types.
- Section 35:** Amends s. 626.865, F.S., relating to public adjuster's qualifications, bond.
- Section 36:** Amends s. 626.866, F.S., relating to all-lines adjuster qualifications.
- Section 37:** Repeals s. 626.867, F.S., relating to company employee adjuster qualifications.
- Section 38:** Amends s. 626.869, F.S., relating to license, adjusters; continuing education.
- Section 39:** Amends s. 626.8697, F.S., relating to grounds for refusal, suspension, or revocation of adjusting firm license.
- Section 40:** Amends s. 626.872, F.S., relating to temporary license.
- Section 41:** Repeals s. 626.873, F.S., relating to nonresident company employee adjusters.
- Section 42:** Amends s. 626.8734, F.S., relating to nonresident all-lines adjuster license qualifications.
- Section 43:** Amends s. 626.8736, F.S., relating to nonresident independent or public adjusters; service of process.
- Section 44:** Amends s. 626.874, F.S., relating to catastrophe or emergency adjusters.
- Section 45:** Amends s. 626.875, F.S., relating to office and records.
- Section 46:** Amends s. 626.876, F.S., relating to exclusive employment; public adjusters, independent adjusters.

Section 47: Amends s.626.927, F.S., relating to licensing of surplus lines agent.

Section 48: Repeals s. 626.928, F.S., relating to surplus lines agent's bond.

Section 49: Amends s. 626.933, F.S., relating to collection of tax and service fee.

Section 50: Amends s. 626.935, F.S., relating to suspension, revocation, or refusal of surplus lines agent's license.

Section 51: Amends s. 626.952, F.S., relating to risk retention and purchasing group agents.

Section 52: Amends s. 635.051, F.S., relating to licensing and appointment of mortgage guaranty insurance agents.

Section 53: Amends s. 648.38, F.S., relating to licensure examination for bail bond agents; time; place; fees; scope.

Section 54: Amends s. 648.385, F.S., relating to continuing education required; application; exceptions; requirements; penalties.

Section 55: Amends s. 903.27, F.S., relating to forfeiture to judgment.

Section 56: Provides an effective date of October 1, 2012, except where otherwise expressly provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Title insurance agencies no longer being required to pay the administrative surcharge will result in a reduction in revenue deposited in the Insurance Regulatory Trust Fund in the amount of approximately \$300,000 to \$400,000. In FY 2010-2011; approximately \$952,400 was generated by payment of the title administrative surcharge. Title insurers paid approximately \$526,800.

Combining the credit lines of insurance and mortgage guaranty insurance licenses will result in a loss of approximately \$12,000 a year in license and appointment fees. These fees are deposited in the Insurance Regulatory Trust Fund.

2. Expenditures:

The removal of the \$200 title insurance agency surcharge and combining the credit lines and mortgage guaranty insurance licenses will require changes to the computer systems of the Division of Insurance Agent and Agency Services; however, the Division indicates it will absorb the costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Under current law, insurance agents with offices in more than one county, none of which is the agent's county of residence, must pay a \$6 biennial county tax to each county where an office is located. The bill requires the county tax to be paid in only one county where an office is located, rather than each county. Last fiscal year, DFS collected \$60 total in county taxes for insurance agent offices located in more than one county.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The license consolidation provided in the bill reduces the appointment fees for licensees holding more than one license.

Insurance agents with offices in multiple counties will no longer pay a \$6 biennial county tax to each county where the agent has an office, if that county is not the agent's county of residence or place of business.

Surplus lines insurance agents will no longer post a \$50,000 bond with DFS.

Title insurance agencies will no longer post a \$35,000 bond or \$35,000 in securities with DFS. In addition, these agencies will no longer pay a \$200 annual administrative surcharge to DFS. Deletion of the requirement that title insurance agencies pay an administrative surcharge will result in a savings of approximately \$300,000 to \$400,000 for title insurance agencies.

DFS believes changing the continuing education requirements to require a seven hour update course will have a neutral impact on the providers currently offering continuing education courses because DFS assumes most providers will apply to offer the seven hour update continuing education course.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

Single Subject Issue

Article III, Section 6 of the Florida Constitution provides in relevant part: "Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title." The subject matter which should be considered when determining whether an act embraces a single subject is the subject expressed in the title. *Ex parte Knight*, 41 So. 786 (Fla. 1906). The test is whether the bill is designed to accomplish separate objectives which have no natural or logical connection to each other. *Board of Public Instruction v. Doran*, 224 So. 2d 693 (Fla. 1969). Where an act contains two subjects that "are designed to accomplish separate and dissociated objects of legislative effort," the act violates single subject. *State ex rel. Landis v. Thompson*, 163 So. 270, 283 (Fla. 1935). An act may contain various subtopics without violating the single-subject requirement. *Burch v. State*, 558 So. 2d 1 (Fla. 1990). The title of the bill is informative of the subject of the bill.

Where the courts find a single subject violation, the entire act fails. Once a law is readopted, however, it is no longer subject to single subject or adequate title requirements.

This bill is titled "An act relating to insurance agents and adjusters." The provisions in the bill relating to notice of judgments for bail bond forfeiture do not relate to insurance agents and adjusters because these provisions change procedures specified for the clerk of court to follow when a bail bond has been forfeited to the court. Although bail bond agents are a type of insurance agent licensed and regulated by DFS, the bail bond forfeiture provisions in the bill do not address bail bond agent action, regulation, or licensure.

B. RULE-MAKING AUTHORITY:

DFS is given authority to adopt rules to implement the 30 day notification period for DFS licensees to notify DFS of any change in the licensee's name, address, phone number, or e-mail address and the penalties authorized in statute for failure to provide the required notification.

The bill deletes authority for DFS to adopt revised versions of their uniform license application by rule.

The bill repeals authority for DFS to adopt rules setting forth alternative ways title insurance agencies can comply with the bond requirement when a surety bond is unavailable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to insurance agents and adjusters;
 3 amending s. 624.501, F.S.; deleting the title insurer
 4 administrative surcharge for a licensed title
 5 insurance agency; amending s. 624.505, F.S.; deleting
 6 a requirement that an insurer pay an agent tax for
 7 each county in which an agent represents the insurer
 8 and has a place of business; amending s. 626.015,
 9 F.S.; revising the definitions of "adjuster" and "home
 10 state"; amending s. 626.0428, F.S.; revising
 11 provisions relating to who may bind insurance
 12 coverage; amending s. 626.171, F.S.; providing that an
 13 applicant is responsible for the information in an
 14 application even if completed by a third party;
 15 requiring an application to include a statement about
 16 the method used to meet certain requirements; amending
 17 s. 626.191, F.S.; revising provisions relating to when
 18 an applicant may apply for a license after an initial
 19 application is denied by the Department of Financial
 20 Services; amending s. 626.221, F.S.; revising
 21 provisions relating to license examinations;
 22 conforming provisions relating to all-lines adjusters;
 23 deleting an exemption from examination for certain
 24 adjusters; amending s. 626.231, F.S.; providing for
 25 submitting an application for examination on a
 26 designee's website; amending s. 626.241, F.S.;
 27 revising the scope of the examination for an all-lines
 28 adjuster; amending s. 626.251, F.S.; providing for e-

29 mailing notices of examinations; amending s. 626.281,
 30 F.S.; specifying how many times an applicant may take
 31 an examination during a year; amending s. 626.2815,
 32 F.S.; revising provisions relating to continuing
 33 education requirements; providing that persons on
 34 active military duty may seek a waiver; providing for
 35 an update course and the contents of such course;
 36 deleting requirements relating specifically to certain
 37 types of insurance; providing education requirements
 38 for bail bond agents and public adjusters; eliminating
 39 the continuing education advisory board; amending s.
 40 626.292, F.S.; conforming provisions to changes made
 41 by the act relating to all-lines adjusters; amending
 42 s. 626.311, F.S.; conforming provisions to changes
 43 made by the act relating to limited licenses; amending
 44 s. 626.321, F.S.; revising provisions relating to
 45 limited licenses; prohibiting the future issuance of
 46 new limited licenses for motor vehicle physical damage
 47 and mechanical breakdown insurance; combining limited
 48 licenses relating to credit insurance; specifying
 49 events covered by crop hail and multiple-peril crop
 50 insurance; revising in-transit and storage personal
 51 property insurance to create a limited license for
 52 portable electronics insurance; amending s. 626.342,
 53 F.S.; clarifying that the prohibition relating to the
 54 furnishing of supplies to unlicensed agents applies to
 55 all unlicensed agents; amending s. 626.381, F.S.;
 56 revising provisions relating to the reporting of

57 administrative actions; amending s. 626.536, F.S.;

58 clarifying requirements for reporting administrative

59 actions taken against a licensee; amending s. 626.551,

60 F.S.; shortening the time within which a licensee must

61 report to the department a change in certain

62 information; authorizing the Department of Financial

63 Services to adopt rules relating to notification of a

64 change of address; amending s. 626.621, F.S.; adding

65 failure to comply with child support requirements as

66 grounds for action against a license; amending s.

67 626.641, F.S.; clarifying provisions relating to the

68 suspension or revocation of a license or appointment;

69 amending s. 626.651, F.S.; revising provisions

70 relating to the suspension or revocation of licenses;

71 amending ss. 626.730 and 626.732, F.S.; revising

72 provisions relating to the purpose of the general

73 lines and personal lines license and certain

74 requirements related to general lines and personal

75 lines agents; conforming provisions to changes made by

76 the act relating to limited licenses; amending s.

77 626.8411, F.S.; revising requirements and exemptions

78 relating to title insurance agents or agencies;

79 amending s. 626.8418, F.S.; deleting the requirement

80 that a title insurance agency deposit certain

81 securities with the department; creating s. 626.8548,

82 F.S.; defining the term "all-lines adjuster"; amending

83 s. 626.855, F.S.; revising the definition of

84 "independent adjuster"; amending s. 626.856, F.S.;

85 | revising the definition of "company employee
 86 | adjuster"; repealing s. 626.858, F.S., relating to
 87 | defining "nonresident company employee adjuster";
 88 | amending s. 626.8584, F.S.; revising the definition of
 89 | "nonresident all-lines adjuster"; amending s. 626.863,
 90 | F.S.; conforming provisions to changes made by the act
 91 | relating to all-lines adjusters; amending s. 626.864,
 92 | F.S.; revising provisions relating to adjuster license
 93 | types; amending s. 626.865, F.S.; requiring an
 94 | applicant for public adjuster to be licensed as a
 95 | public adjuster apprentice; amending s. 626.866, F.S.;
 96 | conforming provisions to changes made by the act
 97 | relating to all-lines adjusters; repealing s. 626.867,
 98 | F.S., relating to qualifications for company employee
 99 | adjusters; amending s. 626.869, F.S.; revising
 100 | provisions relating to an all-lines adjuster license;
 101 | ceasing the issuance of certain adjuster licenses;
 102 | revising continuing education requirements; amending
 103 | s. 626.8697, F.S.; revising provisions relating to the
 104 | violation of rules resulting in the suspension or
 105 | revocation of an adjuster's license; amending s.
 106 | 626.872, F.S.; conforming provisions to changes made
 107 | by the act relating to all-lines adjusters; repealing
 108 | s. 626.873, F.S., relating to licensure for
 109 | nonresident company employee adjusters; amending s.
 110 | 626.8734, F.S.; amending provisions relating to
 111 | nonresident all-lines adjusters; providing for
 112 | verifying an applicant's status through the National

113 Association of Insurance Commissioners' Producer
 114 Database; amending ss. 626.8736, 626.874, 626.875, and
 115 626.876, F.S.; conforming provisions to changes made
 116 by the act relating to all-lines adjusters; amending
 117 s. 626.927, F.S.; deleting a requirement that a
 118 licensed surplus lines agent maintain a bond;
 119 repealing s. 626.928, F.S., relating to a surplus
 120 lines agent's bond; amending ss. 626.933, 626.935, and
 121 627.952, F.S.; conforming cross-references; amending
 122 s. 635.051, F.S.; requiring persons transacting
 123 mortgage guaranty insurance to be licensed and
 124 appointed as a credit insurance agent; amending s.
 125 648.38, F.S.; revising the notice of examination
 126 requirements for bail bond agents; amending s.
 127 648.385, F.S.; revising continuing education courses
 128 for bail bond agents, to conform to changes made by
 129 the act; amending s. 903.27, F.S.; revising provisions
 130 relating to the provision of forfeiture documents and
 131 notification of certain actions; providing effective
 132 dates.

133
 134 Be It Enacted by the Legislature of the State of Florida:

135
 136 Section 1. Paragraph (e) of subsection (27) of section
 137 624.501, Florida Statutes, is amended to read:

138 624.501 Filing, license, appointment, and miscellaneous
 139 fees.—The department, commission, or office, as appropriate,
 140 shall collect in advance, and persons so served shall pay to it

HB 725

2012

141 in advance, fees, licenses, and miscellaneous charges as
 142 follows:

143 (27) Title insurance agents:

144 (e) Title insurer ~~and title insurance agency~~
 145 administrative surcharge:

146 ~~1.~~ On or before January 30 of each calendar year, each
 147 title insurer shall pay an administrative surcharge of \$200.00
 148 to the office for each licensed title insurance agency ~~appointed~~
 149 ~~by the title insurer~~ and for each title insurer's retail office
 150 that has been appointed by the title of the insurer as of on
 151 January 1 of that calendar year ~~an administrative surcharge of~~
 152 ~~\$200.00.~~

153 ~~2.~~ ~~On or before January 30 of each calendar year, each~~
 154 ~~licensed title insurance agency shall remit to the department an~~
 155 ~~administrative surcharge of \$200.00.~~ The administrative
 156 surcharge may be used solely to defray the costs to the
 157 ~~department and office~~ for gathering and evaluating in their
 158 ~~examination or audit of title insurance agencies and retail~~
 159 ~~offices of title insurers and to gather~~ title insurance data
 160 from title insurance agencies and insurers for statistical
 161 purposes, which shall ~~to~~ be furnished to and used by the office
 162 in its regulation of title insurance.

163 Section 2. Subsection (1) of section 624.505, Florida
 164 Statutes, is amended to read:

165 624.505 County tax; determination; ~~additional offices;~~
 166 nonresident agents.—

167 (1) The county tax imposed ~~provided for~~ under s. 624.501
 168 for ~~as to~~ an agent shall be paid by each insurer for each agent

HB 725

2012

169 only for the county where the agent resides, or if the ~~such~~
 170 agent's place of business is not located in the a county where
 171 the agent resides ~~other than that of her or his residence, then~~
 172 for the county in which the agent's ~~wherein is located~~ such
 173 place of business is located. ~~If an agent maintains an office or~~
 174 ~~place of business in more than one county, the tax shall be paid~~
 175 ~~for her or him by each such insurer for each county wherein the~~
 176 ~~agent represents such insurer and has a place of business. If~~
 177 ~~When under this subsection an insurer is~~ paying the ~~required to~~
 178 ~~pay county tax for an agent for a county or counties other than~~
 179 the agent's county of residence, the insurer must ~~shall~~
 180 designate the county ~~or counties~~ for which the taxes are paid.

181 Section 3. Subsections (1) and (7) of section 626.015,
 182 Florida Statutes, are amended to read:

183 626.015 Definitions.—As used in this part:

184 (1) "Adjuster" means a public adjuster as defined in s.
 185 626.854, a public adjuster apprentice as defined in s. 626.8541,
 186 or an all-lines adjuster as defined in s. 626.8548 ~~independent~~
 187 ~~adjuster as defined in s. 626.855, or company employee adjuster~~
 188 ~~as defined in s. 626.856.~~

189 (7) "Home state" means the District of Columbia and any
 190 state or territory of the United States in which an ~~insurance~~
 191 agent or adjuster maintains his or her principal place of
 192 residence or principal place of business and is licensed to act
 193 as an insurance agent or adjuster.

194 Section 4. Subsections (2) and (3) of section 626.0428,
 195 Florida Statutes, are amended to read:

196 626.0428 Agency personnel powers, duties, and

197 limitations.-

198 (2) An ~~No~~ employee of an agent or agency may not bind
 199 insurance coverage unless licensed and appointed as an ~~a general~~
 200 ~~lines~~ agent or customer representative.

201 (3) An ~~No~~ employee of an agent or agency may not initiate
 202 contact with any person for the purpose of soliciting insurance
 203 unless licensed and appointed as an ~~a general lines~~ agent or
 204 customer representative.

205 Section 5. Subsection (1) and paragraph (b) of subsection
 206 (2) of section 626.171, Florida Statutes, are amended to read:

207 626.171 Application for license as an agent, customer
 208 representative, adjuster, service representative, managing
 209 general agent, or reinsurance intermediary.-

210 (1) The department may ~~shall~~ not issue a license as agent,
 211 customer representative, adjuster, service representative,
 212 managing general agent, or reinsurance intermediary to any
 213 person except upon written application ~~therefor~~ filed with the
 214 department ~~it~~, meeting the qualifications for the license
 215 applied for as determined by the department ~~qualification~~
 216 ~~therefor~~, and payment in advance of all applicable fees. The ~~Any~~
 217 ~~such~~ application must ~~shall~~ be made under the oath of the
 218 applicant and be signed by the applicant. An applicant may
 219 permit a third party to complete, submit, and sign an
 220 application on the applicant's behalf, but is responsible for
 221 ensuring that the information on the application is true and
 222 correct and is accountable for any misstatements or
 223 misrepresentations. The department shall accept the uniform
 224 application for nonresident agent licensing. ~~The department may~~

225 ~~adopt revised versions of the uniform application by rule.~~

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

227 (b) A statement indicating the method the applicant used

228 or is using to meet any required prelicensing education,

229 knowledge, experience, or instructional requirements for the

230 type of license applied for. ~~Proof that he or she has completed~~

231 ~~or is in the process of completing any required prelicensing~~

232 ~~course.~~

233

234 However, the application must contain a statement that an

235 applicant is not required to disclose his or her race or

236 ethnicity, gender, or native language, that he or she will not

237 be penalized for not doing so, and that the department will use

238 this information exclusively for research and statistical

239 purposes and to improve the quality and fairness of the

240 examinations.

241 Section 6. Section 626.191, Florida Statutes, is amended

242 to read:

243 626.191 Repeated applications.—The failure of an applicant

244 to secure a license upon ~~an~~ application does ~~shall~~ not preclude

245 the applicant from applying again. However ~~as many times as~~

246 ~~desired, but~~ the department may ~~shall~~ not consider ~~give~~

247 ~~consideration to~~ or accept any further application by the same

248 applicant individual for a similar license dated or filed within

249 30 days after ~~subsequent to~~ the date the department denied the

250 last application, except as provided under ~~in~~ s. 626.281.

251 Section 7. Subsection (2) of section 626.221, Florida

252 Statutes, is amended to read:

253 626.221 Examination requirement; exemptions.—

254 (2) However, an ~~no such~~ examination is not ~~shall be~~
 255 necessary for ~~in~~ any of the following ~~eases~~:

256 (a) An applicant for renewal of appointment as an agent,
 257 customer representative, or adjuster, unless the department
 258 determines that an examination is necessary to establish the
 259 competence or trustworthiness of the ~~such~~ applicant.

260 (b) An applicant for a limited license as agent for travel
 261 insurance, motor vehicle rental ~~personal accident insurance,~~
 262 ~~baggage and motor vehicle excess liability insurance, credit~~
 263 ~~life or disability~~ insurance, credit insurance, ~~credit property~~
 264 ~~insurance,~~ in-transit and storage personal property insurance,
 265 or portable electronics ~~communications equipment property~~
 266 ~~insurance or communication equipment inland marine~~ insurance
 267 under s. 326.321.

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

274 (d) An applicant who, within the 4 years before ~~prior to~~
 275 application for license and appointment as an agent, customer
 276 representative, or adjuster, was a full-time salaried employee
 277 of the department who ~~and~~ had ~~continuously been such an employee~~
 278 ~~with~~ responsible insurance duties for at least ~~not less than~~ 2
 279 continuous years and who had been a licensee within the 4 years
 280 before ~~prior to~~ employment by the department with the same class

281 of license as that being applied for.

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

291 ~~(f) A person who has been licensed as a company employee~~
 292 ~~adjuster or independent adjuster for motor vehicle, property and~~
 293 ~~casualty, workers' compensation, and health insurance may be~~
 294 ~~licensed as such an adjuster without additional written~~
 295 ~~examination if his or her application for licensure is filed~~
 296 ~~with the department within 48 months after cancellation or~~
 297 ~~expiration of the prior license.~~

298 ~~(f)(g)~~ An applicant for a temporary license, except as
 299 otherwise provided in this code.

300 ~~(g)(h)~~ An applicant for a license as a life or health
 301 agent ~~license~~ who has received the designation of chartered life
 302 underwriter (CLU) from the American College of Life Underwriters
 303 and ~~who~~ has been engaged in the insurance business within the
 304 past 4 years, except that the applicant ~~such an individual~~ may
 305 be examined on pertinent provisions of this code.

306 ~~(h)(i)~~ An applicant for license as a general lines agent,
 307 customer representative, or adjuster who has received the
 308 designation of chartered property and casualty underwriter

HB 725

2012

309 (CPCU) from the American Institute for Property and Liability
 310 Underwriters and ~~who~~ has been engaged in the insurance business
 311 within the past 4 years, except that the applicant ~~such an~~
 312 ~~individual~~ may be examined on pertinent provisions of this code.

313 (i)~~(j)~~ An applicant for license as a customer
 314 representative who has earned the designation of Accredited
 315 Advisor in Insurance (AAI) from the Insurance Institute of
 316 America, the designation of Certified Insurance Counselor (CIC)
 317 from the Society of Certified Insurance Service Counselors, the
 318 designation of Accredited Customer Service Representative (ACSR)
 319 from the Independent Insurance Agents of America, the
 320 designation of Certified Professional Service Representative
 321 (CPSR) from the National Foundation for Certified Professional
 322 Service Representatives, the designation of Certified Insurance
 323 Service Representative (CISR) from the Society of Certified
 324 Insurance Service Representatives, or the designation of
 325 Certified Insurance Representative (CIR) from the National
 326 Association of Christian Catastrophe Insurance Adjusters. Also,
 327 an applicant for license as a customer representative who has
 328 earned an associate degree or bachelor's degree from an
 329 accredited college or university and has completed ~~with~~ at least
 330 9 academic hours of property and casualty insurance curriculum,
 331 or the equivalent, or has earned the designation of Certified
 332 Customer Service Representative (CCSR) from the Florida
 333 Association of Insurance Agents, or the designation of
 334 Registered Customer Service Representative (RCSR) from a
 335 regionally accredited postsecondary institution in this state,
 336 or the designation of Professional Customer Service

337 Representative (PCSR) from the Professional Career Institute,
 338 whose curriculum has been approved by the department and which
 339 ~~whose curriculum~~ includes comprehensive analysis of basic
 340 property and casualty lines of insurance and testing at least
 341 equal to that of standard department testing for the customer
 342 representative license. The department shall adopt rules
 343 establishing standards for the approval of curriculum.

344 ~~(j)(k)~~ An applicant for license as a resident or
 345 nonresident all-lines ~~an independent or company employee~~
 346 adjuster who has the designation of Accredited Claims Adjuster
 347 (ACA) from a regionally accredited postsecondary institution in
 348 this state, Professional Claims Adjuster (PCA) from the
 349 Professional Career Institute, Professional Property Insurance
 350 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
 351 Adjuster (CA) from ALL LINES Training, or Certified Claims
 352 Adjuster (CCA) from the Association of Property and Casualty
 353 Claims Professionals whose curriculum has been approved by the
 354 department and which ~~whose curriculum~~ includes comprehensive
 355 analysis of basic property and casualty lines of insurance and
 356 testing at least equal to that of standard department testing
 357 for the all-lines adjuster license. The department shall adopt
 358 rules establishing standards for the approval of curriculum.

359 ~~(k)(i)~~ An applicant qualifying for a license transfer
 360 under s. 626.292~~7~~ if the applicant:

- 361 1. Has successfully completed the prelicensing examination
- 362 requirements in the applicant's previous home state which are
- 363 substantially equivalent to the examination requirements in this
- 364 state, as determined by the department;

365 2. Has received the designation of chartered property and
 366 casualty underwriter (CPCU) from the American Institute for
 367 Property and Liability Underwriters and ~~has~~ been engaged in the
 368 insurance business within the past 4 years if applying to
 369 transfer a general lines agent license; or

370 3. Has received the designation of chartered life
 371 underwriter (CLU) from the American College of Life Underwriters
 372 and ~~has~~ been engaged in the insurance business within the past 4
 373 years, if applying to transfer a life or health agent license.

374 (1) ~~(m)~~ An applicant for a license as a nonresident agent
 375 ~~license~~, if the applicant:

376 1. Has successfully completed prelicensing examination
 377 requirements in the applicant's home state which are
 378 substantially equivalent to the examination requirements in this
 379 state, as determined by the department, as a requirement for
 380 obtaining a resident license in his or her home state;

381 2. Held a general lines agent license, life agent license,
 382 or health agent license before ~~prior to the time~~ a written
 383 examination was required;

384 3. Has received the designation of chartered property and
 385 casualty underwriter (CPCU) from the American Institute for
 386 Property and Liability Underwriters and has been engaged in the
 387 insurance business within the past 4 years, if an applicant for
 388 a nonresident license as a general lines agent; or

389 4. Has received the designation of chartered life
 390 underwriter (CLU) from the American College of Life Underwriters
 391 and ~~has~~ been in the insurance business within the past 4 years,
 392 if an applicant for a nonresident license as a life agent or

393 health agent.

394 Section 8. Subsection (2) of section 626.231, Florida
 395 Statutes, is amended to read:

396 626.231 Eligibility; application for examination.—

397 (2) A person required to take an examination for a license
 398 may ~~be permitted to~~ take an examination before ~~prior to~~
 399 submitting an application for licensure pursuant to s. 626.171
 400 by submitting an application for examination through the
 401 department's Internet website or the website of a person
 402 designated by the department to administer the examination. The
 403 department may require ~~In the application,~~ the applicant to
 404 provide the following information as part of the application
 405 ~~shall set forth:~~

406 (a) His or her full name, date of birth ~~age~~, social
 407 security number, residence address, business address, and
 408 mailing address.

409 (b) The type of license which ~~that~~ the applicant intends
 410 to apply for.

411 (c) The name of any required prelicensing course he or she
 412 has completed or is in the process of completing.

413 (d) The method by which the applicant intends to qualify
 414 for the type of license if other than by completing a
 415 prelicensing course.

416 (e) The applicant's gender ~~(male or female)~~.

417 (f) The applicant's native language.

418 (g) The highest level of education achieved by the
 419 applicant.

420 (h) The applicant's race or ethnicity ~~(African American,~~

421 ~~white, American Indian, Asian, Hispanic, or other).~~

422

423 However, the application form must contain a statement that an
 424 applicant is not required to disclose his or her race or
 425 ethnicity, gender, or native language, that he or she will not
 426 be penalized for not doing so, and that the department will use
 427 this information exclusively for research and statistical
 428 purposes and to improve the quality and fairness of the
 429 examinations.

430 Section 9. Subsection (6) of section 626.241, Florida
 431 Statutes, is amended to read:

432 626.241 Scope of examination.—

433 (6) In order to reflect the differences between adjusting
 434 claims for an insurer and adjusting claims for an insured, the
 435 department shall create an examination for applicants seeking
 436 licensure as a public adjuster and a separate examination for
 437 applicants seeking licensure as an all-lines ~~a company employee~~
 438 ~~adjuster or independent~~ adjuster.

439 (a) Examinations ~~given applicants~~ for a license as an all-
 440 lines adjuster must ~~shall~~ cover adjusting in all lines of
 441 insurance, other than life and annuity; ~~or, in accordance with~~
 442 ~~the application for the license, the examination may be limited~~
 443 ~~to adjusting in:~~

444 ~~(a) Automobile physical damage insurance;~~

445 ~~(b) Property and casualty insurance;~~

446 ~~(c) Workers' compensation insurance; or~~

447 ~~(d) Health insurance.~~

448 (b) ~~An~~ examination for workers' ~~on worker's~~

449 compensation insurance or health insurance is not ~~shall be~~
 450 required for public adjusters.

451 Section 10. Subsection (1) of section 626.251, Florida
 452 Statutes, is amended to read:

453 626.251 Time and place of examination; notice.—

454 (1) The department, or a person designated by the
 455 department, shall provide ~~mail-written~~ notice of the time and
 456 place of the examination to each applicant for examination and
 457 each applicant for license required to take an examination who
 458 will be eligible to take the examination as of the examination
 459 date. The notice shall be e-mailed ~~so mailed, postage prepaid,~~
 460 ~~and addressed~~ to the applicant at the e-mail ~~his or her~~ address
 461 shown on the application for license or examination ~~at such~~
 462 ~~other address as requested by the applicant in writing filed~~
 463 ~~with the department prior to the mailing of the notice.~~ Notice
 464 is ~~shall be~~ deemed given when so mailed.

465 Section 11. Section 626.281, Florida Statutes, is amended
 466 to read:

467 626.281 Reexamination.—

468 (1) An ~~Any~~ applicant for license or ~~applicant for~~
 469 examination who has ~~either~~:

470 (a) Taken an examination and failed to make a passing
 471 grade, or

472 (b) Failed to appear for the examination or to take or
 473 complete the examination at the time and place specified in the
 474 notice of the department,

475
 476 may take additional examinations, after filing with the

HB 725

2012

477 department or its designee an application for reexamination
 478 together with applicable fees. The failure of an applicant to
 479 pass an examination, ~~or the failure~~ to appear for the
 480 examination, or to take or complete the examination does not
 481 preclude the applicant from taking subsequent examinations.

482 (2) Applicants may take an examination for a license type
 483 up to three times in a 12-month period.

484 (3)~~(2)~~ The department may require an ~~any~~ individual whose
 485 license as an agent, customer representative, or adjuster has
 486 expired or ~~has~~ been suspended to pass an examination before
 487 ~~prior to~~ reinstating or relicensing the individual as to any
 488 class of license. The examination fee must ~~shall~~ be paid for ~~as~~
 489 ~~to~~ each examination.

490 Section 12. Section 626.2815, Florida Statutes, is amended
 491 to read:

492 626.2815 Continuing education ~~required; application;~~
 493 ~~exceptions; requirements; penalties.~~-

494 (1) The purpose of this section is to establish
 495 requirements and standards for continuing education courses for
 496 individuals ~~persons~~ licensed to solicit, ~~or~~ sell, or adjust
 497 insurance in the state.

498 (2) Except as otherwise provided in this section, ~~the~~
 499 ~~provisions of this section~~ applies ~~apply~~ to individuals ~~persons~~
 500 licensed to engage in the sale of insurance or adjustment of
 501 insurance claims in this state for all lines of insurance for
 502 which an examination is required for licensing and to each
 503 insurer, employer, or appointing entity, including, but not
 504 limited to, those created or existing pursuant to s. 627.351.

505 ~~The provisions of~~ This section does ~~shall~~ not apply to an ~~any~~
 506 individual who holds ~~person holding~~ a license for the sale of
 507 any line of insurance for which an examination is not required
 508 by the laws of this state or who holds a, ~~nor shall the~~
 509 ~~provisions of this section apply to any limited license as the~~
 510 ~~department may exempt by rule.~~ Licensees who are unable to
 511 comply with the continuing education requirements due to active
 512 duty in the military may submit a written request for a waiver
 513 to the department.

514 (3) ~~(a)~~ Each licensee ~~person~~ subject to ~~the provisions of~~
 515 this section must, except as set forth in paragraphs (b), (c),
 516 and (d), complete a minimum of 24 hours of continuing education
 517 courses every 2 years in basic or higher-level courses
 518 prescribed by this section or in other courses approved by the
 519 department.

520 (a) Each licensee ~~person~~ subject to ~~the provisions of this~~
 521 ~~section~~ must complete, ~~as part of his or her required number of~~
 522 ~~continuing education hours,~~ 3 hours of continuing education,
 523 approved by the department, every 2 years on the subject matter
 524 of ethics. Each licensed general lines agent and customer
 525 representative ~~subject to this section~~ must complete, ~~as part of~~
 526 ~~his or her required number of continuing education hours,~~ 1 hour
 527 of continuing education, approved by the department, every 2
 528 years on the subject matter of premium discounts available on
 529 property insurance policies based on various hurricane
 530 mitigation options and the means for obtaining the discounts.

531 (b) A licensee ~~person~~ who has been licensed for a ~~period~~
 532 ~~of~~ 6 or more years must complete 20 hours of continuing

533 education every 2 years in intermediate or advanced-level
 534 courses prescribed by this section or in other courses approved
 535 by the department.

536 (c) A licensee who has been licensed for 25 years or more
 537 and is a CLU or a CPCU or has a Bachelor of Science degree in
 538 risk management or insurance with evidence of 18 or more
 539 semester hours in upper-level insurance-related courses must
 540 complete 10 hours of continuing education courses every 2 years
 541 in courses prescribed by this section or in other courses
 542 approved by the department.

543 (d) An individual ~~Any person~~ who holds a license as a
 544 customer representative, limited customer representative, title
 545 agent, motor vehicle physical damage and mechanical breakdown
 546 insurance agent, crop or hail and multiple-peril crop insurance
 547 agent, or ~~as~~ an industrial fire insurance or burglary insurance
 548 agent and who is not a licensed life or health ~~insurance~~ agent,
 549 must ~~shall be required to~~ complete 10 hours of continuing
 550 education courses every 2 years.

551 (e) An individual ~~Any person~~ who holds a license to
 552 solicit or sell life or health insurance and a license to
 553 solicit or sell property, casualty, surety, or surplus lines
 554 insurance must complete ~~the continuing education requirements by~~
 555 ~~completing~~ courses in life or health insurance for one-half of
 556 the total hours required and courses in property, casualty,
 557 surety, or surplus lines insurance for one-half of the total
 558 hours required. However, a licensee who holds an industrial fire
 559 or burglary insurance license and who is a licensed life or
 560 health agent must ~~shall be required to~~ complete 4 hours of

561 continuing education courses every 2 years related to industrial
 562 fire or burglary insurance and the remaining number of hours of
 563 continuing education courses ~~required~~ related to life or health
 564 insurance.

565 (f) Excess hours accumulated during any 2-year compliance
 566 period may be carried forward to the next compliance period.

567 (g) An individual teaching an approved course of
 568 instruction or lecturing at an any approved seminar and
 569 attending the entire course or seminar qualifies for the same
 570 number of classroom hours as would be granted to a person taking
 571 and successfully completing such course or seminar. Credit is
 572 limited to the number of hours actually taught unless a person
 573 attends the entire course or seminar. An individual who is an
 574 official of or employed by a governmental entity in this state
 575 and serves as a professor, instructor, or other position or
 576 office, the duties and responsibilities of which are determined
 577 by the department to require monitoring and review of insurance
 578 laws or insurance regulations and practices, is exempt from this
 579 section.

580 ~~(4)(f)1.~~ ~~Except as provided in subparagraph 2.,~~ Compliance
 581 with continuing education requirements is a condition precedent
 582 to the issuance, continuation, reinstatement, or renewal of any
 583 appointment subject to this section. However:

584 ~~(a)2.a.~~ An appointing entity, except one that appoints
 585 individuals who are employees or exclusive independent
 586 contractors of the appointing entity, may not require, directly
 587 or indirectly, as a condition of such appointment or the
 588 continuation of such appointment, the taking of an approved

589 course or program by any appointee or potential appointee which
 590 ~~that~~ is not of the appointee's choosing.

591 (b)~~b~~. Any entity created or existing pursuant to s.
 592 627.351 may require employees to take training of any type
 593 relevant to their employment but may not require appointees who
 594 are not employees to take any approved course or program unless
 595 the course or program deals solely with the appointing entity's
 596 internal procedures or products or with subjects substantially
 597 unique to the appointing entity.

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

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

614 (5)(i) For good cause shown, the department may grant an
 615 extension of time during which the requirements of imposed by
 616 this section may be completed, but such extension ~~of time~~ may

617 not exceed 1 year.

618 ~~(6)-(j)~~ A nonresident licensee who must complete continuing
 619 education requirements in his or her home state may use the home
 620 state requirements to also meet this state's continuing
 621 education requirements ~~as well,~~ if the licensee's ~~resident's~~
 622 home state recognizes reciprocity with this state's continuing
 623 education requirements. A nonresident licensee whose home state
 624 does not have a continuing education requirement but is licensed
 625 for the same class of business in another state that has ~~which~~
 626 ~~does have~~ a continuing education requirement may comply with
 627 this section by furnishing proof of compliance with the other
 628 state's requirement if that state has a reciprocal agreement
 629 with this state relative to continuing education. A nonresident
 630 licensee whose home state does not have such continuing
 631 education requirements, and who is not licensed as a nonresident
 632 licensee ~~agent~~ in a state that has continuing education
 633 requirements and reciprocates with this state, must meet the
 634 continuing education requirements of this state.

635 ~~(k) Any person who holds a license to solicit or sell life~~
 636 ~~insurance in this state must complete a minimum of 3 hours in~~
 637 ~~continuing education, approved by the department, on the subject~~
 638 ~~of suitability in annuity and life insurance transactions. This~~
 639 ~~requirement does not apply to an agent who does not have any~~
 640 ~~active life insurance or annuity contracts. In applying this~~
 641 ~~exemption, the department may require the filing of a~~
 642 ~~certification attesting that the agent has not sold life~~
 643 ~~insurance or annuities during the continuing education~~
 644 ~~compliance cycle in question and does not have any active life~~

645 ~~insurance or annuity contracts. A licensee may use the hours~~
 646 ~~obtained under this paragraph to satisfy the requirement for~~
 647 ~~continuing education in ethics under paragraph (a).~~

648 (7)~~(4)~~ The following courses may be completed in order to
 649 meet the elective continuing education course requirements:

650 (a) Any part of the Life Underwriter Training Council Life
 651 Course Curriculum: 24 hours; Health Course: 12 hours.

652 (b) Any part of the American College "CLU" diploma
 653 curriculum: 24 hours.

654 (c) Any part of the Insurance Institute of America's
 655 program in general insurance: 12 hours.

656 (d) Any part of the American Institute for Property and
 657 Liability Underwriters' Chartered Property Casualty Underwriter
 658 (CPCU) professional designation program: 24 hours.

659 (e) Any part of the Certified Insurance Counselor program:
 660 21 hours.

661 (f) Any part of the Accredited Advisor in Insurance: 21
 662 hours.

663 (g) In the case of title agents, completion of the
 664 Certified Land Closer (CLC) professional designation program and
 665 receipt of the designation: 24 hours.

666 (h) In the case of title agents, completion of the
 667 Certified Land Searcher (CLS) professional designation program
 668 and receipt of the designation: 24 hours.

669 (i) Any insurance-related course that ~~which~~ is approved by
 670 the department and taught by an accredited college or university
 671 per credit hour granted: 12 hours.

672 (j) Any course, including courses relating to agency

673 management or errors and omissions, developed or sponsored by an
 674 ~~any~~ authorized insurer or recognized agents' association or
 675 insurance trade association or an ~~any~~ independent study program
 676 of instruction, subject to approval by the department, qualifies
 677 for the equivalency of the number of classroom hours assigned
 678 ~~thereto~~ by the department. However, unless otherwise provided in
 679 this section, continuing education hours may not be credited
 680 toward meeting the requirements of this section unless the
 681 course is provided by classroom instruction or results in a
 682 monitored examination. A monitored examination is not required
 683 for:

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

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

HB 725

2012

701 administered online, the sworn affidavit must also be signed by
 702 a disinterested third party. The sworn affidavit must be
 703 received by the approved provider before ~~prior to~~ reporting
 704 continuing education credits to the department.

705 ~~(8)(k)~~ Each person or entity sponsoring a course for
 706 continuing education credit must furnish, within 15 ~~30~~ days
 707 after completion of the course, in a form satisfactory to the
 708 department or its designee, a ~~written and certified~~ roster
 709 showing the name and license number of all persons successfully
 710 completing such course and requesting credit, ~~accompanied by the~~
 711 ~~required fee.~~

712 ~~(9)(5)~~ The department may immediately terminate or shall
 713 refuse to renew the appointment of an any agent or adjuster who
 714 has been notified by the department that who has not had his or
 715 her continuing education requirements have not been certified,
 716 unless the agent or adjuster has been granted an extension or
 717 waiver by the department. The department may not issue a new
 718 appointment of the same or similar type, ~~with any insurer,~~ to a
 719 licensee ~~an agent~~ who was denied a renewal appointment for
 720 failing failure to complete continuing education as required
 721 until the licensee ~~agent~~ completes his or her continuing
 722 education requirement.

723 ~~(6)(a)~~ ~~There is created an 11 member continuing education~~
 724 ~~advisory board to be appointed by the Chief Financial Officer.~~
 725 ~~Appointments shall be for terms of 4 years. The purpose of the~~
 726 ~~board is to advise the department in determining standards by~~
 727 ~~which courses may be evaluated and categorized as basic,~~
 728 ~~intermediate, or advanced. The board shall submit~~

729 ~~recommendations to the department of changes needed in such~~
 730 ~~criteria not less frequently than every 2 years. The department~~
 731 ~~shall require all approved course providers to submit courses~~
 732 ~~for approval to the department using the criteria. All~~
 733 ~~materials, brochures, and advertisements related to the approved~~
 734 ~~courses must specify the level assigned to the course.~~

735 ~~(b) The board members shall be appointed as follows:~~

736 ~~1. Seven members representing agents of which at least one~~
 737 ~~must be a representative from each of the following~~
 738 ~~organizations: the Florida Association of Insurance Agents; the~~
 739 ~~Florida Association of Insurance and Financial Advisors; the~~
 740 ~~Professional Insurance Agents of Florida, Inc.; the Florida~~
 741 ~~Association of Health Underwriters; the Specialty Agents'~~
 742 ~~Association; the Latin American Agents' Association; and the~~
 743 ~~National Association of Insurance Women. Such board members must~~
 744 ~~possess at least a bachelor's degree or higher from an~~
 745 ~~accredited college or university with major coursework in~~
 746 ~~insurance, risk management, or education or possess the~~
 747 ~~designation of CLU, CPCU, ChFC, CFP, AAI, or CIC. In addition,~~
 748 ~~each member must possess 5 years of classroom instruction~~
 749 ~~experience or 5 years of experience in the development or design~~
 750 ~~of educational programs or 10 years of experience as a licensed~~
 751 ~~resident agent. Each organization may submit to the department a~~
 752 ~~list of recommendations for appointment. If one organization~~
 753 ~~does not submit a list of recommendations, the Chief Financial~~
 754 ~~Officer may select more than one recommended person from a list~~
 755 ~~submitted by other eligible organizations.~~

756 ~~2. Two members representing insurance companies at least~~

757 ~~one of whom must represent a Florida Domestic Company and one of~~
 758 ~~whom must represent the Florida Insurance Council. Such board~~
 759 ~~members must be employed within the training department of the~~
 760 ~~insurance company. At least one such member must be a member of~~
 761 ~~the Society of Insurance Trainers and Educators.~~

762 ~~3. One member representing the general public who is not~~
 763 ~~directly employed in the insurance industry. Such board member~~
 764 ~~must possess a minimum of a bachelor's degree or higher from an~~
 765 ~~accredited college or university with major coursework in~~
 766 ~~insurance, risk management, training, or education.~~

767 ~~4. One member, appointed by the Chief Financial Officer,~~
 768 ~~who represents the department.~~

769 ~~(c) The members of the board shall serve at the pleasure~~
 770 ~~of the Chief Financial Officer. Each board member shall be~~
 771 ~~entitled to reimbursement for expenses pursuant to s. 112.061.~~
 772 ~~The board shall designate one member as chair. The board shall~~
 773 ~~meet at the call of the chair or the Chief Financial Officer.~~

774 ~~(10)(7)~~ The department may contract services relative to
 775 the administration of the continuing education program to a
 776 private entity. The contract shall be procured as a ~~contract for~~
 777 ~~a contractual service pursuant to s. 287.057.~~

778 Section 13. Effective October 1, 2014, subsection (3) of
 779 section 626.2815, Florida Statutes, as amended by this act, is
 780 amended to read:

626.2815 Continuing education requirements.-

782 (3) Each licensee ~~subject to this section must, except as~~
 783 ~~set forth in paragraphs (b), (c), and (d),~~ complete a 7-hour
 784 update course every 2 years which is specific to the license

785 held by the licensee. The course must be developed and offered
 786 by providers and approved by the department. The content of the
 787 course must address all lines of insurance for which examination
 788 and license is required and include the following subject areas:
 789 insurance law updates, ethics for insurance professionals,
 790 disciplinary trends and case studies, industry trends,
 791 determining suitability of products and services, and other
 792 similar insurance-related topics the department determines are
 793 relevant to legally and ethically carrying out the
 794 responsibilities of the license granted. A licensee who holds
 795 multiple insurance licenses must complete an update course that
 796 is specific to at least one of the licenses held. Except as
 797 otherwise specified, any remaining required hours of continuing
 798 education are elective and may consist of any continuing
 799 education course approved by the department or under this
 800 section minimum of 24 hours of continuing education courses
 801 every 2 years in basic or higher level courses prescribed by
 802 this section or in other courses approved by the department.

803 (a) Except as provided in paragraphs (b), (c), (d), (e),
 804 and (f), each licensee must also complete 17 ~~3~~ hours of elective
 805 continuing education courses, approved by the department, every
 806 2 years on the subject matter of ethics. Each licensed general
 807 lines agent and customer representative must complete 1 hour of
 808 continuing education, approved by the department, every 2 years
 809 on the subject matter of premium discounts available on property
 810 insurance policies based on various hurricane mitigation options
 811 and the means for obtaining the discounts.

812 (b) A licensee who has been licensed for 6 or more years

813 must also complete a minimum of 13 ~~20~~ hours of elective
 814 continuing education every 2 years ~~in intermediate or advanced-~~
 815 ~~level courses prescribed by this section or in other courses~~
 816 ~~approved by the department.~~

817 (c) A licensee who has been licensed for 25 years or more
 818 and is a CLU or a CPCU or has a Bachelor of Science degree in
 819 risk management or insurance with evidence of 18 or more
 820 semester hours in ~~upper-level~~ insurance-related courses must
 821 also complete a minimum of 3 ~~10~~ hours of elective continuing
 822 education courses every 2 years ~~in courses prescribed by this~~
 823 ~~section or in other courses approved by the department.~~

824 (d) An individual who holds a license as a customer
 825 representative, limited customer representative, title agent,
 826 ~~motor vehicle physical damage and mechanical breakdown insurance~~
 827 ~~agent, crop or hail and multiple-peril crop insurance agent,~~ or
 828 an industrial fire insurance or burglary insurance agent and who
 829 is not a licensed life or health agent, must also complete a
 830 minimum of 3 ~~10~~ hours of continuing education courses every two
 831 years.

832 ~~(e) An individual who holds a license to solicit or sell~~
 833 ~~life or health insurance and a license to solicit or sell~~
 834 ~~property, casualty, surety, or surplus lines insurance must~~
 835 ~~complete courses in life or health insurance for one-half of the~~
 836 ~~total hours required and courses in property, casualty, surety,~~
 837 ~~or surplus lines insurance for one-half of the total hours~~
 838 ~~required. However, a licensee who holds an industrial fire or~~
 839 ~~burglary insurance license and who is a licensed life or health~~
 840 ~~agent must complete 4 hours of continuing education courses~~

841 ~~every 2 years related to industrial fire or burglary insurance~~
 842 ~~and the remaining number of hours of continuing education~~
 843 ~~courses related to life or health insurance.~~

844 (e) An individual subject to chapter 648 must complete the
 845 7-hour update course and a minimum of 7 hours of elective
 846 continuing education courses every 2 years.

847 (f) Elective continuing education courses for public
 848 adjusters must be specifically designed for public adjusters and
 849 approved by the department. Notwithstanding this subsection,
 850 public adjusters for workers' compensation insurance or health
 851 insurance are not required to take continuing education courses
 852 pursuant to this section.

853 (g)~~(f)~~ Excess hours accumulated during any 2-year
 854 compliance period may be carried forward to the next compliance
 855 period.

856 (h)~~(g)~~ An individual teaching an approved course of
 857 instruction or lecturing at an any approved seminar and
 858 attending the entire course or seminar qualifies for the same
 859 number of classroom hours as would be granted to a person taking
 860 and successfully completing such course or seminar. Credit is
 861 limited to the number of hours actually taught unless a person
 862 attends the entire course or seminar. An individual who is an
 863 official of or employed by a governmental entity in this state
 864 and serves as a professor, instructor, or other position or
 865 office, the duties and responsibilities of which are determined
 866 by the department to require monitoring and review of insurance
 867 laws or insurance regulations and practices, is exempt from this
 868 section.

869 Section 14. Subsections (1) and (2) of section 626.292,
870 Florida Statutes, are amended to read:

871 626.292 Transfer of license from another state.—

872 (1) An ~~Any~~ individual licensed in good standing in another
873 state may apply to the department to have the license
874 transferred to this state to obtain a ~~Florida~~ resident agent or
875 all-lines adjuster license for the same lines of authority
876 covered by the license in the other state.

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

879 (a) The individual must ~~shall~~ become a resident of this
880 state.

881 (b) The individual must ~~shall~~ have been licensed in
882 another state for a minimum of 1 year immediately preceding the
883 date the individual became a resident of this state.

884 (c) The individual must ~~shall~~ submit a completed
885 application for this state which is received by the department
886 within 90 days after the date the individual became a resident
887 of this state, along with payment of the applicable fees set
888 forth in s. 624.501 and submission of the following documents:

889 1. A certification issued by the appropriate official of
890 the applicant's home state identifying the type of license and
891 lines of authority under the license and stating that, at the
892 time the license from the home state was canceled, the applicant
893 was in good standing in that state or that the state's Producer
894 Database records, maintained by the National Association of
895 Insurance Commissioners, its affiliates, or subsidiaries,
896 indicate that the agent or all-lines adjuster is or was licensed

897 in good standing for the line of authority requested.

898 2. A set of the ~~individual~~ applicant's fingerprints in
 899 accordance with s. 626.171(4).

900 (d) The individual must ~~shall~~ satisfy prelicensing
 901 education requirements in this state, unless the completion of
 902 prelicensing education requirements was a prerequisite for
 903 licensure in the other state and the prelicensing education
 904 requirements in the other state are substantially equivalent to
 905 the prelicensing requirements of this state as determined by the
 906 department. This paragraph does not apply to all-lines
 907 adjusters.

908 (e) The individual must ~~shall~~ satisfy the examination
 909 requirement under s. 626.221, unless exempted ~~exempt~~ thereunder.

910 Section 15. Subsections (2) and (3) of section 626.311,
 911 Florida Statutes, are amended to read:

912 626.311 Scope of license.—

913 (2) Except with respect ~~as~~ to a limited license as a
 914 credit ~~life or disability~~ insurance agent, the license of a life
 915 agent covers ~~shall cover~~ all classes of life insurance business.

916 (3) Except with respect ~~as~~ to a limited license as a
 917 travel ~~personal accident~~ insurance agent, the license of a
 918 health agent covers ~~shall cover~~ all kinds of health insurance,
 919 and such ~~no~~ license may not ~~shall~~ be issued limited to a
 920 particular class of health insurance.

921 Section 16. Subsections (1) and (4) of section 626.321,
 922 Florida Statutes, are amended to read:

923 626.321 Limited licenses.—

924 (1) The department shall issue to a qualified applicant

925 ~~individual, or a qualified individual or entity under paragraphs~~
 926 ~~(e), (d), (e), and (i),~~ a license as agent authorized to
 927 transact a limited class of business in any of the following
 928 categories of limited lines insurance:

929 (a) *Motor vehicle physical damage and mechanical breakdown*
 930 *insurance.*—License covering insurance against only the loss of
 931 or damage to a any motor vehicle that ~~which~~ is designed for use
 932 upon a highway, including trailers and semitrailers designed for
 933 use with such vehicles. Such license also covers insurance
 934 against the failure of an original or replacement part to
 935 perform any function for which it was designed. ~~The applicant~~
 936 ~~for such a license shall pass a written examination covering~~
 937 ~~motor vehicle physical damage insurance and mechanical breakdown~~
 938 ~~insurance.~~ A licensee under this paragraph may not ~~No individual~~
 939 ~~while so licensed shall~~ hold a license as an agent for ~~as to~~ any
 940 other or additional kind or class of insurance coverage except
 941 ~~as to~~ a limited license for credit insurance ~~life and disability~~
 942 ~~insurances~~ as provided in paragraph (e). Effective October 1,
 943 2012, all licensees holding such limited license and appointment
 944 may renew the license and appointment, but no new or additional
 945 licenses may be issued pursuant to this paragraph, and a
 946 licensee whose limited license under this paragraph has been
 947 terminated, suspended, or revoked may not have such license
 948 reinstated.

949 (b) *Industrial fire insurance or burglary insurance.*—
 950 License covering only industrial fire insurance or burglary
 951 insurance. The applicant for such a license must ~~shall~~ pass a
 952 written examination covering such insurance. A licensee under

953 this paragraph may not ~~No individual while so licensed shall~~
 954 hold a license as an agent for ~~as to~~ any other or additional
 955 kind or class of insurance coverage except for ~~as to~~ life
 956 insurance and health insurance ~~insurances~~.

957 (c) *Travel insurance.*—License covering only policies and
 958 certificates of travel insurance, which are subject to review by
 959 the office under s. 624.605(1)(q). Policies and certificates of
 960 travel insurance may provide coverage for risks incidental to
 961 travel, planned travel, or accommodations while traveling,
 962 including, but not limited to, accidental death and
 963 dismemberment of a traveler; trip cancellation, interruption, or
 964 delay; loss of or damage to personal effects or travel
 965 documents; baggage delay; emergency medical travel or evacuation
 966 of a traveler; or medical, surgical, and hospital expenses
 967 related to an illness or emergency of a traveler. ~~Any~~ Such
 968 policy or certificate may be issued for terms longer than 60
 969 days, but ~~each policy or certificate~~, other than a policy or
 970 certificate providing coverage for air ambulatory services only,
 971 each policy or certificate must be limited to coverage for
 972 travel or use of accommodations of no longer than 60 days. The
 973 license may be issued only:

974 1. To a full-time salaried employee of a common carrier or
 975 a full-time salaried employee or owner of a transportation
 976 ticket agency and may authorize the sale of such ticket policies
 977 only in connection with the sale of transportation tickets, or
 978 to the full-time salaried employee of such an agent. ~~No~~ Such
 979 policy may not ~~shall~~ be for a ~~duration of~~ more than 48 hours or
 980 more than ~~for~~ the duration of a specified one-way trip or round

HB 725

2012

981 trip.

982 2. To an entity or individual that is:

983 a. The developer of a timeshare plan that is the subject
984 of an approved public offering statement under chapter 721;

985 b. An exchange company operating an exchange program
986 approved under chapter 721;

987 c. A managing entity operating a timeshare plan approved
988 under chapter 721;

989 d. A seller of travel as defined in chapter 559; or

990 e. A subsidiary or affiliate of any of the entities
991 described in sub-subparagraphs a.-d.

992

993 A licensee shall require each employee who offers policies or
994 certificates under this subparagraph to receive initial training
995 from a general lines agent or an insurer authorized under
996 chapter 624 to transact insurance within this state. For an
997 entity applying for a license as a travel insurance agent, the
998 fingerprinting requirement of this section applies only to the
999 president, secretary, and treasurer and to any other officer or
1000 person who directs or controls the travel insurance operations
1001 of the entity.

1002 (d) *Motor vehicle rental insurance.*-

1003 1. License covering only insurance of the risks set forth
1004 in this paragraph when offered, sold, or solicited with and
1005 incidental to the rental or lease of a motor vehicle and which
1006 applies only to the motor vehicle that is the subject of the
1007 lease or rental agreement and the occupants of the motor
1008 vehicle:

1009 a. Excess motor vehicle liability insurance providing
 1010 coverage in excess of the standard liability limits provided by
 1011 the lessor in the lessor's lease to a person renting or leasing
 1012 a motor vehicle from the licensee's employer for liability
 1013 arising in connection with the negligent operation of the leased
 1014 or rented motor vehicle.

1015 b. Insurance covering the liability of the lessee to the
 1016 lessor for damage to the leased or rented motor vehicle.

1017 c. Insurance covering the loss of or damage to baggage,
 1018 personal effects, or travel documents of a person renting or
 1019 leasing a motor vehicle.

1020 d. Insurance covering accidental personal injury or death
 1021 of the lessee and any passenger who is riding or driving with
 1022 the covered lessee in the leased or rented motor vehicle.

1023 2. Insurance under a motor vehicle rental insurance
 1024 license may be issued only if the lease or rental agreement is
 1025 for no more than 60 days, the lessee is not provided coverage
 1026 for more than 60 consecutive days per lease period, and the
 1027 lessee is given written notice that his or her personal
 1028 insurance policy providing coverage on an owned motor vehicle
 1029 may provide coverage of such risks and that the purchase of the
 1030 insurance is not required in connection with the lease or rental
 1031 of a motor vehicle. If the lease is extended beyond 60 days, the
 1032 coverage may be extended one time only for a period not to
 1033 exceed an additional 60 days. Insurance may be provided to the
 1034 lessee as an additional insured on a policy issued to the
 1035 licensee's employer.

1036 3. The license may be issued only to the full-time

1037 | salaried employee of a licensed general lines agent or to a
 1038 | business entity that offers motor vehicles for rent or lease if
 1039 | insurance sales activities authorized by the license are in
 1040 | connection with and incidental to the rental or lease of a motor
 1041 | vehicle.

1042 | a. A license issued to a business entity that offers motor
 1043 | vehicles for rent or lease encompasses ~~shall encompass~~ each
 1044 | office, branch office, or place of business making use of the
 1045 | entity's business name in order to offer, solicit, and sell
 1046 | insurance pursuant to this paragraph.

1047 | b. The application for licensure must list the name,
 1048 | address, and phone number for each office, branch office, or
 1049 | place of business that is to be covered by the license. The
 1050 | licensee shall notify the department of the name, address, and
 1051 | phone number of any new location that is to be covered by the
 1052 | license before the new office, branch office, or place of
 1053 | business engages in the sale of insurance pursuant to this
 1054 | paragraph. The licensee must ~~shall~~ notify the department within
 1055 | 30 days after closing or terminating an office, branch office,
 1056 | or place of business. Upon receipt of the notice, the department
 1057 | shall delete the office, branch office, or place of business
 1058 | from the license.

1059 | c. A licensed and appointed entity is directly responsible
 1060 | and accountable for all acts of the licensee's employees.

1061 | (e) ~~Credit life or disability insurance.~~ License covering
 1062 | only credit life, credit or disability insurance, credit
 1063 | property, credit unemployment, involuntary unemployment,
 1064 | mortgage life, mortgage guaranty, mortgage disability,

1065 guaranteed automobile protection (GAP) insurance, and any other
 1066 form of insurance offered in connection with an extension of
 1067 credit which is limited to partially or wholly extinguishing a
 1068 credit obligation that the department determines should be
 1069 designated a form of limited line credit insurance. Effective
 1070 October 1, 2012, all valid licenses held by persons for any of
 1071 the lines of insurance listed in this paragraph shall be
 1072 converted to a credit insurance license. Licensees who wish to
 1073 obtain a new license reflecting such change must request a
 1074 duplicate license and pay a \$5 fee as specified in s.
 1075 624.501(15). The license may be issued only to an individual
 1076 employed by a life or health insurer as an officer or other
 1077 salariied or commissioned representative, to an individual
 1078 employed by or associated with a lending or financial
 1079 institution or creditor, or to a lending or financial
 1080 institution or creditor, and may authorize the sale of such
 1081 insurance only with respect to borrowers or debtors of such
 1082 lending or financing institution or creditor. However, only the
 1083 individual or entity whose tax identification number is used in
 1084 receiving or is credited with receiving the commission from the
 1085 sale of such insurance shall be the licensed agent of the
 1086 insurer. No individual while so licensed shall hold a license as
 1087 an agent as to any other or additional kind or class of life or
 1088 health insurance coverage. An entity holding a limited license
 1089 under this paragraph is also authorized to sell credit insurance
 1090 and credit property insurance.

1091 ~~(f) Credit insurance. License covering only credit~~
 1092 ~~insurance, as such insurance is defined in s. 624.605(1)(i), and~~

1093 ~~no individual or entity so licensed shall, during the same~~
 1094 ~~period, hold a license as an agent as to any other or additional~~
 1095 ~~kind of life or health insurance with the exception of credit~~
 1096 ~~life or disability insurance as defined in paragraph (c). The~~
 1097 ~~same licensing provisions as outlined in paragraph (c) apply to~~
 1098 ~~entities licensed as credit insurance agents under this~~
 1099 ~~paragraph.~~

1100 ~~(g) Credit property insurance. A license covering only~~
 1101 ~~credit property insurance may be issued to any individual except~~
 1102 ~~an individual employed by or associated with a financial~~
 1103 ~~institution as defined in s. 655.005 and authorized to sell such~~
 1104 ~~insurance only with respect to a borrower or debtor, not to~~
 1105 ~~exceed the amount of the loan.~~

1106 ~~(f)(h) Crop hail and multiple-peril crop insurance.-~~
 1107 License for insurance covering crops subject to unfavorable
 1108 weather conditions, fire or lightening, flood, hail, insect
 1109 infestation, disease, or other yield-reducing conditions or
 1110 perils which is provided by the private insurance market, or
 1111 which is subsidized by the Federal Group Insurance Corporation
 1112 including multi-peril crop insurance ~~only crop hail and~~
 1113 ~~multiple-peril crop insurance.~~ Notwithstanding any other
 1114 provision of law, the limited license may be issued to a bona
 1115 fide salaried employee of an association chartered under the
 1116 Farm Credit Act of 1971, 12 U.S.C. ss. 2001 et seq., who
 1117 satisfactorily completes the examination prescribed by the
 1118 department pursuant to s. 626.241(5). The ~~limited~~ agent must be
 1119 appointed by, and his or her limited license requested by, a
 1120 licensed general lines agent. All business transacted by the

1121 ~~limited~~ agent must be on ~~shall be in~~ behalf of, in the name of,
 1122 and countersigned by the agent by whom he or she is appointed.
 1123 Sections 626.561 and 626.748, relating to records, apply to all
 1124 business written pursuant to this section. The ~~limited~~ licensee
 1125 may be appointed by and licensed for only one general lines
 1126 agent or agency.

1127 ~~(g)(i) In-transit and storage personal property insurance,~~
 1128 ~~communications equipment property insurance, communications~~
 1129 ~~equipment inland marine insurance, and communications equipment~~
 1130 ~~service warranty agreement sales.-~~

1131 ~~1. A License~~ for insurance covering only ~~the insurance of~~
 1132 personal property not held for resale, covering the risks of
 1133 transportation or storage in rented or leased motor vehicles,
 1134 trailers, or self-service storage facilities, ~~as the latter are~~
 1135 defined in s. 83.803. Such license, may be issued, without
 1136 examination, only to employees or authorized representatives of
 1137 lessors who rent or lease motor vehicles, trailers, or self-
 1138 service storage facilities and who are authorized by an insurer
 1139 to issue certificates or other evidences of insurance to lessees
 1140 of such motor vehicles, trailers, or self-service storage
 1141 facilities under an insurance policy issued to the lessor. A
 1142 person licensed under this paragraph must ~~shall~~ give a
 1143 prospective purchaser of in-transit or storage personal property
 1144 insurance written notice that his or her homeowner's policy may
 1145 provide coverage for the loss of personal property and that the
 1146 purchase of such insurance is not required under the lease
 1147 terms.

1148 ~~2. A license covering only communications equipment, for~~

1149 ~~the loss, theft, mechanical failure, malfunction of or damage~~
 1150 ~~to, communications equipment. The license may be issued only to:~~
 1151 ~~a. Employees or authorized representatives of a licensed~~
 1152 ~~general lines agent;~~
 1153 ~~b. The lead business location of a retail vendor of~~
 1154 ~~communications equipment and its branch locations; or~~
 1155 ~~c. Employees, agents, or authorized representatives of a~~
 1156 ~~retail vendor of communications equipment.~~

1157
 1158 ~~The license authorizes the sale of such policies, or~~
 1159 ~~certificates under a group master policy, only with respect to~~
 1160 ~~the sale of, or provision of communications service for,~~
 1161 ~~communications equipment. A general lines agent is not required~~
 1162 ~~to obtain a license under this subparagraph to offer or sell~~
 1163 ~~communications equipment property insurance or communication~~
 1164 ~~equipment inland marine insurance. The license also authorizes~~
 1165 ~~sales of service warranty agreements covering only~~
 1166 ~~communications equipment to the same extent as if licensed under~~
 1167 ~~s. 634.419 or s. 634.420. The provisions of this chapter~~
 1168 ~~requiring submission of fingerprints do not apply to~~
 1169 ~~communications equipment licenses issued to qualified entities~~
 1170 ~~under this subparagraph. Licensees offering policies under this~~
 1171 ~~subparagraph must receive initial training from, and have a~~
 1172 ~~contractual relationship with, a general lines agent. For the~~
 1173 ~~purposes of this subparagraph, the term "communications~~
 1174 ~~equipment" means handsets, pagers, personal digital assistants,~~
 1175 ~~portable computers, automatic answering devices, and other~~
 1176 ~~devices or accessories used to originate or receive~~

1177 ~~communications signals or service, and includes services related~~
 1178 ~~to the use of such devices, such as consumer access to a~~
 1179 ~~wireless network; however, the term does not include~~
 1180 ~~telecommunications switching equipment, transmission wires, cell~~
 1181 ~~site transceiver equipment, or other equipment and systems used~~
 1182 ~~by telecommunications companies to provide telecommunications~~
 1183 ~~service to consumers. A branch location of a retail vendor of~~
 1184 ~~communications equipment licensed pursuant to paragraph (2)(b)~~
 1185 ~~may, in lieu of obtaining an appointment from an insurer or~~
 1186 ~~warranty association as provided in paragraph (2)(c), obtain a~~
 1187 ~~single appointment from the associated lead business location~~
 1188 ~~licensee licensed under paragraph (2)(a) and pay the prescribed~~
 1189 ~~appointment fee under s. 624.501 provided the lead business~~
 1190 ~~location has a single appointment from each insurer or warranty~~
 1191 ~~association represented and such appointment provides that it~~
 1192 ~~applies to the lead business location and all of its branch~~
 1193 ~~locations. Any branch location individually appointed by an~~
 1194 ~~insurer under paragraph (2)(c) prior to January 1, 2006, may~~
 1195 ~~replace its appointments with an appointment from its lead~~
 1196 ~~location at no charge. Branch location appointments shall be~~
 1197 ~~renewed on the first annual anniversary of licensure of the lead~~
 1198 ~~business location occurring more than 24 months after the~~
 1199 ~~initial appointment date and every 24 months thereafter.~~
 1200 ~~Notwithstanding s. 624.501, after July 1, 2006, the renewal fee~~
 1201 ~~applicable to such branch location appointments shall be \$30 per~~
 1202 ~~appointment.~~

1203 (h) Portable electronics insurance.—License for property
 1204 insurance or inland marine insurance that covers only loss,

1205 theft, mechanical failure, malfunction, or damage for portable
 1206 electronics.

1207 1. The license may be issued only to:

1208 a. Employees or authorized representatives of a licensed
 1209 general lines agent; or

1210 b. The lead business location of a retail vendor that
 1211 sells portable electronics insurance. The lead business location
 1212 must have a contractual relationship with a general lines agent.

1213 2. Employees or authorized representatives of a licensee
 1214 under subparagraph 1. may sell or offer for sale portable
 1215 electronics coverage without being subject to licensure as an
 1216 insurance agent if:

1217 a. Such insurance is sold or offered for sale at a
 1218 licensed location or at one of the licensee's branch locations
 1219 if the branch location is appointed by the licensed lead
 1220 business location or its appointing insurers;

1221 b. The insurer issuing the insurance directly supervises
 1222 or appoints a general lines agent to supervise the sale of such
 1223 insurance, including the development of a training program for
 1224 the employees and authorized representatives of vendors that are
 1225 directly engaged in the activity of selling or offering the
 1226 insurance; and

1227 c. At each location where the insurance is offered,
 1228 brochures or other written materials that provide the
 1229 information required by this subparagraph are made available to
 1230 all prospective customers. The brochures or written materials
 1231 may include information regarding portable electronics
 1232 insurance, service warranty agreements, or other incidental

1233 services or benefits offered by a licensee.

1234 3. Individuals not licensed to sell portable electronics
 1235 insurance may not be paid commissions based on the sale of such
 1236 coverage. However, a licensee who uses a compensation plan for
 1237 employees and authorized representatives which includes
 1238 supplemental compensation for the sale of noninsurance products,
 1239 in addition to a regular salary or hourly wages, may include
 1240 incidental compensation for the sale of portable electronics
 1241 insurance as a component of the overall compensation plan.

1242 4. Brochures or other written materials related to
 1243 portable electronics insurance must:

1244 a. Disclose that such insurance may duplicate coverage
 1245 already provided by a customer's homeowners' insurance policy,
 1246 renters' insurance policy, or other source of coverage;

1247 b. State that enrollment in insurance coverage is not
 1248 required in order to purchase or lease portable electronics or
 1249 services;

1250 c. Summarize the material terms of the insurance coverage,
 1251 including the identity of the insurer, the identity of the
 1252 supervising entity, the amount of any applicable deductible and
 1253 how it is to be paid, the benefits of coverage, and key terms
 1254 and conditions of coverage, such as whether portable electronics
 1255 may be repaired or replaced with similar make and model
 1256 reconditioned or nonoriginal manufacturer parts or equipment;

1257 d. Summarize the process for filing a claim, including a
 1258 description of how to return portable electronics and the
 1259 maximum fee applicable if the customer fails to comply with
 1260 equipment return requirements; and

1261 e. State that an enrolled customer may cancel coverage at
 1262 any time and that the person paying the premium will receive a
 1263 refund of any unearned premium.

1264 5. A licensed and appointed general lines agent is not
 1265 required to obtain a portable electronics insurance license to
 1266 offer or sell portable electronics insurance at locations
 1267 already licensed as an insurance agency, but may apply for a
 1268 portable electronics insurance license for branch locations not
 1269 otherwise licensed to sell insurance.

1270 6. A portable electronics license authorizes the sale of
 1271 individual policies or certificates under a group or master
 1272 insurance policy. The license also authorizes the sale of
 1273 service warranty agreements covering only portable electronics
 1274 to the same extent as if licensed under s. 634.419 or s.
 1275 634.420.

1276 7. A licensee may bill and collect the premium for the
 1277 purchase of portable electronics insurance provided that:

1278 a. If the insurance is included with the purchase or lease
 1279 of portable electronics or related services, the licensee
 1280 clearly and conspicuously discloses that insurance coverage is
 1281 included with the purchase. Disclosure of the dollar amount of
 1282 the premium for the insurance must be made on the customer's
 1283 bill and in any marketing materials made available at the point
 1284 of sale. If the insurance is not included, the charge to the
 1285 customer for the insurance must be separately itemized on the
 1286 customer's bill.

1287 b. Premiums are incidental to other fees collected, are
 1288 maintained in a manner that is readily identifiable, and are

1289 accounted for and remitted to the insurer or supervising entity
 1290 within 60 days of receipt. Licensees are not required to
 1291 maintain such funds in a segregated account.

1292 c. All funds received by a licensee from an enrolled
 1293 customer for the sale of the insurance are considered funds held
 1294 in trust by the licensee in a fiduciary capacity for the benefit
 1295 of the insurer. Licensees may receive compensation for billing
 1296 and collection services.

1297 8. Notwithstanding any other provision of law, the terms
 1298 for the termination or modification of coverage under a policy
 1299 of portable electronics insurance are those set forth in the
 1300 policy.

1301 9. Notice or correspondence required by the policy, or
 1302 otherwise required by law, may be provided by electronic means
 1303 if the insurer or licensee maintains proof that the notice or
 1304 correspondence was sent. Such notice or correspondence may be
 1305 sent on behalf of the insurer or licensee by the general lines
 1306 agent appointed by the insurer to supervise the administration
 1307 of the program. For purposes of this subparagraph, an enrolled
 1308 customer's provision of an electronic mail address to the
 1309 insurer or licensee is deemed to be consent to receive notices
 1310 and correspondence by electronic means if a conspicuously
 1311 located disclosure is provided to the customer indicating the
 1312 same.

1313 10. The provisions of this chapter requiring submission of
 1314 fingerprints do not apply to licenses issued to qualified
 1315 entities under this paragraph.

1316 11. A branch location that sells portable electronics

1317 insurance may, in lieu of obtaining an appointment from an
 1318 insurer or warranty association, obtain a single appointment
 1319 from the associated lead business location licensee and pay the
 1320 prescribed appointment fee under s. 624.501 if the lead business
 1321 location has a single appointment from each insurer or warranty
 1322 association represented and such appointment applies to the lead
 1323 business location and all of its branch locations. Branch
 1324 location appointments shall be renewed on the first annual
 1325 anniversary of licensure of the lead business location occurring
 1326 more than 24 months after the initial appointment date and every
 1327 24 months thereafter. Notwithstanding s. 624.501, the renewal
 1328 fee applicable to such branch location appointments is \$30 per
 1329 appointment.

1330 12. For purposes of this paragraph:

1331 a. "Branch location" means any physical location in this
 1332 state at which a licensee offers its products or services for
 1333 sale.

1334 b. "Portable electronics" means personal, self-contained,
 1335 easily carried by an individual, battery-operated electronic
 1336 communication, viewing, listening, recording, gaming, computing
 1337 or global positioning devices, including cell or satellite
 1338 phones, pagers, personal global positioning satellite units,
 1339 portable computers, portable audio listening, video viewing or
 1340 recording devices, digital cameras, video camcorders, portable
 1341 gaming systems, docking stations, automatic answering devices,
 1342 and other similar devices and their accessories, and service
 1343 related to the use of such devices.

1344 c. "Portable electronics transaction" means the sale or

1345 lease of portable electronics or a related service, including
 1346 portable electronics insurance.

1347 (4) Except as otherwise expressly provided, a person
 1348 applying for or holding a limited license is ~~shall be~~ subject to
 1349 the same applicable requirements and responsibilities that ~~as~~
 1350 apply to general lines agents in general, ~~if licensed as to~~
 1351 motor vehicle physical damage and mechanical breakdown
 1352 insurance, ~~credit property insurance,~~ industrial fire insurance
 1353 or burglary insurance, motor vehicle rental insurance, credit
 1354 insurance, crop hail and multiple-peril crop insurance, in-
 1355 transit and storage personal property insurance, or portable
 1356 electronics insurance ~~communications equipment property~~
 1357 ~~insurance or communications equipment inland marine insurance,~~
 1358 ~~baggage and motor vehicle excess liability insurance, or credit~~
 1359 ~~insurance;~~ or as apply to life agents or health agents in
 1360 general, as applicable ~~the case may be,~~ if licensed as to travel
 1361 ~~personal accident insurance or credit life or credit disability~~
 1362 insurance.

1363 Section 17. Section 626.342, Florida Statutes, is amended
 1364 to read:

1365 626.342 Furnishing supplies to unlicensed ~~life, health, or~~
 1366 ~~general lines~~ agent prohibited; civil liability.-

1367 (1) An insurer, a managing general agent, an insurance
 1368 agency, or an agent, directly or through a ~~any~~ representative,
 1369 may not furnish to an ~~any~~ agent any blank forms, applications,
 1370 stationery, or other supplies to be used in soliciting,
 1371 negotiating, or effecting contracts of insurance on its behalf
 1372 unless such blank forms, applications, stationery, or other

1373 supplies relate to a class of business for ~~with respect to~~ which
 1374 the agent is licensed and appointed, whether for that insurer or
 1375 another insurer.

1376 (2) An ~~Any~~ insurer, general agent, insurance agency, or
 1377 agent who furnishes any of the supplies specified in subsection
 1378 (1) to an ~~any~~ agent or prospective agent not appointed to
 1379 represent the insurer and who accepts from or writes any
 1380 insurance business for such agent or agency is subject to civil
 1381 liability to an ~~any~~ insured of such insurer to the same extent
 1382 and ~~in the same~~ manner as if such agent or prospective agent had
 1383 been appointed or authorized by the insurer or such agent to act
 1384 on ~~in~~ its or his or her behalf. The provisions of this
 1385 subsection do not apply to insurance risk apportionment plans
 1386 under s. 627.351.

1387 (3) This section does not apply to the placing of surplus
 1388 lines business under the provisions of ss. 626.913-626.937.

1389 Section 18. Subsection (1) of section 626.381, Florida
 1390 Statutes, is amended to read:

1391 626.381 Renewal, continuation, reinstatement, or
 1392 termination of appointment.—

1393 (1) The appointment of an appointee continues ~~shall~~
 1394 ~~continue~~ in force until suspended, revoked, or otherwise
 1395 terminated, but is subject to a renewal request filed by the
 1396 appointing entity in the appointee's birth month as to natural
 1397 persons or the month the original appointment was issued ~~license~~
 1398 ~~date~~ as to entities and every 24 months thereafter, accompanied
 1399 by payment of the renewal appointment fee and taxes as
 1400 prescribed in s. 624.501.

HB 725

2012

1401 Section 19. Section 626.536, Florida Statutes, is amended
 1402 to read:

1403 626.536 Reporting of administrative actions.—~~Each agent~~
 1404 ~~and insurance agency shall submit to the department,~~ Within 30
 1405 days after the final disposition of an any administrative action
 1406 taken against a licensee ~~the agent~~ or insurance agency by a
 1407 governmental agency or other regulatory agency in this or any
 1408 other state or jurisdiction relating to the business of
 1409 insurance, the sale of securities, or activity involving fraud,
 1410 dishonesty, trustworthiness, or breach of a fiduciary duty, the
 1411 licensee or insurance agency must submit a copy of the order,
 1412 consent to order, or other relevant legal documents to the
 1413 department. The department may adopt rules to administer
 1414 ~~implementing the provisions of~~ this section.

1415 Section 20. Section 626.551, Florida Statutes, is amended
 1416 to read:

1417 626.551 Notice of change of address, name.—~~A Every~~
 1418 licensee must ~~shall~~ notify the department, in writing, within 30
 1419 ~~60~~ days after a change of name, residence address, principal
 1420 business street address, mailing address, contact telephone
 1421 numbers, including a business telephone number, or e-mail
 1422 address. A licensee ~~licensed agent~~ who has moved his or her
 1423 residence from this state shall have his or her license and all
 1424 appointments immediately terminated by the department. Failure
 1425 to notify the department within the required time ~~period~~ shall
 1426 result in a fine not to exceed \$250 for the first offense and,
 1427 ~~for subsequent offenses,~~ a fine of at least \$500 or suspension
 1428 or revocation of the license pursuant to s. 626.611, s.

HB 725

2012

1429 626.6115, ~~or~~ s. 626.621, or s. 626.6215 for a subsequent
 1430 offense. The department may adopt rules to administer and
 1431 enforce this section.

1432 Section 21. Subsection (14) is added to section 626.621,
 1433 Florida Statutes, to read:

1434 626.621 Grounds for discretionary refusal, suspension, or
 1435 revocation of agent's, adjuster's, customer representative's,
 1436 service representative's, or managing general agent's license or
 1437 appointment.—The department may, in its discretion, deny an
 1438 application for, suspend, revoke, or refuse to renew or continue
 1439 the license or appointment of any applicant, agent, adjuster,
 1440 customer representative, service representative, or managing
 1441 general agent, and it may suspend or revoke the eligibility to
 1442 hold a license or appointment of any such person, if it finds
 1443 that as to the applicant, licensee, or appointee any one or more
 1444 of the following applicable grounds exist under circumstances
 1445 for which such denial, suspension, revocation, or refusal is not
 1446 mandatory under s. 626.611:

1447 (14) Failure to comply with any civil, criminal, or
 1448 administrative action taken by the child support enforcement
 1449 program under Title IV-D of the Social Security Act, 42 U.S.C.
 1450 ss. 651 et seq., to determine paternity or to establish, modify,
 1451 enforce, or collect support.

1452 Section 22. Subsection (4) of section 626.641, Florida
 1453 Statutes, is amended to read:

1454 626.641 Duration of suspension or revocation.—

1455 (4) During the period of suspension or revocation of a the
 1456 license or appointment, and until the license is reinstated or,

1457 if revoked, a new license issued, the former licensee or
 1458 appointee may ~~shall~~ not engage in or attempt or profess to
 1459 engage in any transaction or business for which a license or
 1460 appointment is required under this code or directly or
 1461 indirectly own, control, or be employed in any manner by an ~~any~~
 1462 ~~insurance agent, or agency, or adjuster,~~ or adjusting firm.

1463 Section 23. Subsection (1) of section 626.651, Florida
 1464 Statutes, is amended to read:

1465 626.651 Effect of suspension, revocation upon associated
 1466 licenses and appointments and licensees and appointees.—

1467 (1) Upon suspension, revocation, or refusal to renew or
 1468 continue any one license of an insurance agent ~~or customer~~
 1469 representative, or upon suspension or revocation of eligibility
 1470 to hold a license or appointment, the department shall at the
 1471 same time likewise suspend or revoke all other licenses,
 1472 appointments, or status of eligibility held by the licensee or
 1473 appointee under this code.

1474 Section 24. Subsection (4) of section 626.730, Florida
 1475 Statutes, is amended to read:

1476 626.730 Purpose of license.—

1477 (4) This section does not prohibit ~~the~~ licensing, under a
 1478 limited license for credit insurance, a person who is ~~as to~~
 1479 ~~motor vehicle physical damage and mechanical breakdown insurance~~
 1480 ~~or credit property insurance of any person~~ employed by or
 1481 associated with a motor vehicle sales or financing agency, a
 1482 retail sales establishment, or a consumer loan office, for the
 1483 purpose of insuring ~~other than a consumer loan office owned by~~
 1484 ~~or affiliated with a financial institution as defined in s.~~

HB 725

2012

1485 ~~655.005, with respect to insurance of the interest of such~~
 1486 ~~agency, establishment, or office in a motor vehicle sold or~~
 1487 ~~financed by it or in personal property if used as collateral for~~
 1488 ~~a loan.~~

1489 (5) This section does not apply ~~with respect~~ to the
 1490 interest of a real estate mortgagee in or as to insurance
 1491 covering such interest or in the real estate subject to such
 1492 mortgage.

1493 Section 25. Section 626.732, Florida Statutes, is amended
 1494 to read:

1495 626.732 Requirement as to knowledge, experience, or
 1496 instruction.—

1497 (1) Except as provided in subsection (4) ~~(3)~~, an ~~no~~
 1498 applicant for a license as a general lines agent ~~or personal~~
 1499 ~~lines agent~~, except for a chartered property and casualty
 1500 underwriter (CPCU), may not ~~other than as to a limited license~~
 1501 ~~as to baggage and motor vehicle excess liability insurance,~~
 1502 ~~credit property insurance, credit insurance, in-transit and~~
 1503 ~~storage personal property insurance, or communications equipment~~
 1504 ~~property insurance or communication equipment inland marine~~
 1505 ~~insurance, shall~~ be qualified or licensed unless, within the 4
 1506 years immediately preceding the date the application for license
 1507 is filed with the department, the applicant has:

1508 (a) Taught or successfully completed classroom courses in
 1509 insurance, 3 hours of which must ~~shall~~ be on the subject matter
 1510 of ethics, ~~satisfactory to the department~~ at a school, college,
 1511 or extension division thereof, approved by the department. ~~To~~
 1512 ~~qualify for licensure as a personal lines agent, the applicant~~

1513 ~~must complete a total of 52 hours of classroom courses in~~
 1514 ~~insurance;~~

1515 (b) Completed a correspondence course in insurance, 3
 1516 hours of which must ~~shall~~ be on the subject matter of ethics,
 1517 satisfactory to the department and regularly offered by
 1518 accredited institutions of higher learning in this state, and
 1519 ~~have, except if he or she is applying for a limited license~~
 1520 ~~under s. 626.321, for licensure as a general lines agent, has~~
 1521 ~~had~~ at least 6 months of responsible insurance duties as a
 1522 substantially full-time bona fide employee in all lines of
 1523 property and casualty insurance set forth in the definition of
 1524 general lines agent under s. 626.015 ~~or, for licensure as a~~
 1525 ~~personal lines agent, has completed at least 3 months in~~
 1526 ~~responsible insurance duties as a substantially full-time~~
 1527 ~~employee in property and casualty insurance sold to individuals~~
 1528 ~~and families for noncommercial purposes;~~

1529 (c) ~~For licensure as a general lines agent,~~ Completed at
 1530 least 1 year in responsible insurance duties as a substantially
 1531 full-time bona fide employee in all lines of property and
 1532 casualty insurance, ~~exclusive of aviation and wet marine and~~
 1533 ~~transportation insurances but not exclusive of boats of less~~
 1534 ~~than 36 feet in length or aircraft not held out for hire,~~ as set
 1535 forth in the definition of a general lines agent under s.
 1536 626.015, but without the education requirement described
 1537 ~~mentioned~~ in paragraph (a) or paragraph (b) ~~or, for licensure as~~
 1538 ~~a personal lines agent, has completed at least 6 months in~~
 1539 ~~responsible insurance duties as a substantially full-time~~
 1540 ~~employee in property and casualty insurance sold to individuals~~

1541 ~~and families for noncommercial purposes without the education~~
 1542 ~~requirement in paragraph (a) or paragraph (b);~~

1543 ~~(d)1. For licensure as a general lines agent,~~ Completed at
 1544 least 1 year of responsible insurance duties as a licensed and
 1545 appointed customer representative or limited customer
 1546 representative in commercial or personal lines of property and
 1547 casualty insurance and 40 hours of classroom courses approved by
 1548 the department covering the areas of property, casualty, surety,
 1549 health, and marine insurance; or

1550 ~~2. For licensure as a personal lines agent, completed at~~
 1551 ~~least 6 months of responsible duties as a licensed and appointed~~
 1552 ~~customer representative or limited customer representative in~~
 1553 ~~property and casualty insurance sold to individuals and families~~
 1554 ~~for noncommercial purposes and 20 hours of classroom courses~~
 1555 ~~approved by the department which are related to property and~~
 1556 ~~casualty insurance sold to individuals and families for~~
 1557 ~~noncommercial purposes;~~

1558 ~~(e)1. For licensure as a general lines agent,~~ Completed at
 1559 least 1 year of responsible insurance duties as a licensed and
 1560 appointed service representative in ~~either~~ commercial or
 1561 personal lines of property and casualty insurance and 80 hours
 1562 of classroom courses approved by the department covering the
 1563 areas of property, casualty, surety, health, and marine
 1564 insurance. ~~;~~ or

1565 ~~2. For licensure as a personal lines agent, completed at~~
 1566 ~~least 6 months of responsible insurance duties as a licensed and~~
 1567 ~~appointed service representative in property and casualty~~
 1568 ~~insurance sold to individuals and families for noncommercial~~

1569 ~~purposes and 40 hours of classroom courses approved by the~~
 1570 ~~department related to property and casualty insurance sold to~~
 1571 ~~individuals and families for noncommercial purposes; or~~

1572 (2) Except as provided under subsection (4), an applicant
 1573 for a license as a personal lines agent, except for a chartered
 1574 property and casualty underwriter (CPCU), may not be qualified
 1575 or licensed unless, within the 4 years immediately preceding the
 1576 date the application for license is filed with the department,
 1577 the applicant has:

1578 (a) Taught or successfully completed classroom courses in
 1579 insurance, 3 hours of which must be on the subject matter of
 1580 ethics, at a school, college, or extension division thereof,
 1581 approved by the department. To qualify for licensure, the
 1582 applicant must complete a total of 52 hours of classroom courses
 1583 in insurance;

1584 (b) Completed a correspondence course in insurance, 3
 1585 hours of which must be on the subject matter of ethics,
 1586 satisfactory to the department and regularly offered by
 1587 accredited institutions of higher learning in this state, and
 1588 completed at least 3 months of responsible insurance duties as a
 1589 substantially full-time employee in the area of property and
 1590 casualty insurance sold to individuals and families for
 1591 noncommercial purposes;

1592 (c) Completed at least 6 months of responsible insurance
 1593 duties as a substantially full-time employee in the area of
 1594 property and casualty insurance sold to individuals and families
 1595 for noncommercial purposes, but without the education
 1596 requirement described in paragraph (a) or paragraph (b);

1597 (d) Completed at least 6 months of responsible duties as a
 1598 licensed and appointed customer representative or limited
 1599 customer representative in property and casualty insurance sold
 1600 to individuals and families for noncommercial purposes and 20
 1601 hours of classroom courses approved by the department which are
 1602 related to property and casualty insurance sold to individuals
 1603 and families for noncommercial purposes;

1604 (e) Completed at least 6 months of responsible insurance
 1605 duties as a licensed and appointed service representative in
 1606 property and casualty insurance sold to individuals and families
 1607 for noncommercial purposes and 40 hours of classroom courses
 1608 approved by the department related to property and casualty
 1609 insurance sold to individuals and families for noncommercial
 1610 purposes; or

1611 ~~(f) For licensure as a personal lines agent,~~ Completed at
 1612 least 3 years of responsible duties as a licensed and appointed
 1613 customer representative in property and casualty insurance sold
 1614 to individuals and families for noncommercial purposes.

1615 ~~(3)-(2) If where~~ an applicant's qualifications as required
 1616 under subsection (1) or subsection (2) in paragraph (1)(b) or
 1617 paragraph (1)(c) are based in part upon the periods of
 1618 employment in at responsible insurance duties prescribed
 1619 therein, the applicant shall submit with the license application
 1620 for license, on a form prescribed by the department, an the
 1621 affidavit of his or her employer setting forth the period of
 1622 such employment, that the employment same was substantially
 1623 full-time, and giving a brief abstract of the nature of the
 1624 duties performed by the applicant.

1625 (4)~~(3)~~ An individual who was or became qualified to sit
 1626 for an agent's, customer representative's, or adjuster's
 1627 examination at or during the time he or she was employed by the
 1628 department or office and who, while so employed, was employed in
 1629 responsible insurance duties as a full-time bona fide employee
 1630 may ~~shall be permitted to~~ take an examination if application for
 1631 such examination is made within 90 days after the date of
 1632 termination of ~~his or her~~ employment with the department or
 1633 office.

1634 (5)~~(4)~~ Classroom and correspondence courses under
 1635 subsections (1) and (2) ~~subsection (1)~~ must include instruction
 1636 on the subject matter of unauthorized entities engaging in the
 1637 business of insurance. The scope of the topic of unauthorized
 1638 entities must ~~shall~~ include the Florida Nonprofit Multiple-
 1639 Employer Welfare Arrangement Act and the Employee Retirement
 1640 Income Security Act, 29 U.S.C. ss. 1001 et seq., as it relates
 1641 to the provision of health insurance by employers and the
 1642 regulation thereof.

1643 (6) This section does not apply to an individual holding
 1644 only a limited license for travel insurance, motor vehicle
 1645 rental insurance, credit insurance, in-transit and storage
 1646 personal property insurance, or portable electronics insurance.

1647 Section 26. Section 626.8411, Florida Statutes, is amended
 1648 to read:

1649 626.8411 Application of Florida Insurance Code provisions
 1650 to title insurance agents or agencies.—

1651 (1) The following provisions of part II, ~~as~~ applicable to
 1652 general lines agents or agencies, ~~also~~ apply to title insurance

1653 agents or agencies:

1654 (a) Section 626.734, relating to liability of certain
1655 agents.

1656 ~~(b) Section 626.175, relating to temporary licenses.~~

1657 (b)(e) Section 626.747, relating to branch agencies.

1658 (c) Section 626.749, relating to place of business in
1659 residence.

1660 (d) Section 626.753, relating to sharing of commissions.

1661 (e) Section 626.754, relating to rights of agent following
1662 termination of appointment.

1663 (2) The following provisions of part I do not apply to
1664 title insurance agents or title insurance agencies:

1665 (a) Section 626.112(7), relating to licensing of insurance
1666 agencies.

1667 (b) Section 626.231, relating to eligibility for
1668 examination.

1669 (c) Section 626.572, relating to rebating, when allowed.

1670 (d) Section 626.172, relating to agent in full-time
1671 charge.

1672 Section 27. Section 626.8418, Florida Statutes, is amended
1673 to read:

1674 626.8418 Application for title insurance agency license.—
1675 Before ~~Prior to~~ doing business in this state as a title
1676 insurance agency, the ~~a title insurance~~ agency must ~~meet all of~~
1677 ~~the following requirements:~~

1678 ~~(1) The applicant must~~ file with the department an
1679 application for a license as a title insurance agency, on
1680 ~~printed~~ forms furnished by the department, which include that

1681 ~~includes~~ all of the following:

1682 (1)~~(a)~~ The name of each majority owner, partner, officer,
1683 and director of the agency.

1684 (2)~~(b)~~ The residence address of each person required to be
1685 listed under subsection (1) ~~paragraph (a)~~.

1686 (3)~~(c)~~ The name of the agency and its principal business
1687 address.

1688 (4)~~(d)~~ The location of each agency office and the name
1689 under which each ~~agency~~ office conducts or will conduct
1690 business.

1691 (5)~~(e)~~ The name of each agent to be in full-time charge of
1692 an agency office and the identification ~~specification~~ of such
1693 ~~which~~ office.

1694 (6)~~(f)~~ Such additional information as the department
1695 requires by rule to ascertain the trustworthiness and competence
1696 of persons required to be listed on the application and to
1697 ascertain that such persons meet the requirements of this code.

1698 ~~(2) The applicant must have deposited with the department~~
1699 ~~securities of the type eligible for deposit under s. 625.52 and~~
1700 ~~having at all times a market value of not less than \$35,000. In~~
1701 ~~place of such deposit, the title insurance agency may post a~~
1702 ~~surety bond of like amount payable to the department for the~~
1703 ~~benefit of any appointing insurer damaged by a violation by the~~
1704 ~~title insurance agency of its contract with the appointing~~
1705 ~~insurer. If a properly documented claim is timely filed with the~~
1706 ~~department by a damaged title insurer, the department may remit~~
1707 ~~an appropriate amount of the deposit or the proceeds that are~~
1708 ~~received from the surety in payment of the claim. The required~~

1709 ~~deposit or bond must be made by the title insurance agency, and~~
 1710 ~~a title insurer may not provide the deposit or bond directly or~~
 1711 ~~indirectly on behalf of the title insurance agency. The deposit~~
 1712 ~~or bond must secure the performance by the title insurance~~
 1713 ~~agency of its duties and responsibilities under the issuing~~
 1714 ~~agency contracts with each title insurer for which it is~~
 1715 ~~appointed. The agency may exchange or substitute other~~
 1716 ~~securities of like quality and value for securities on deposit,~~
 1717 ~~may receive the interest and other income accruing on such~~
 1718 ~~securities, and may inspect the deposit at all reasonable times.~~
 1719 ~~Such deposit or bond must remain unimpaired as long as the title~~
 1720 ~~insurance agency continues in business in this state and until 1~~
 1721 ~~year after termination of all title insurance agency~~
 1722 ~~appointments held by the title insurance agency. The title~~
 1723 ~~insurance agency is entitled to the return of the deposit or~~
 1724 ~~bond together with accrued interest after such year has passed,~~
 1725 ~~if no claim has been made against the deposit or bond. If a~~
 1726 ~~surety bond is unavailable generally, the department may adopt~~
 1727 ~~rules for alternative methods to comply with this subsection.~~
 1728 ~~With respect to such alternative methods for compliance, the~~
 1729 ~~department must be guided by the past business performance and~~
 1730 ~~good reputation and character of the proposed title insurance~~
 1731 ~~agency. A surety bond is deemed to be unavailable generally if~~
 1732 ~~the prevailing annual premium exceeds 25 percent of the~~
 1733 ~~principal amount of the bond.~~

1734 Section 28. Section 626.8548, Florida Statutes, is created
 1735 to read:

1736 626.8548 "All-lines adjuster" defined.—An "all-lines

1737 adjuster" is a person who is self-employed or employed by an
 1738 insurer, a wholly owned subsidiary of an insurer, or an
 1739 independent adjusting firm or other independent adjuster, and
 1740 who undertakes on behalf of an insurer or other insurers under
 1741 common control or ownership to ascertain and determine the
 1742 amount of any claim, loss, or damage payable under an insurance
 1743 contract or undertakes to effect settlement of such claim, loss,
 1744 or damage. The term does not apply to life insurance or annuity
 1745 contracts.

1746 Section 29. Section 626.855, Florida Statutes, is amended
 1747 to read:

1748 626.855 "Independent adjuster" defined.—An "independent
 1749 adjuster" means a ~~is any~~ person licensed as an all-lines
 1750 adjuster who is self-appointed self-employed or appointed and is
 1751 ~~associated with or~~ employed by an independent adjusting firm or
 1752 other independent adjuster, and who undertakes on behalf of an
 1753 insurer to ascertain and determine the amount of any claim,
 1754 loss, or damage payable under an insurance contract or
 1755 undertakes to effect settlement of such claim, loss, or damage.

1756 Section 30. Section 626.856, Florida Statutes, is amended
 1757 to read:

1758 626.856 "Company employee adjuster" defined.—A "company
 1759 employee adjuster" means is a person licensed as an all-lines
 1760 adjuster who is appointed and employed on an insurer's staff of
 1761 adjusters or a wholly owned subsidiary of the insurer, and who
 1762 undertakes on behalf of such insurer or other insurers under
 1763 common control or ownership to ascertain and determine the
 1764 amount of any claim, loss, or damage payable under a contract of

HB 725

2012

1765 insurance, or undertakes to effect settlement of such claim,
 1766 loss, or damage.

1767 Section 31. Section 626.858, Florida Statutes, is
 1768 repealed.

1769 Section 32. Section 626.8584, Florida Statutes, is amended
 1770 to read:

1771 626.8584 "Nonresident all-lines independent adjuster"
 1772 defined.—A "nonresident all-lines independent adjuster" means ~~is~~
 1773 a person who:

- 1774 (1) Is not a resident of this state;
- 1775 (2) Is a currently licensed as an independent adjuster in
 1776 his or her state of residence for all lines of insurance except
 1777 life and annuities ~~the type or kinds of insurance for which the~~
 1778 ~~licensee intends to adjust claims in this state~~ or, if a
 1779 resident of a state that does not license such independent
 1780 adjusters, meets the qualifications ~~has passed the department's~~
 1781 ~~adjuster examination as prescribed in s. 626.8734(1)(b); and~~

- 1782 (3) Is licensed as an all-lines adjuster and self-
 1783 appointed or appointed and a self-employed independent adjuster
 1784 ~~or associated with or~~ employed by an independent adjusting firm
 1785 or other independent adjuster, by an insurer admitted to do
 1786 business in this state or a wholly-owned subsidiary of an
 1787 insurer admitted to do business in this state, or by other
 1788 insurers under the common control or ownership of such insurer.

1789 Section 33. Section 626.863, Florida Statutes, is amended
 1790 to read:

1791 626.863 Claims referrals to licensed independent adjusters
 1792 ~~required; insurers' responsibility.—~~

1793 (1) An insurer may ~~shall~~ not knowingly refer any claim or
 1794 loss for adjustment in this state to any person purporting to be
 1795 or acting as an independent adjuster unless the person is
 1796 currently licensed as an all-lines adjuster and appointed as an
 1797 independent adjuster under this code.

1798 (2) Before referring any claim or loss, the insurer shall
 1799 ascertain from the department whether the proposed independent
 1800 adjuster is currently licensed as an all-lines adjuster and
 1801 appointed as an independent adjuster ~~such~~. Having ~~once~~
 1802 ascertained that a particular person is so licensed and
 1803 appointed, the insurer may assume that he or she will continue
 1804 to be so licensed and appointed until the insurer has knowledge,
 1805 or receives information from the department, to the contrary.

1806 (3) This section does not apply to catastrophe or
 1807 emergency adjusters as provided ~~for~~ in this part.

1808 Section 34. Section 626.864, Florida Statutes, is amended
 1809 to read:

1810 626.864 Adjuster license types.—

1811 (1) A qualified individual may be licensed ~~and appointed~~
 1812 as ~~either~~:

- 1813 (a) A public adjuster; or
- 1814 (b) An all-lines independent adjuster; ~~or~~
- 1815 ~~(c) A company employee adjuster.~~

1816 (2) The same individual may ~~shall~~ not be concurrently
 1817 licensed ~~appointed~~ as a public adjuster and an all-lines
 1818 adjuster ~~to more than one of the adjuster types referred to in~~
 1819 ~~subsection (1).~~

1820 (3) An all-lines adjuster may be appointed as an

1821 independent adjuster or company employee adjuster, but not both
 1822 concurrently.

1823 Section 35. Paragraph (e) is added to subsection (1) of
 1824 section 626.865, Florida Statutes, to read:

1825 626.865 Public adjuster's qualifications, bond.—

1826 (1) The department shall issue a license to an applicant
 1827 for a public adjuster's license upon determining that the
 1828 applicant has paid the applicable fees specified in s. 624.501
 1829 and possesses the following qualifications:

1830 (e) Is licensed as a public adjuster apprentice under s.
 1831 626.8651 and complies with the requirements of that license
 1832 throughout the licensure period.

1833 Section 36. Section 626.866, Florida Statutes, is amended
 1834 to read:

1835 626.866 All-lines adjuster ~~Independent adjuster's~~
 1836 ~~qualifications.—The department shall issue a license to an~~
 1837 ~~applicant for an~~ all-lines adjuster ~~independent adjuster's~~
 1838 license to an applicant upon determining that the applicable
 1839 license fee specified in s. 624.501 has been paid and that the
 1840 applicant possesses the following qualifications:

- 1841 (1) Is a natural person at least 18 years of age.
- 1842 (2) Is a United States citizen or legal alien who
 1843 possesses work authorization from the United States Bureau of
 1844 Citizenship and Immigration Services and a bona fide resident of
 1845 this state.
- 1846 (3) Is trustworthy and has such business reputation as
 1847 would reasonably assure that the applicant will conduct his or
 1848 her business as insurance adjuster fairly and in good faith and

1849 without detriment to the public.

1850 (4) Has had sufficient experience, training, or
 1851 instruction concerning the adjusting of damage or loss under
 1852 insurance contracts, other than life and annuity contracts, is
 1853 sufficiently informed as to the terms and the effects of the
 1854 provisions of such types of contracts, and possesses adequate
 1855 knowledge of the insurance laws of this state relating to such
 1856 contracts as to enable and qualify him or her to engage in the
 1857 business of insurance adjuster fairly and without injury to the
 1858 public or any member thereof with whom he or she may have
 1859 relations as an insurance adjuster and to adjust all claims in
 1860 accordance with the policy or contract and the insurance laws of
 1861 this state.

1862 (5) Has passed any required written examination or has met
 1863 one of the exemptions prescribed under s. 626.221.

1864 Section 37. Section 626.867, Florida Statutes, is
 1865 repealed.

1866 Section 38. Section 626.869, Florida Statutes, is amended
 1867 to read:

1868 626.869 License, adjusters; continuing education.—

1869 (1) Having An applicant for a license as an all-lines
 1870 adjuster qualifies the licensee to adjust may qualify and his or
 1871 her license when issued may cover adjusting in any one of the
 1872 following classes of insurance:

- 1873 (a) all lines of insurance except life and annuities.
- 1874 (b) ~~Motor vehicle physical damage insurance.~~
- 1875 (c) ~~Property and casualty insurance.~~
- 1876 (d) ~~Workers' compensation insurance.~~

1877 ~~(c) Health insurance.~~

1878

1879 ~~No examination on workers' compensation insurance or health~~
 1880 ~~insurance shall be required for public adjusters.~~

1881 (2) All individuals who on October 1, 1990, hold an
 1882 adjuster's license and appointment limited to fire and allied
 1883 lines, including marine or casualty or boiler and machinery, may
 1884 remain licensed and appointed under the limited license and may
 1885 renew their appointment, but a ~~ne~~ license or appointment that
 1886 ~~which~~ has been terminated, not renewed, suspended, or revoked
 1887 may not shall be reinstated, and ~~ne~~ new or additional licenses
 1888 or appointments may not shall be issued.

1889 (3) All individuals who on October 1, 2012, hold an
 1890 adjuster's license and appointment limited to motor vehicle
 1891 physical damage and mechanical breakdown, property and casualty,
 1892 workers' compensation, or health insurance may remain licensed
 1893 and appointed under such limited license and may renew their
 1894 appointment, but a license that has been terminated, suspended,
 1895 or revoked may not be reinstated, and new or additional licenses
 1896 may not be issued. ~~The applicant's application for license shall~~
 1897 ~~specify which of the foregoing classes of business the~~
 1898 ~~application for license is to cover.~~

1899 (4) ~~(a)~~ An ~~Any~~ individual holding a license as a public
 1900 adjuster or an all-lines ~~a company employee adjuster~~ must
 1901 complete all continuing education requirements as specified in
 1902 s. 626.2815. ~~or independent adjuster for 24 consecutive months~~
 1903 ~~or longer must, beginning in his or her birth month and every 2~~
 1904 ~~years thereafter, have completed 24 hours of courses, 2 hours of~~

1905 ~~which relate to ethics, in subjects designed to inform the~~
 1906 ~~licensee regarding the current insurance laws of this state, so~~
 1907 ~~as to enable him or her to engage in business as an insurance~~
 1908 ~~adjuster fairly and without injury to the public and to adjust~~
 1909 ~~all claims in accordance with the policy or contract and the~~
 1910 ~~laws of this state.~~

1911 ~~(b) Any individual holding a license as a public adjuster~~
 1912 ~~for 24 consecutive months or longer, beginning in his or her~~
 1913 ~~birth month and every 2 years thereafter, must have completed 24~~
 1914 ~~hours of courses, 2 hours of which relate to ethics, in subjects~~
 1915 ~~designed to inform the licensee regarding the current laws of~~
 1916 ~~this state pertaining to all lines of insurance other than life~~
 1917 ~~and annuities, the current laws of this state pertaining to the~~
 1918 ~~duties and responsibilities of public adjusters as set forth in~~
 1919 ~~this part, and the current rules of the department applicable to~~
 1920 ~~public adjusters and standard or representative policy forms~~
 1921 ~~used by insurers, other than forms for life insurance and~~
 1922 ~~annuities, so as to enable him or her to engage in business as~~
 1923 ~~an adjuster fairly and without injury to the public and to~~
 1924 ~~adjust all claims in accordance with the policy or contract and~~
 1925 ~~laws of this state. In order to receive credit for continuing~~
 1926 ~~education courses, public adjusters must take courses that are~~
 1927 ~~specifically designed for public adjusters and approved by the~~
 1928 ~~department, provided, however, no continuing education course~~
 1929 ~~shall be required for public adjusters for workers' compensation~~
 1930 ~~insurance or health insurance.~~

1931 ~~(c) The department shall adopt rules necessary to~~
 1932 ~~implement and administer the continuing education requirements~~

1933 ~~of this subsection. For good cause shown, the department may~~
 1934 ~~grant an extension of time during which the requirements imposed~~
 1935 ~~by this section may be completed, but such extension of time may~~
 1936 ~~not exceed 1 year.~~

1937 ~~(d) A nonresident public adjuster must complete the~~
 1938 ~~continuing education requirements provided by this section;~~
 1939 ~~provided, a nonresident public adjuster may meet the~~
 1940 ~~requirements of this section if the continuing education~~
 1941 ~~requirements of the nonresident public adjuster's home state are~~
 1942 ~~determined to be substantially comparable to the requirements of~~
 1943 ~~this state's continuing education requirements and if the~~
 1944 ~~resident's state recognizes reciprocity with this state's~~
 1945 ~~continuing education requirements. A nonresident public adjuster~~
 1946 ~~whose home state does not have such continuing education~~
 1947 ~~requirements for adjusters, and who is not licensed as a~~
 1948 ~~nonresident adjuster in a state that has continuing education~~
 1949 ~~requirements and reciprocates with this state, must meet the~~
 1950 ~~continuing education requirements of this section.~~

1951 (5) The regulation of continuing education for licensees,
 1952 course providers, instructors, school officials, and monitor
 1953 groups shall be as provided ~~for~~ in s. 626.2816.

1954 Section 39. Paragraph (c) of subsection (2) of section
 1955 626.8697, Florida Statutes, is amended to read:

1956 626.8697 Grounds for refusal, suspension, or revocation of
 1957 adjusting firm license.—

1958 (2) The department may, in its discretion, deny, suspend,
 1959 revoke, or refuse to continue the license of any adjusting firm
 1960 if it finds that any of the following applicable grounds exist

1961 with respect to the firm or any owner, partner, manager,
 1962 director, officer, or other person who is otherwise involved in
 1963 the operation of the firm:

1964 (c) Violation of an ~~any~~ order or rule of the department,
 1965 office, or commission.

1966 Section 40. Subsections (1) and (5) of section 626.872,
 1967 Florida Statutes, are amended to read:

1968 626.872 Temporary license.—

1969 (1) The department may, ~~in its discretion,~~ issue a
 1970 temporary license as an all-lines independent adjuster ~~or as a~~
 1971 ~~company employee adjuster,~~ subject to the following conditions:

1972 (a) The applicant must be an employee of an adjuster
 1973 currently licensed by the department, ~~an employee of an~~
 1974 authorized insurer, or ~~an employee of an~~ established adjusting
 1975 firm or corporation who ~~which~~ is supervised by a currently
 1976 licensed all-lines independent adjuster.

1977 ~~(b) The application must be accompanied by a certificate~~
 1978 ~~of employment and a report as to the applicant's integrity and~~
 1979 ~~moral character on a form prescribed by the department and~~
 1980 ~~executed by the employer.~~

1981 (b)(c) The applicant must be a natural person of at least
 1982 18 years of age, ~~must be~~ a bona fide resident of this state,
 1983 ~~must be~~ trustworthy, and ~~must~~ have a ~~such~~ business reputation
 1984 that ~~as~~ would reasonably ensure ~~assure~~ that the applicant will
 1985 conduct his or her business as an adjuster fairly and in good
 1986 faith and without detriment to the public.

1987 (c)(d) The applicant's employer is responsible for the
 1988 adjustment acts of the temporary ~~any~~ licensee ~~under this~~

HB 725

2012

1989 ~~section.~~

1990 ~~(d)(e)~~ The applicable license fee ~~specified~~ must be paid
 1991 before issuance of the temporary license.

1992 ~~(e)(f)~~ The temporary license is ~~shall be~~ effective for a
 1993 ~~period of 1 year~~, but is subject to earlier termination at the
 1994 request of the employer, ~~or~~ if the licensee fails to take an
 1995 examination as an all-lines independent adjuster ~~or company~~
 1996 ~~employee adjuster~~ within 6 months after issuance of the
 1997 temporary license, or if the temporary license is suspended or
 1998 revoked by the department.

1999 (5) The department may ~~shall~~ not issue a temporary license
 2000 as an all-lines independent adjuster ~~or as a company employee~~
 2001 ~~adjuster~~ to an ~~any~~ individual who has ~~ever~~ held such a license
 2002 in this state.

2003 Section 41. Section 626.873, Florida Statutes, is
 2004 repealed.

2005 Section 42. Section 626.8734, Florida Statutes, is amended
 2006 to read:

2007 626.8734 Nonresident all-lines adjuster license
 2008 ~~independent adjuster's~~ qualifications.—

2009 (1) The department shall, ~~upon application therefor,~~ issue
 2010 a license to an applicant for a nonresident all-lines adjuster
 2011 ~~independent adjuster's~~ license upon determining that the
 2012 applicant has paid the applicable license fees required under s.
 2013 624.501 and:

2014 (a) Is a natural person at least 18 years of age.

2015 (b) Has passed to the satisfaction of the department a
 2016 written Florida all-lines adjuster ~~independent adjuster's~~

2017 examination of the scope prescribed in s. 626.241(6); however,
 2018 the requirement for the examination does not apply to ~~any of the~~
 2019 ~~following:~~

2020 1. An applicant who is licensed as an all-lines ~~a resident~~
 2021 ~~independent~~ adjuster in his or her home state ~~if of residence~~
 2022 ~~when that state has entered into requires the passing of a~~
 2023 ~~written examination in order to obtain the license and a~~
 2024 reciprocal agreement with the ~~appropriate official of that state~~
 2025 ~~has been entered into by the~~ department; or

2026 2. An applicant who is licensed as a nonresident all-lines
 2027 ~~independent~~ adjuster in a state other than his or her home state
 2028 ~~of residence when the state of licensure requires the passing of~~
 2029 ~~a written examination in order to obtain the license and a~~
 2030 reciprocal agreement with the appropriate official of the state
 2031 of licensure has been entered into with ~~by~~ the department.

2032 (c) Is licensed as an all-lines adjuster and is self-
 2033 appointed or appointed and employed by an independent adjusting
 2034 firm or other independent adjuster, or is an employee of an
 2035 insurer admitted to do business in this state or other insurers
 2036 under the common control or ownership of such insurer self-
 2037 ~~employed or associated with or employed by an independent~~
 2038 ~~adjusting firm or other independent adjuster.~~ Applicants
 2039 licensed as nonresident all-lines ~~independent~~ adjusters under
 2040 this section must be appointed as an independent adjuster or
 2041 company employee adjuster ~~such~~ in accordance with ~~the provisions~~
 2042 ~~of~~ ss. 626.112 and 626.451. Appointment fees as ~~in the amount~~
 2043 specified in s. 624.501 must be paid to the department in
 2044 advance. The appointment of a nonresident independent adjuster

HB 725

2012

2045 continues ~~shall continue~~ in force until suspended, revoked, or
 2046 otherwise terminated, but is subject to biennial renewal or
 2047 continuation by the licensee in accordance with ~~procedures~~
 2048 ~~prescribed in s. 626.381~~ for licensees in general.

2049 (d) Is trustworthy and has such business reputation as
 2050 would reasonably ensure ~~assure~~ that he or she will conduct his
 2051 or her business as a nonresident all-lines ~~independent~~ adjuster
 2052 fairly and in good faith and without detriment to the public.

2053 (e) Has had sufficient experience, training, or
 2054 instruction concerning the adjusting of damages or losses under
 2055 insurance contracts, other than life and annuity contracts; is
 2056 sufficiently informed as to the terms and effects of ~~the~~
 2057 ~~provisions of~~ those types of insurance contracts; and possesses
 2058 adequate knowledge of the laws of this state relating to such
 2059 contracts as to enable and qualify him or her to engage in the
 2060 business of insurance adjuster fairly and without injury to the
 2061 public or any member thereof with whom he or she may have
 2062 business as an all-lines ~~independent~~ adjuster.

2063 (2) The applicant must ~~shall~~ furnish the following with
 2064 his or her application:

2065 (a) A complete set of his or her fingerprints. The
 2066 applicant's fingerprints must be certified by an authorized law
 2067 enforcement officer.

2068 (b) If currently licensed as an all-lines ~~a resident~~
 2069 ~~independent~~ adjuster in the applicant's home state ~~of residence~~,
 2070 a certificate or letter of authorization from the licensing
 2071 authority of the applicant's home state ~~of residence~~, stating
 2072 that the applicant holds a current license to act as an all-

2073 lines independent adjuster. ~~The~~ Such certificate or letter of
 2074 authorization must be signed by the insurance commissioner, or
 2075 his or her deputy or the appropriate licensing official, and
 2076 must disclose whether the adjuster has ever had a ~~any~~ license or
 2077 eligibility to hold any license declined, denied, suspended,
 2078 revoked, or placed on probation or whether an administrative
 2079 fine or penalty has been levied against the adjuster and, if so,
 2080 the reason for the action. Such certificate or letter is not
 2081 required if the nonresident applicant's licensing status can be
 2082 verified through the Producer Database maintained by the
 2083 National Association of Insurance Commissioners, its affiliates,
 2084 or subsidiaries.

2085 (c) If the applicant's home state ~~of residence~~ does not
 2086 require licensure as an all-lines independent adjuster and the
 2087 applicant has been licensed as a resident insurance adjuster,
 2088 agent, broker, or other insurance representative in his or her
 2089 home state ~~of residence~~ or any other state within the past 3
 2090 years, a certificate or letter of authorization from the
 2091 licensing authority stating that the applicant holds or has held
 2092 a license to act as an insurance adjuster, agent, or other
 2093 insurance representative. The certificate or letter of
 2094 authorization must be signed by the insurance commissioner, or
 2095 his or her deputy or the appropriate licensing official, and
 2096 must disclose whether the adjuster, agent, or other insurance
 2097 representative has ever had a ~~any~~ license or eligibility to hold
 2098 any license declined, denied, suspended, revoked, or placed on
 2099 probation or whether an administrative fine or penalty has been
 2100 levied against the adjuster and, if so, the reason for the

2101 action. Such certificate or letter is not required if the
 2102 nonresident applicant's licensing status can be verified through
 2103 the Producer Database maintained by the National Association of
 2104 Insurance Commissioners, its affiliates, or subsidiaries.

2105 (3) The usual and customary records pertaining to
 2106 transactions under the license of a nonresident all-lines
 2107 ~~independent~~ adjuster must be retained for at least 3 years after
 2108 completion of the adjustment and ~~must~~ be made available in this
 2109 state to the department upon request. The failure of a
 2110 nonresident all-lines ~~independent~~ adjuster to properly maintain
 2111 records and make them available to the department upon request
 2112 constitutes grounds for the immediate suspension of the license
 2113 issued under this section.

2114 (4) ~~After licensure as a nonresident independent adjuster,~~
 2115 As a condition of doing business in this state as a nonresident
 2116 independent adjuster, the appointee must ~~licensee must~~ annually
 2117 ~~on or before January 1, on a form prescribed by the department,~~
 2118 submit an affidavit to the department certifying that the
 2119 licensee is familiar with and understands the insurance laws and
 2120 administrative rules of this state and the provisions of the
 2121 contracts negotiated or to be negotiated. Compliance with this
 2122 filing requirement is a condition precedent to the issuance,
 2123 continuation, reinstatement, or renewal of a nonresident
 2124 independent adjuster's appointment.

2125 Section 43. Section 626.8736, Florida Statutes, is amended
 2126 to read:

2127 626.8736 Nonresident independent or public adjusters;
 2128 service of process.—

2129 (1) Each licensed nonresident ~~independent or~~ public
 2130 adjuster or all-lines adjuster appointed as an independent
 2131 adjuster shall appoint the Chief Financial Officer and his or
 2132 her successors in office as his or her attorney to receive
 2133 service of legal process issued against such ~~the nonresident~~
 2134 ~~independent or public~~ adjuster in this state, upon causes of
 2135 action arising within this state out of transactions under his
 2136 license and appointment. Service upon the Chief Financial
 2137 Officer as attorney constitutes ~~shall constitute~~ effective legal
 2138 service upon the nonresident independent or public adjuster.

2139 (2) The appointment of the Chief Financial Officer for
 2140 service of process is ~~shall be~~ irrevocable ~~for~~ as long as there
 2141 could be any cause of action against the nonresident ~~independent~~
 2142 ~~or~~ public adjuster or all-lines adjuster appointed as an
 2143 independent adjuster arising out of his or her insurance
 2144 transactions in this state.

2145 (3) Duplicate copies of legal process against the
 2146 nonresident ~~independent or~~ public adjuster or all-lines adjuster
 2147 appointed as an independent adjuster shall be served upon the
 2148 Chief Financial Officer by a person competent to serve a
 2149 summons.

2150 (4) Upon receiving the service, the Chief Financial
 2151 Officer shall ~~forthwith~~ send one of the copies of the process,
 2152 by registered mail with return receipt requested, to the
 2153 defendant nonresident ~~independent or~~ public adjuster or all-
 2154 lines adjuster appointed as an independent adjuster at his or
 2155 her last address of record with the department.

2156 (5) The Chief Financial Officer shall keep a record of the

HB 725

2012

2157 | day and hour of service upon him or her of all legal process
 2158 | received under this section.

2159 | Section 44. Subsection (1) of section 626.874, Florida
 2160 | Statutes, is amended to read:

2161 | 626.874 Catastrophe or emergency adjusters.—

2162 | (1) In the event of a catastrophe or emergency, the
 2163 | department may issue a license, for the purposes and under the
 2164 | conditions ~~which it shall fix~~ and for the period of emergency as
 2165 | it shall determine, to persons who are residents or nonresidents
 2166 | of this state, who are at least 18 years of age, who are United
 2167 | States citizens or legal aliens who possess work authorization
 2168 | from the United States Bureau of Citizenship and Immigration
 2169 | Services, and who are not licensed adjusters under this part but
 2170 | who have been designated and certified to it as qualified to act
 2171 | as adjusters by all-lines independent resident adjusters, ~~or~~ by
 2172 | an authorized insurer, or by a licensed general lines agent to
 2173 | adjust claims, losses, or damages under policies or contracts of
 2174 | insurance issued by such insurers. The fee for the license is
 2175 | ~~shall be~~ as provided in s. 624.501(12)(c).

2176 | Section 45. Subsection (1) of section 626.875, Florida
 2177 | Statutes, is amended to read:

2178 | 626.875 Office and records.—

2179 | (1) Each appointed ~~Every licensed~~ independent adjuster and
 2180 | ~~every~~ licensed public adjuster must ~~shall have and~~ maintain ~~in~~
 2181 | ~~this state~~ a place of business in this state which is accessible
 2182 | to the public and keep therein the usual and customary records
 2183 | pertaining to transactions under the license. This provision
 2184 | does ~~shall~~ not be deemed to prohibit maintenance of such an

2185 office in the home of the licensee.

2186 Section 46. Section 626.876, Florida Statutes, is amended
2187 to read:

2188 626.876 Exclusive employment; public adjusters,
2189 independent adjusters.—

2190 (1) An ~~No~~ individual licensed and appointed as a public
2191 adjuster may not ~~shall~~ be ~~se~~ employed during the same period by
2192 more than one public adjuster or public adjuster firm or
2193 corporation.

2194 (2) An ~~No~~ individual licensed as an all-lines adjuster and
2195 appointed as an independent adjuster may not ~~shall~~ be ~~se~~
2196 employed during the same period by more than one independent
2197 adjuster or independent adjuster firm or corporation.

2198 Section 47. Subsections (5), (6), and (7) of section
2199 626.927, Florida Statutes, are amended to read:

2200 626.927 Licensing of surplus lines agent.—

2201 ~~(5) The applicant must file and thereafter maintain the~~
2202 ~~bond as required under s. 626.928.~~

2203 ~~(5)(6)~~ Examinations as to surplus lines, as required under
2204 subsections (1) and (2), are ~~shall be~~ subject to the provisions
2205 of part I as applicable to applicants for licenses in general.
2206 ~~No such examination shall be required as to persons who held a~~
2207 ~~Florida surplus lines agent's license as of January 1, 1959,~~
2208 ~~except when examinations subsequent to issuance of an initial~~
2209 ~~license are provided for in general under part I.~~

2210 ~~(6)(7)~~ An ~~Any~~ individual who has been licensed by the
2211 department as a surplus lines agent as provided in this section
2212 may be subsequently appointed without additional written

2213 examination if his or her application for appointment is filed
 2214 with the department within 48 months after ~~next following~~ the
 2215 date of cancellation or expiration of the prior appointment. The
 2216 department may, ~~in its discretion,~~ require an ~~any~~ individual to
 2217 take and successfully pass an examination as for original
 2218 issuance of license as a condition precedent to the
 2219 reinstatement or continuation of the licensee's current license
 2220 or reinstatement or continuation of the licensee's appointment.

2221 Section 48. Section 626.928, Florida Statutes, is
 2222 repealed.

2223 Section 49. Section 626.933, Florida Statutes, is amended
 2224 to read:

2225 626.933 Collection of tax and service fee.—If the tax or
 2226 service fee payable by a surplus lines agent under the ~~this~~
 2227 Surplus Lines Law is not so paid within the time prescribed, it
 2228 ~~the same~~ shall be recoverable in a suit brought by the
 2229 department against the surplus lines agent ~~and the surety or~~
 2230 ~~sureties on the bond filed by the surplus lines agent under s.~~
 2231 ~~626.928.~~ The department may authorize the Florida Surplus Lines
 2232 Service Office to file suit on its behalf. All costs and
 2233 expenses incurred in a suit brought by the office which are not
 2234 recoverable from the agent or surety shall be borne by the
 2235 office.

2236 Section 50. Subsection (1) of section 626.935, Florida
 2237 Statutes, is amended to read:

2238 626.935 Suspension, revocation, or refusal of surplus
 2239 lines agent's license.—

2240 (1) The department shall deny an application for, suspend,

HB 725

2012

2241 revoke, or refuse to renew the appointment of a surplus lines
 2242 agent and all other licenses and appointments held by the
 2243 licensee under this code, on ~~upon~~ any of the following grounds:

2244 (a) Removal of the licensee's office from the licensee's
 2245 state of residence.

2246 (b) Removal of the accounts and records of his or her
 2247 surplus lines business from this state or the licensee's state
 2248 of residence during the period when such accounts and records
 2249 are required to be maintained under s. 626.930.

2250 (c) Closure of the licensee's office for ~~a period of~~ more
 2251 than 30 consecutive days.

2252 (d) Failure to make and file his or her affidavit or
 2253 reports when due as required by s. 626.931.

2254 (e) Failure to pay the tax or service fee on surplus lines
 2255 premiums, as provided ~~for~~ in the ~~this~~ Surplus Lines Law.

2256 ~~(f) Failure to maintain the bond as required by s.~~
 2257 ~~626.928.~~

2258 (f) ~~(g)~~ Suspension, revocation, or refusal to renew or
 2259 continue the license or appointment as a general lines agent,
 2260 service representative, or managing general agent.

2261 (g) ~~(h)~~ Lack of qualifications as for an original surplus
 2262 lines agent's license.

2263 (h) ~~(i)~~ Violation of this Surplus Lines Law.

2264 (i) ~~(j)~~ For any other applicable cause for which the
 2265 license of a general lines agent could be suspended, revoked, or
 2266 refused under s. 626.611 or s. 626.621.

2267 Section 51. Paragraph (b) of subsection (1) of section
 2268 627.952, Florida Statutes, is amended to read:

HB 725

2012

2269 | 627.952 Risk retention and purchasing group agents.—
 2270 | (1) Any person offering, soliciting, selling, purchasing,
 2271 | administering, or otherwise servicing insurance contracts,
 2272 | certificates, or agreements for any purchasing group or risk
 2273 | retention group to any resident of this state, either directly
 2274 | or indirectly, by the use of mail, advertising, or other means
 2275 | of communication, shall obtain a license and appointment to act
 2276 | as a resident general lines agent, if a resident of this state,
 2277 | or a nonresident general lines agent if not a resident. Any such
 2278 | person shall be subject to all requirements of the Florida
 2279 | Insurance Code.
 2280 | (b) Any person required to be licensed and appointed under
 2281 | ~~by~~ this subsection, in order to place business through Florida
 2282 | eligible surplus lines carriers, must ~~shall~~, if a resident of
 2283 | this state, be licensed and appointed as a surplus lines agent.
 2284 | ~~Any such person,~~ If not a resident of this state, such person
 2285 | must ~~shall~~ be licensed and appointed as a surplus lines agent in
 2286 | her or his state of residence and ~~shall~~ file and ~~thereafter~~
 2287 | maintain a fidelity bond in favor of the people of the State of
 2288 | Florida executed by a surety company admitted in this state and
 2289 | payable to the State of Florida; ~~provided,~~ however, ~~any~~
 2290 | ~~activities carried out by~~ such nonresident is ~~pursuant to this~~
 2291 | ~~part shall be~~ limited to the provision of insurance for
 2292 | purchasing groups. The bond must ~~shall~~ be continuous in form and
 2293 | ~~maintained~~ in the amount of not less than \$50,000, aggregate
 2294 | liability set out in s. 626.928. The bond must ~~shall~~ remain in
 2295 | force and effect until the surety is released from liability by
 2296 | the department or until the bond is canceled by the surety. The

2297 surety may cancel the bond and be released from further
 2298 liability ~~thereunder~~ upon 30 days' prior written notice to the
 2299 department. The cancellation does ~~shall~~ not affect any liability
 2300 incurred or accrued ~~thereunder~~ before the termination of the 30-
 2301 day period. Upon receipt of a notice of cancellation, the
 2302 department shall immediately notify the agent.

2303 Section 52. Subsections (1) and (2) of section 635.051,
 2304 Florida Statutes, are amended to read:

2305 635.051 Licensing and appointment of mortgage guaranty
 2306 insurance agents.—

2307 (1) Effective October 1, 2012, a person may not transact
 2308 mortgage guaranty insurance unless licensed and appointed as a
 2309 credit insurance agent in accordance with the applicable
 2310 provisions of the insurance code. Mortgage guaranty licenses
 2311 held by persons on October 1, 2012, shall be transferred to a
 2312 credit insurance agent license. Persons who wish to obtain a new
 2313 license identification card that reflects this change must
 2314 submit the \$5 fee as prescribed in s. 624.501(15). Agents of
 2315 ~~mortgage guaranty insurers shall be licensed and appointed and~~
 2316 ~~shall be subject to the same qualifications and requirements~~
 2317 ~~applicable to general lines agents under the laws of this state,~~
 2318 ~~except that:~~

2319 ~~(a) Particular preliminary specialized education or~~
 2320 ~~training is not required of an applicant for such an agent's~~
 2321 ~~license, and continuing education is not required for renewal of~~
 2322 ~~the agent's appointment if, as part of the application for~~
 2323 ~~license and appointment, the insurer guarantees that the~~
 2324 ~~applicant will receive the necessary training to enable him or~~

HB 725

2012

2325 ~~her properly to hold himself or herself out to the public as a~~
 2326 ~~mortgage guaranty insurance agent and if the department, in its~~
 2327 ~~discretion, accepts such guaranty;~~

2328 ~~(b) The agent's license and appointment shall be a limited~~
 2329 ~~license, limited to the handling of mortgage guaranty insurance~~
 2330 ~~only; and~~

2331 ~~(c) An examination may be required of an applicant for~~
 2332 ~~such a license if the insurer fails to provide the guaranty~~
 2333 ~~described in paragraph (a).~~

2334 (2) Any general lines agent licensed under chapter 626 is
 2335 qualified to represent a mortgage guaranty insurer without
 2336 additional licensure examination.

2337 Section 53. Subsection (2) of section 648.38, Florida
 2338 Statutes, is amended to read:

2339 648.38 Licensure examination for bail bond agents; time;
 2340 place; fees; scope.—

2341 (2) The department or a person designated by the
 2342 department shall provide ~~mail-written~~ notice of the time and
 2343 place of the examination to each applicant for licensure
 2344 required to take an examination who will be eligible to take the
 2345 examination as of the examination date. The notice shall be e-
 2346 mailed ~~so mailed, postage prepaid, and addressed to the~~
 2347 applicant at the e-mail ~~his or her~~ address shown on his or her
 2348 application for licensure ~~or at such other address as requested~~
 2349 ~~by the applicant in writing filed with the department prior to~~
 2350 ~~the mailing of the notice.~~ Notice shall be deemed given when so
 2351 mailed.

2352 Section 54. Section 648.385, Florida Statutes, is amended

2353 to read:

2354 648.385 Continuing education required; application;
 2355 exceptions; requirements; penalties.-

2356 (1) The purpose of this section is to establish
 2357 requirements and standards for continuing education courses for
 2358 persons authorized to write bail bonds in this state.

2359 (2) ~~(a) Each person subject to the provisions of this~~
 2360 ~~chapter must complete a minimum of 14 hours of continuing~~
 2361 ~~education courses every 2 years as specified in s. 626.2815 in~~
 2362 ~~courses approved by the department. Compliance with continuing~~
 2363 ~~education requirements is a condition precedent to the issuance,~~
 2364 ~~continuation, or renewal of any appointment subject to the~~
 2365 ~~provisions of this chapter.~~

2366 ~~(b) A person teaching any approved course of instruction~~
 2367 ~~or lecturing at any approved seminar and attending the entire~~
 2368 ~~course or seminar shall qualify for the same number of classroom~~
 2369 ~~hours as would be granted to a person taking and successfully~~
 2370 ~~completing such course, seminar, or program. Credit shall be~~
 2371 ~~limited to the number of hours actually taught unless a person~~
 2372 ~~attends the entire course or seminar.~~

2373 ~~(c) For good cause shown, the department may grant an~~
 2374 ~~extension of time during which the requirements imposed by this~~
 2375 ~~section may be completed, but such extension of time may not~~
 2376 ~~exceed 1 year.~~

2377 ~~(3) (a) Any bail-related course developed or sponsored by~~
 2378 ~~any authorized insurer or recognized bail bond agents'~~
 2379 ~~association, or any independent study program of instruction,~~
 2380 ~~subject to approval by the department, qualifies for the~~

2381 ~~equivalency of the number of classroom hours assigned to such~~
 2382 ~~course by the department. However, unless otherwise provided in~~
 2383 ~~this section, continuing education credit may not be credited~~
 2384 ~~toward meeting the requirements of this section unless the~~
 2385 ~~course is provided by classroom instruction or results in a~~
 2386 ~~monitored examination.~~

2387 ~~(b) Each person or entity sponsoring a course for~~
 2388 ~~continuing education credit must furnish, within 30 days after~~
 2389 ~~completion of the course, in a form satisfactory to the~~
 2390 ~~department or its designee, a written and certified roster~~
 2391 ~~showing the name and license number of all persons successfully~~
 2392 ~~completing such course and requesting credit, accompanied by the~~
 2393 ~~required fee. The department shall refuse to issue, continue, or~~
 2394 ~~renew the appointment of any bail bond agent who has not had the~~
 2395 ~~continuing education requirements certified unless the agent has~~
 2396 ~~been granted an extension by the department.~~

2397 Section 55. Subsection (1) of section 903.27, Florida
 2398 Statutes, is amended to read:

2399 903.27 Forfeiture to judgment.-

2400 (1) If the forfeiture is not paid or discharged by court
 2401 ~~order of a court of competent jurisdiction~~ within 60 days and
 2402 the bond is secured other than by money and bonds authorized
 2403 under ~~in~~ s. 903.16, the clerk of the circuit court for the
 2404 county where the order was made shall enter a judgment against
 2405 the surety for the amount of the penalty and issue execution.
 2406 However, if ~~if in any case in which~~ the bond forfeiture has been
 2407 discharged by the court ~~of competent jurisdiction~~ conditioned
 2408 upon the payment by the surety of certain costs or fees as

2409 allowed by statute, the amount for which judgment may be entered
 2410 may not exceed the amount of the unpaid fees or costs upon which
 2411 the discharge had been conditioned. Judgment for the full amount
 2412 of the forfeiture may ~~shall~~ not be entered if payment of a
 2413 lesser amount will satisfy the conditions to discharge the
 2414 forfeiture. Within 10 days, the clerk shall furnish the
 2415 ~~Department of Financial Services and the Office of Insurance~~
 2416 ~~Regulation of the Financial Services Commission with a certified~~
 2417 ~~copy of the judgment docket and shall furnish the surety company~~
 2418 ~~at its home office~~ a copy of the judgment at its home office,
 2419 which includes ~~shall include~~ the power of attorney number of the
 2420 bond and the name of the executing agent. If the judgment is not
 2421 paid within 60 ~~35~~ days, the clerk shall furnish ~~the Department~~
 2422 ~~of Financial Services,~~ the Office of Insurance Regulation, and
 2423 the sheriff of the county in which the bond was executed, or the
 2424 official responsible for operation of the county jail, if other
 2425 than the sheriff, two certified copies of the transcript of the
 2426 docket of the judgment and a certificate stating that the
 2427 judgment remains unsatisfied. ~~When and~~ If the judgment is
 2428 properly paid or a court ~~an~~ order to vacate the judgment has
 2429 been entered ~~by a court of competent jurisdiction,~~ the clerk
 2430 shall immediately notify the sheriff, or the official
 2431 responsible for the operation of the county jail, if other than
 2432 the sheriff, ~~and the Department of Financial Services and the~~
 2433 ~~Office of Insurance Regulation,~~ if the ~~department and~~ office had
 2434 been previously notified of nonpayment, of such payment or order
 2435 to vacate the judgment. The clerk shall also immediately prepare
 2436 and record in the public records a satisfaction of the judgment

HB 725

2012

2437 or record the order to vacate judgment. If the defendant is
2438 returned to the county of jurisdiction of the court and
2439 ~~whenever~~ a motion to set aside the judgment is filed, the
2440 operation of this section is tolled until the court makes a
2441 disposition of the motion.



2442 Section 56. Except as otherwise expressly provided in this
2443 act, this act shall take effect October 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1053 Long-Term Care Insurance

SPONSOR(S): Metz

TIED BILLS: IDEN./SIM. BILLS: SB 1306

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Barnum 	Cooper 
2) Health & Human Services Committee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Chapter 627, Part XVIII, F. S., is the Long-Term Care Insurance Act. Along with Chapter 690-157, F.A.C., it establishes policies and procedures for the sale, servicing, and administration of long-term care insurance policies issued or delivered for issue in Florida.

Long-term Care Plans are a type of private insurance developed specifically to cover the costs of long-term care services, most of which are not covered by traditional health insurance or Medicare. These include services in one’s home such as assistance with Activities of Daily Living, as well as care in a variety of facility and community settings. Premiums are pre-paid, and policies may contain provisions allowing an insurer to revise the rates at the time of renewal; however, the rate revision must be on a class basis.

In Florida, for a long-term care policy issued to an individual, the only renewal provision it can contain is either “guaranteed renewable” or “noncancellable”. For a “guaranteed renewable” policy, the insured has the right to continue the long-term care insurance in force by the timely payment of premiums. The insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

In 2009, Florida’s Third District Court of Appeal, in a case involving a guaranteed renewable long-term care insurance policy, held that the renewal of the insurance contract through timely premium payment constituted making a new contract. Thus, a statutory change forbidding a particular policy provision, which was enacted subsequent to the original issue date of the guaranteed renewable contract, was incorporated into the policy upon renewal and became part of the new contract.

The general rule in insurance is that the statute in effect at the time an insurance contract is executed governs the substantive issues arising in connection with that contract. Thus, if the Legislature amends an insurance law, the amendment typically will not apply to an insurance contract entered into before the amendment. Statutes that do not alter contractual or vested rights but relate only to remedies or procedure can be applied retroactively. Statutes affecting substantive rights, liabilities, and duties cannot apply retroactively. Also, statutes impairing vested rights, creating new obligations, or imposing new penalties cannot apply retroactively.

HB 1053 specifies that, as applied to long-term care insurance policies, the continuation or renewal of a guaranteed renewable policy by the timely payment of required premiums does not constitute the making of a new policy or contract for any purpose. Therefore, any statutory or regulatory changes enacted after the original issue date of the guaranteed renewable policy would not be incorporated into the policy.

The bill codifies in law a definition of “guaranteed renewable” as it applies to the Long-Term Care Insurance Act. In so doing, it also codifies that any rate revision by the insurer, at the time of renewal, may only be on a class basis.

There is no fiscal impact on state or local governments.

Insurers may experience a positive economic impact.

The bill provides for an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

Long-term Care Plans

Long-term Care Plans^{1,2} are a type of private insurance developed specifically to cover the costs of long-term care services, most of which are not covered by traditional health insurance or Medicare. These include services in one's home such as assistance with Activities of Daily Living (ADL),³ as well as care in a variety of facility and community settings. Most policies use ADL and Cognitive Impairment (CI)⁴ as triggers for benefits. Typically the policy pays benefits when one needs help with two or more of the six ADLs or when one has a CI. Coverage may be offered on an expense incurred, indemnity, prepaid, or other basis.

Most policies have a benefit period or lifetime benefit maximum, which is the total amount of time or total amount of dollars up to which benefits will be paid. Common benefit periods for long-term care policies are two, three, four, and five years, and lifetime or unlimited coverage. Most policies translate these time periods into dollar amounts and do not actually limit the number of days for which they will pay for care – just the overall dollar amount that the policy will pay. Premiums are pre-paid, and different payment options may be available. These include: payment according to a schedule - monthly, quarterly, semi-annually or annually; a lump sum payment; payment only for a specified period – most often 10, 15, or 20 years; and, premium payment only until age 65. Typically, premiums are waived during the time one is receiving benefits.

Retroactive Application of Statutes

The general rule in insurance is that the statute in effect at the time an insurance contract is executed governs the substantive issues arising in connection with that contract.⁵ Thus, if the Legislature amends an insurance law, the amendment typically will not apply to an insurance contract entered into before the amendment. However, if the amendment is procedural, the court may apply it retroactively to an insurance contract entered into before the amendment.

If the Legislature clearly expresses an intent that a statute apply retroactively, the court then determines whether retroactive application is constitutionally permissible.⁶ Courts make this determination by looking to the effect of a statute. Stated legislative intent that a statute apply retroactively is not necessarily dispositive as to the retroactive application.

Statutes that do not alter contractual or vested rights but relate only to remedies or procedure can be applied retroactively.⁷ Procedural law concerns the means and methods to apply and enforce substantive duties and rights.⁸

Statutes affecting substantive rights, liabilities, and duties cannot apply retroactively.⁹ Also, statutes impairing vested rights, creating new obligations, or imposing new penalties cannot apply retroactively.¹⁰

¹ http://www.longtermcare.gov/LTC/Main_Site/index.aspx

² Chapter 627, Part XVIII, F.S.

³ Bathing; continence; dressing; eating; toileting; and, transferring. (See also s. 627.94074(2), F.S.)

⁴ Inability to pass certain mental function tests.

⁵ *Hassen v. State Farm Mutual Automobile Ins. Co.*, 674 So.2d 106, 107 (Fla. 1996).

⁶ *Romine v. Florida Birth Related Neurological Injury Compensation Ass'n.*, 842 So.2d 148, 153 (Fla. 5th DCA 2003).

⁷ *DaimlerChrysler Corp. v. Hurst*, 949 So.2d 279 (Fla. 3rd DCA 2007).

⁸ *Romine* 842 So.2d at 154 .

⁹ *Menendez v. Progressive Express Ins. Co.*, 35 So.3d 873 (Fla. 2010).

¹⁰ *Romine* 842 So.2d at 153.

Current Situation:

Chapter 627, Part XVIII, F. S., is the Long-Term Care Insurance Act (Act). Along with Chapter 690-157, Florida Administrative Code, the Act establishes policies and procedures for the sale, servicing, and administration of long-term care insurance policies issued or delivered for issue in Florida. Per the Act, long-term care insurance may be offered to a Florida resident under a group policy issued in another state if the other state has statutory and regulatory requirements similar to those of Florida, as evidenced by information filed with the Office of Insurance Regulation (OIR) by the insurer.

In order to protect applicants from unfair or deceptive sales or enrollment practices, every insurer, health care service plan, or other entity providing long-term care insurance or benefits in Florida must submit a copy of all associated advertising and marketing material to the OIR for review or approval.¹¹ At any time, the OIR has the authority to disapprove an advertisement and enter an order requiring that use of the advertisement be discontinued.¹²

The OIR reviews data provided by the insurer for approval of any premium rate schedule increase.¹³ Premium increases for existing policy holders may not exceed the premium charged for a newly issued insurance policy, except to reflect benefit differences.¹⁴ Long-term care insurance policies may contain provisions allowing an insurer to revise the rates at the time of renewal; however, the rate revision must be on a class basis.^{15, 16} Some policies may contain the term “level premium”, in which case the insurer does not have the right to change the premium.

For a long-term care policy issued to an individual, the only renewal provision it can contain is either “guaranteed renewable” or “noncancellable”. For a “guaranteed renewable” policy, the insured has the right to continue the long-term care insurance in force by the timely payment of premiums. The insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis. Under the renewal provision of “noncancellable”, the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate.¹⁷

In 2009, the Third District Court of Appeal, in a case involving a guaranteed renewable long-term care insurance policy, held that the renewal of the insurance contract through timely premium payment constituted making a new contract.¹⁸ Thus, a statutory change forbidding a particular policy provision, which was enacted subsequent to the original issue date of the guaranteed renewable contract, was incorporated into the policy upon renewal and became part of the new contract.

Effect of the bill:

HB 1053 specifies that, as applied to long-term care insurance policies, the continuation or renewal of a guaranteed renewable policy by the timely payment of required premiums does not constitute the making of a new policy or contract for any purpose. Therefore, any statutory or regulatory changes enacted after the original issue date of the guaranteed renewable policy would not be incorporated into the policy.

The bill codifies in law a definition of “guaranteed renewable” as it applies to the Long-Term Care Insurance Act. In so doing, it also codifies that any rate revision by the insurer, at the time of renewal, may only be on a class basis. Under this statutory definition, for a “guaranteed renewable” policy, the

¹¹ 690-157.115, F.A.C.

¹² s. 627.9407(2), F.S.

¹³ 690-157.113, F.A.C.

¹⁴ s. 627.9407(7)(c), F.S.

¹⁵ 690-157.005, F.A.C.

¹⁶ 690-157.104(1)(b), F.A.C.

¹⁷ 690-157.104(1), F.A.C.

¹⁸ *Bell Care Nurses Registry, Inc. v. Cont'l Cas. Co.*, 25 So.3d 13 (Fla. 3d DCA 2009).

insured has the right to continue the long-term care insurance in force by the timely payment of premiums. The insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

B. SECTION DIRECTORY:

- Section 1: Amends s. 627.9404, F.S., by providing a definition of "guaranteed renewable" as it applies to the Long-Term Care Insurance Act.
- Section 2: Amends s. 627.9407, F.S., as relating to benefits arising from timely payment of premium.
- Section 3: Amends s. 627.9403, F.S., by conforming language.
- Section 4: Amends s. 641.2018, F.S., by conforming language.
- Section 5: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

- Insurers with a long-term care offering are provided benefit and cost, predictability.
- Should future legislation or regulation add a benefit which would result in a premium increase, existing policy holders would have the opportunity to avoid the increase associated with that benefit.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

- The provisions of this bill will apply to policies issued on or after the effective date. It is unclear whether the provisions will apply to policies issued prior to the bill's effective date.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 1053

2012

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A bill to be entitled
 An act relating to long-term care insurance; amending
 s. 627.9404, F.S.; defining the term "guaranteed
 renewable" for purposes of the Long-Term Care
 Insurance Act; amending s. 627.9407, F.S.; providing
 that continuation or renewal of a guaranteed renewable
 long-term care insurance policy does not result in the
 making of a new policy or contract or incorporate
 certain statutory or regulatory changes into the
 policy or contract; amending ss. 627.9403 and
 641.2018, F.S.; conforming cross-references; providing
 editorial changes; providing an effective date.

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

Section 1. Subsections (6) through (12) of section
 627.9404, Florida Statutes, are renumbered as subsections (7)
 through (13), respectively, and a new subsection (6) is added to
 that section to read:

627.9404 Definitions.—For the purposes of this part:

(6) "Guaranteed renewable" means that the insured has the
 right to continue the policy or contract in force by the timely
 payment of premiums and the insurer has no unilateral right to
 make any change in any provision of the policy or contract while
 the insurance or contract is in force and cannot decline to
 renew, except that rates may be revised by the insurer on a
 class basis.

HB 1053

2012

28 Section 2. Subsection (3) of section 627.9407, Florida
 29 Statutes, is amended to read:

30 627.9407 Disclosure, advertising, and performance
 31 standards for long-term care insurance.—

32 (3) RESTRICTIONS.—

33 (a) A long-term care insurance policy may not:

34 1.~~(a)~~ Be canceled, nonrenewed, or otherwise terminated on
 35 the grounds of the age or the deterioration of the mental or
 36 physical health of the insured individual or certificateholder;
 37 however, the office may authorize nonrenewal for an insurer on a
 38 statewide basis on terms and conditions determined to be
 39 necessary by the office to protect the interests of the
 40 insureds, if the insurer demonstrates that renewal will
 41 jeopardize the insurer's solvency or that substantial and
 42 unexpected loss experience cannot reasonably be mitigated or
 43 remedied.

44 2.~~(b)~~ Contain a provision establishing a new waiting
 45 period in the event existing coverage is converted to or
 46 replaced by a new or other form within the same insurer or any
 47 affiliated insurer, except with respect to an increase in
 48 benefits voluntarily selected by the insured individual or group
 49 policyholder.

50 3.~~(c)~~ Restrict its coverage to care only in a nursing home
 51 licensed pursuant to part II of chapter 400 or provide
 52 significantly more coverage for such care than coverage for
 53 lower levels of care. The commission shall adopt rules defining
 54 what constitutes significantly more coverage in nursing homes
 55 licensed pursuant to part II of chapter 400 than for lower

HB 1053

2012

56 levels of care.

57 4.(d) Contain an elimination period in excess of 180 days.
 58 As used in this paragraph, the term "elimination period" means
 59 the number of days at the beginning of a period of confinement
 60 for which no benefits are payable.

61 (b) The continuation or renewal of a guaranteed renewable
 62 long-term care insurance policy by the timely payment of
 63 required premiums does not constitute the making or issuance of
 64 a new policy of insurance or contract for any purpose and does
 65 not have the effect of incorporating into the policy or contract
 66 statutory or regulatory changes that were enacted or adopted
 67 after the original issuance date of the guaranteed renewable
 68 policy.

69 Section 3. Section 627.9403, Florida Statutes, is amended
 70 to read:

71 627.9403 Scope. ~~The provisions of This part~~ applies shall
 72 ~~apply~~ to long-term care insurance policies delivered or issued
 73 for delivery in this state, and to policies delivered or issued
 74 for delivery outside this state to the extent provided in s.
 75 627.9406, by an insurer, a fraternal benefit society as defined
 76 in s. 632.601, a health maintenance organization as defined in
 77 s. 641.19, a prepaid health clinic as defined in s. 641.402, or
 78 a multiple-employer welfare arrangement as defined in s.
 79 624.437. A policy that ~~which~~ is advertised, marketed, or offered
 80 as a long-term care policy and as a Medicare supplement policy
 81 must ~~shall~~ meet the requirements of this part and the
 82 requirements of ss. 627.671-627.675 and, to the extent of a
 83 conflict, is ~~be~~ subject to the requirement that is more

HB 1053

2012

84 favorable to the policyholder or certificateholder. The
85 ~~provisions of~~ This part does ~~shall~~ not apply to a continuing
86 care contract issued pursuant to chapter 651 or ~~and shall not~~
87 ~~apply~~ to guaranteed renewable policies issued prior to October
88 1, 1988. Any limited benefit policy that limits coverage to care
89 in a nursing home or to one or more lower levels of care
90 required or authorized to be provided by this part or by
91 commission rule is a type of long-term care insurance policy
92 that must meet all requirements of this part that apply to long-
93 term care insurance policies, except ss. 627.9407(3)(a)3.
94 ~~627.9407(3)(e), (9), (10)(f), and (12) and 627.94073(2).~~

95 Section 4. Subsection (3) of section 641.2018, Florida
96 Statutes, is amended to read:

97 641.2018 Limited coverage for home health care
98 authorized.—

99 (3) Any contract that limits coverage to home health care
100 benefits as provided in this section must also meet all of the
101 requirements of ss. 627.9403-627.9408 of the Long-Term Care
102 Insurance Act, except s. 627.9407(3)(a)3. ~~627.9407(3)(e)~~ and
103 (9).



104 Section 5. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4145 Continuing Education Advisory Board

SPONSOR(S): Frishe

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Read 	Cooper 
2) Economic Affairs Committee			

SUMMARY ANALYSIS

In 1989, the Florida Legislature enacted section 626.2815(6), F.S., creating the Continuing Education Advisory Board (Board) in order to establish a continuing education program for insurance agents. The purpose of the board was to advise the Department of Insurance (DOI) (DOI was subsequently replaced by the Office of Insurance Regulation and the Department of Financial Services) on the promulgation of administrative rules establishing standards for the continuing education of insurance agents. The Board was originally intended to be a temporary entity, as the original legislation creating the board had a sunset date of June 30, 1992.

In 1996, the Board was reestablished by the Florida Legislature in order to assist DOI in creating standards by which continuing education courses may be evaluated and categorized as basic, intermediate, or advanced. As a result, administrative rules were promulgated in 2001 setting new standards for continuing education courses. These rules are contained in chapter 69B-228, F.A.C. After DOI promulgated these administrative rules the insurance commissioner and the Chief Financial Officer (CFO) have not appointed any members to the Board.

This bill repeals the section of the Florida statutes creating the Board. Because the administrative rules finalized the standards for continuing education, the Board no longer serves any purpose. In addition, because the Board has not met in over 10 years, this bill simply repeals this section of the Florida Statutes to conform to current practice.

This bill is expected to have no fiscal impact.

The bill has an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

In 1989, the Florida Legislature created the Continuing Education Advisory Board (Board) in order to establish a continuing education program for insurance agents.¹ The purpose of the board was to advise the DOI (DOI was subsequently replaced by the Office of Insurance Regulation and the Department of Financial Services) on the promulgation of administrative rules establishing standards for the continuing education of insurance agents. The Board was originally intended to be a temporary entity, as the original legislation creating the board had a sunset date of June 30, 1992.²

In 1996, the Board was reestablished by the Florida Legislature in order to assist DOI in creating standards by which continuing education courses may be evaluated and categorized as basic, intermediate, or advanced.³ As a result, administrative rules were promulgated in 2001 setting new standards for continuing education courses. These rules are contained in chapter 69B-228, F.A.C. After DOI promulgated these administrative rules the insurance commissioner and the Chief Financial Officer (CFO) have not appointed any members to the Board.

Effect of Bill:

This bill repeals the section of the Florida statutes creating the Board. Because the administrative rules finalized the standards for continuing education, the Board no longer serves any purpose. In addition, because the Board has not met in over 10 years, this bill simply repeals this section of the Florida Statutes to conform to current practice.

B. SECTION DIRECTORY:

Section 1: Repeals section 626.2815(6), F.S.

Section 2: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

¹ Chapter 89-210, § 1, L.O.F. (creating Section 626.2815(6), F.S.).

² Chapter 89-210, § 1, L.O.F.

³ Chapter 96-377, § 1, L.O.F.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or, reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 4145

2012

1 A bill to be entitled
 2 An act relating to the continuing education advisory
 3 board; repealing s. 626.2815(6), F.S.; deleting
 4 authority for the creation of the continuing education
 5 advisory board whose purpose is to advise the
 6 Department of Financial Services in determining
 7 standards by which courses for certain persons
 8 licensed to solicit or sell insurance may be evaluated
 9 and categorized; deleting all requirements and
 10 procedures with respect to the board; providing an
 11 effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Subsection (6) of section 626.2815, Florida
 16 Statutes, is repealed.

17 Section 2. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4149 Preferred Worker Program

SPONSOR(S): Boyd

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Read <i>HR</i>	Cooper <i>TC</i>
2) Economic Affairs Committee			

SUMMARY ANALYSIS

The Preferred Worker Program (PWP) is a program created by the Legislature that became effective January 1, 1994. The program provides financial incentives to employers to hire employees that are unable to return to their previous employment because of permanent physical disability resulting from a compensable, workplace injury. The financial incentive for hiring such workers was reimbursement of workers' compensation insurance premiums corresponding to the premium that the employer pays to cover the preferred worker. This reimbursement of insurance premiums was to be paid by the Chief Financial Officer from a special fund known as the Special Disability Trust Fund (SDTF). The PWP also provides that the Department of Financial Services and the Department of Education have rulemaking authority to implement the program.

In 1997 the Legislature amended section 440.49, F.S., to provide that the SDTF would not disperse funds for accidents that occurred after January 1, 1998. This limitation severely restricted the PWP because employers were only able to receive reimbursements if the accident giving rise to the claim occurred before January 1, 1998. In addition, because rule 69L-11.006, F.A.C., requires that an application for PWP benefits must be filed within two years of the employee's workplace accident, any possible claimants that did not file for inclusion in the PWP by January 1, 2000 are unable to be categorized as preferred workers. Lastly, section 440.49(8), F.S., permits employer reimbursement for only 3 years. The combined effect of these changes led to the final payments being made pursuant to the program in 2000.

The repeal of section 440.49(8), F.S., will remove a section from the Florida Statutes that is currently of no legal effect. This is because the legal mechanisms used to implement the program have been amended in such a way as to make the program an anachronism.

The bill is expected to have no fiscal impact.

The bill becomes effective July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

The PWP is a program created by the Legislature that provides financial incentives to employers to hire employees that are unable to return to their previous employment because of permanent physical disability resulting from a compensable, workplace injury.¹ The financial incentive for hiring such workers was reimbursement of workers' compensation insurance premiums corresponding to the premium that the employer pays to cover the preferred worker.² This reimbursement of insurance premiums was to be paid by the Chief Financial Officer from a special fund known as the Special Disability Trust Fund (SDTF).³ The PWP provides that the Department of Financial Services and the Department of Education have rulemaking authority to implement the program.

In 1997 the Legislature amended section 440.49, F.S., to provide that the SDTF would not disperse funds for accidents that occurred after January 1, 1998.⁴ This limitation severely restricted the PWP because employers were only able to receive reimbursements if the accident giving rise to the claim occurred before January 1, 1998.⁵ In addition, because rule 69L-11.006, F.A.C., requires that an application for PWP benefits must be filed within two years of the employee's workplace accident, any possible claimants that did not file for inclusion in the PWP by January 1, 2000 are unable to be categorized as preferred workers. Lastly, section 440.49(8), F.S., permits employer reimbursement for only 3 years. The combined effect of these changes led to the final payments being made pursuant to the PWP in 2000.⁶

Effect of Proposed Changes:

The repeal of Section 440.49(8), F.S., will remove a section from the Florida Statutes that is currently of no legal effect. This is because the legal mechanisms used to implement the program have been amended in such a way as to make the program an anachronism.⁷

B. SECTION DIRECTORY:

Section 1: Repeals section 440.49(8), F.S., and amends cross-references in section 440.49, F.S.

Section 2: Amends a cross-reference in section 440.50, F.S.

Section 3: Amends a cross-reference in section 440.50, F.S.

Section 4: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹ The program became effective January 1, 1994.

² Section 440.49(8), F.S.

³ Section 440.49(8), F.S.

⁴ Department of Financial Services indicated in the agency analysis that only 9 reimbursement claims had ever been filed before the legislature stopped funding the program.

⁵ Section 440.49(11), F.S.

⁶ Department of Financial Services bill analysis.

⁷ See Section 440.49(11), F.S., and Rule 69L-11.006, F.A.C.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or, reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The section of the Florida Statutes to be repealed contains rulemaking authority for implementing the PWP. The rules created to implement this program were promulgated on November 29, 1994. The rules are currently contained in chapter 69L-11, F.A.C.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the preferred worker program;
 3 amending s. 440.49, F.S.; deleting a preferred worker
 4 program for permanently impaired workers who are
 5 unable to return to work; conforming cross-references;
 6 amending ss. 440.50 and 624.4626, F.S.; conforming
 7 cross-references; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Present subsections (9) through (12) of section
 12 440.49, Florida Statutes, are renumbered as subsections (8)
 13 through (11), respectfully, and subsections (4) and (5),
 14 paragraphs (c) and (d) of subsection (7), and present
 15 subsections (8) and (11) of that section are amended to read:

16 440.49 Limitation of liability for subsequent injury
 17 through Special Disability Trust Fund.—

18 (4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL DISABILITY,
 19 TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT CARE AFTER
 20 OTHER PHYSICAL IMPAIRMENT.—

21 (a) Permanent impairment.—If an employee who has a
 22 preexisting permanent physical impairment incurs a subsequent
 23 permanent impairment from injury or occupational disease arising
 24 out of, and in the course of, her or his employment which merges
 25 with the preexisting permanent physical impairment to cause a
 26 permanent impairment, the employer shall, in the first instance,
 27 pay all benefits provided by this chapter; but, subject to the
 28 limitations specified in subsection (6), such employer shall be

HB 4149

2012

29 reimbursed from the Special Disability Trust Fund ~~created by~~
30 ~~subsection (9)~~ for 50 percent of all impairment benefits which
31 the employer has been required to provide pursuant to s.
32 440.15(3) as a result of the subsequent accident or occupational
33 disease.

34 (b) Permanent total disability.—If an employee who has a
35 preexisting permanent physical impairment incurs a subsequent
36 permanent impairment from injury or occupational disease arising
37 out of, and in the course of, her or his employment which merges
38 with the preexisting permanent physical impairment to cause
39 permanent total disability, the employer shall, in the first
40 instance, pay all benefits provided by this chapter; but,
41 subject to the limitations specified in subsection (6), such
42 employer shall be reimbursed from the Special Disability Trust
43 Fund ~~created by subsection (9)~~ for 50 percent of all
44 compensation for permanent total disability.

45 (c) Temporary compensation and medical benefits;
46 aggravation or acceleration of preexisting condition or
47 circumstantial causation.—If an employee who has a preexisting
48 permanent physical impairment experiences an aggravation or
49 acceleration of the preexisting permanent physical impairment as
50 a result of an injury or occupational disease arising out of and
51 in the course of her or his employment, or suffers an injury as
52 a result of a merger as defined in paragraph (2)(c), the
53 employer shall provide all benefits provided by this chapter,
54 but, subject to the limitations specified in subsection (7), the
55 employer shall be reimbursed by the Special Disability Trust
56 Fund ~~created by subsection (9)~~ for 50 percent of its payments

57 for temporary, medical, and attendant care benefits.

58 (5) WHEN DEATH RESULTS.—If death results from the
 59 subsequent permanent impairment contemplated in subsection (4)
 60 within 1 year after the subsequent injury, or within 5 years
 61 after the subsequent injury when disability has been continuous
 62 since the subsequent injury, and it is determined that the death
 63 resulted from a merger, the employer shall, in the first
 64 instance, pay the funeral expenses and the death benefits
 65 prescribed by this chapter; but, subject to the limitations
 66 specified in subsection (6), she or he shall be reimbursed from
 67 the Special Disability Trust Fund ~~created by subsection (9)~~ for
 68 the last 50 percent of all compensation allowable and paid for
 69 such death and for 50 percent of the amount paid as funeral
 70 expenses.

71 (7) REIMBURSEMENT OF EMPLOYER.—

72 (c) A proof of claim must be filed on each notice of claim
 73 on file as of June 30, 1997, within 1 year after July 1, 1997,
 74 or the right to reimbursement of the claim shall be barred. A
 75 notice of claim on file on or before June 30, 1997, may be
 76 withdrawn and refiled if, at the time refiled, the notice of
 77 claim remains within the limitation period specified in
 78 paragraph (a). Such refiling shall not toll, extend, or
 79 otherwise alter in any way the limitation period applicable to
 80 the withdrawn and subsequently refiled notice of claim. Each
 81 proof of claim filed shall be accompanied by a proof-of-claim
 82 fee as provided in paragraph (8) (d) ~~(9) (d)~~. The Special
 83 Disability Trust Fund shall, within 120 days after receipt of
 84 the proof of claim, serve notice of the acceptance of the claim

85 for reimbursement. This paragraph shall apply to all claims
 86 notwithstanding the provisions of subsection (11) ~~(12)~~.

87 (d) Each notice of claim filed or refiled on or after July
 88 1, 1997, must be accompanied by a notification fee as provided
 89 in paragraph (8) (d) ~~(9) (d)~~. A proof of claim must be filed
 90 within 1 year after the date the notice of claim is filed or
 91 refiled, accompanied by a proof-of-claim fee as provided in
 92 paragraph (8) (d) ~~(9) (d)~~, or the claim shall be barred. The
 93 notification fee shall be waived if both the notice of claim and
 94 proof of claim are submitted together as a single filing. The
 95 Special Disability Trust Fund shall, within 180 days after
 96 receipt of the proof of claim, serve notice of the acceptance of
 97 the claim for reimbursement. This paragraph shall apply to all
 98 claims notwithstanding the provisions of subsection (11) ~~(12)~~.

99 ~~(8) PREFERRED WORKER PROGRAM. The Department of Education
 100 or administrator shall issue identity cards to preferred workers
 101 upon request by qualified employees and the Department of
 102 Financial Services shall reimburse an employer, from the Special
 103 Disability Trust Fund, for the cost of workers' compensation
 104 premium related to the preferred workers payroll for up to 3
 105 years of continuous employment upon satisfactory evidence of
 106 placement and issuance of payroll and classification records and
 107 upon the employee's certification of employment. The Department
 108 of Financial Services and the Department of Education may by
 109 rule prescribe definitions, forms, and procedures for the
 110 administration of the preferred worker program. The Department
 111 of Education may by rule prescribe the schedule for submission
 112 of forms for participation in the program.~~

HB 4149

2012

113 (10) ~~(11)~~ EFFECTIVE DATES.—This section does not apply to
 114 any case in which the accident causing the subsequent injury or
 115 death or the disablement or death from a subsequent occupational
 116 disease occurred prior to July 1, 1955, or on or after January
 117 1, 1998. In no event shall the Special Disability Trust Fund be
 118 liable for, or reimburse employers or carriers for, any case in
 119 which the accident causing the subsequent injury or death or the
 120 disablement or death from a subsequent occupational disease
 121 occurred on or after January 1, 1998. The Special Disability
 122 Trust Fund shall continue to reimburse employers or carriers for
 123 subsequent injuries occurring prior to January 1, 1998, and the
 124 department shall continue to assess for and the department or
 125 administrator shall fund reimbursements as provided in
 126 subsection (8) ~~(9)~~ for this purpose.

127 Section 2. Paragraph (b) of subsection (1) of section
 128 440.50, Florida Statutes, is amended to read:

129 440.50 Workers' Compensation Administration Trust Fund.—

130 (1)

131 (b) The department is authorized to transfer as a loan an
 132 amount not in excess of \$250,000 from such special fund to the
 133 Special Disability Trust Fund established by s. 440.49(8)
 134 ~~440.49(9)~~, which amount shall be repaid to said special fund in
 135 annual payments equal to not less than 10 percent of moneys
 136 received for such Special Disability Trust Fund.

137 Section 3. Subsection (2) of section 624.4626, Florida
 138 Statutes, is amended to read:

139 624.4626 Electric cooperative self-insurance fund.—

140 (2) A self-insurance fund that meets the requirements of

HB 4149

2012

141 | this section is subject to the assessments set forth in ss.
 142 | 440.49(8) ~~440.49(9)~~, 440.51(1), and 624.4621(7), but is not
 143 | subject to any other provision of s. 624.4621 and is not
 144 | required to file any report with the department under s.
 145 | 440.38(2)(b) which is uniquely required of group self-insurer
 146 | funds qualified under s. 624.4621.

147 | Section 4. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 119 Motor Vehicle Insurance

SPONSOR(S): Insurance & Banking Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Insurance & Banking Subcommittee		Reilly <i>RJR</i>	Cooper <i>MC</i>

SUMMARY ANALYSIS

PCS for HB 119 creates a new no-fault motor vehicle insurance system, the Emergency Care Coverage (ECC) Law, to replace the personal injury protection (PIP) system. While the ECC system represents a significantly different approach to no-fault law, it retains many aspects of PIP. ECC is identical to PIP with respect to persons covered by the no-fault policy, the amount of mandated coverage (\$10,000), and the availability of lost wage and funeral benefits.

The distinguishing feature of an ECC policy is that coverage for medical services is dependent upon the severity of the injury. Specifically, medical benefits are payable only for:

- 1) Emergency transport and treatment by licensed ambulance providers within 24 hours after the accident.
- 2) Emergency services and care rendered at a hospital within 72 hours after the accident.
- 3) Services and care rendered to an insured who is admitted to a hospital within 72 hours after the accident.
- 4) Services and care rendered to an insured who is determined more than 72 hours after the accident to have an emergency medical condition related to the initial diagnosis and arising from the motor vehicle accident.
- 5) If the insured receives services and care pursuant to 2), 3), or 4), subsequent services and care directly related to the medical diagnosis arising from the accident, subject to the following:
 - o The diagnosis must be rendered in a licensed hospital and rendered by a physician licensed under chapter 458, F.S., or a licensed osteopathic physician and
 - o The care and services must be rendered by a physician licensed under chapter 458, a licensed osteopathic physician, or a licensed dentist, licensed physician assistant, or a licensed registered nurse practitioner.

The ECC Law also:

- Caps attorney fee awards in individual and class action no-fault disputes, and bars the use of contingency risk multipliers in such cases.
- Creates rebuttable presumption that a diagnosis of emergency medical condition is correct.
- Tolls the 30-day payment period when fraud is suspected under specified conditions.
- Bars payment of any ECC benefits to persons who submit false statements or false information.
- Provides that compliance with ECC policy terms is a condition precedent to receipt of benefits.
- Creates rebuttable presumption that an insured's failure to appear for two examinations (mental or physical) is an unreasonable refusal or failure to submit to examination.
- Provides that compliance with all ECC policy terms is a condition precedent to receipt of policy benefits, including submission to examination under oath.

The bill provides for a single motor vehicle crash report form and requires insurers to use forms and rates that reflect the ECC Law for no-fault policies issued or renewed on and after October 1, 2012.

By addressing costs drivers in the current PIP system, the bill is expected to have a positive fiscal impact on motor vehicle insurance policyholders.

Except as otherwise provided, the bill is effective October 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Motor Vehicle Accident Reports

For motor vehicle accidents, s. 316.066, F.S., provides for the filing of a Long-Form or Short-Form Crash Report. The more detailed long-form report must be completed by a law enforcement officer only when the accident:

- Results in injury or death.
- Involves a hit and run or intoxicated driver.

Completed long-form reports must be filed with the Florida Department of Highway Safety and Motor Vehicles (DHSMV). In other cases, a short-form report may be completed by a law enforcement officer or the parties involved in the accident. Short-form reports prepared by law enforcement officers are maintained by the local law enforcement agency and are not submitted to the DHSMV.

No-Fault Motor Vehicle Insurance

Florida's Motor Vehicle No-Fault Law (the "No-Fault Law")¹ requires motorists to carry at least \$10,000 of no-fault insurance, known as personal injury protection (PIP) coverage. Florida is one of 12 states² with no-fault motor vehicle³ insurance provisions. The purpose of the No-Fault Law is to provide for medical, surgical, funeral, and disability insurance benefits without regard to fault. In return for assuring payment of these benefits, the No-Fault Law provides limitations on the right to bring lawsuits arising from motor vehicle accidents. Florida motorists are required to carry a minimum of \$10,000 of PIP insurance and \$10,000 of property damage liability coverage.^{4,5}

Florida's PIP System

Legislative History

In 1971, Florida became the second state in the country to adopt a no-fault motor vehicle insurance plan, which took effect January 1, 1972. Since its enactment, various changes have been made to the No-Fault Law.

In 2000, a Statewide Grand Jury found rampant fraud in the PIP system. Reform legislation was enacted in 2001,⁶ which adopted many of the Grand Jury's recommendations. These included requiring certain health care clinics to register with the Department of Health and providing criteria for medical directors; applying fee schedules for specified procedures; limiting access to motor vehicle crash reports to curtail illegal solicitation; and providing that insurers/insureds are not required to pay claims of brokers.

¹ Sections 627.730-627.7405, F.S.

² Michigan, New Jersey, New York, Pennsylvania, Hawaii, Kansas, Kentucky, Massachusetts, Minnesota, North Dakota, and Utah also have no-fault automobile insurance. The systems in New Jersey, Pennsylvania, and Kentucky are sometimes separately categorized as "choice" no-fault states, as motorists in these states have the option to reject the no-fault limitation on lawsuits and retain the right to sue for their injuries. See the Insurance Information Institute's update on "No-Fault Auto Insurance." Available at: <http://www.iii.org/media/hottopics/insurance/nofault/> (last accessed: November 8, 2011).

³ "Motor vehicle" is defined in s. 627.732, F.S., and includes private passenger motor vehicles and commercial motor vehicles.

⁴ Section 627.7275, F.S.

⁵ Under Florida's Financial Responsibility Law (ch. 324, F.S.), motorists must also provide proof of ability to pay monetary damages for bodily injury and property damage liability at the time of motor vehicle accidents or when serious traffic violations occur.

⁶ Chapter 2001-271, L.O.F.

Additional changes were enacted in 2003.⁷ These included strengthening health care clinic regulation; requiring agency licensure with the Agency for Health Care Administration (AHCA); requiring all PIP claimants to send a pre-suit demand letter to insurers for unpaid benefits; specifying criteria as to “reasonable” charges for services; strengthening various criminal penalties for PIP fraud; and providing for the repeal of the No-Fault Law on October 1, 2007, unless reenacted by the Legislature during the 2006 Regular Session.

In 2006, CS/CS/CS SB 2114, a bill that would have extended the sunset date of the No-Fault Law and made other changes, was passed by the Legislature and subsequently vetoed. The No-Fault Law then sunset on October 1, 2007.⁸

In Special Session C of 2007, the Legislature passed CS/HB 13C, which revived and reenacted the No-Fault Law effective January 1, 2008. The bill, signed into law as ch. 2007-324, L.O.F., limits medical reimbursement to services and care provided by specified health care providers and entities; authorizes insurers to use schedules of maximum charges in calculating reimbursement for medical services, supplies, and care; and provides that an insurer’s failure to pay PIP claims as a general business practice is an unfair and deceptive trade practice.

Current Provisions

PIP provides \$10,000 of coverage (per person) for bodily injury sustained in a motor vehicle accident by the named insured, relatives residing in the same household as the named insured, persons operating the insured motor vehicle, passengers in the insured motor vehicle, and persons struck by the motor vehicle. PIP benefits are payable as follows:

- 80 percent of reasonable medical expenses.
- 60 percent of loss of income.
- Death benefit of \$5,000 or the remainder of unused PIP benefits, whichever is less.

PIP provides the policyholder with immunity from liability for economic damages (medical expenses) up to the \$10,000 policy limits and for non-economic damages (pain and suffering) for most injuries. Specifically, the immunity provision protects the insured from tort actions by others (and conversely, the insured may not bring suit to recover damages) for pain, suffering, mental anguish, and inconvenience arising out of a vehicle accident, except in the following cases:⁹

- Significant and permanent loss of an important bodily function.
- Permanent injury within a reasonable degree of medical probability, other than scarring or disfigurement.
- Significant and permanent scarring or disfigurement.
- Death.

Lawsuits for pain and suffering may commence only if the injuries meet these threshold levels.

PIP insurance benefits are payable by the insurer within 30 days after receipt of a covered loss and the amount due. Benefits not paid within this time are overdue.¹⁰ Before filing a lawsuit for overdue PIP benefits, the aggrieved person must give the insurer written notice of intent to sue.¹¹ If the insurer pays the claim (with interest and penalty) within 30 days of receipt of the pre-suit demand letter, a lawsuit cannot be brought against the insurer.

Providers and Entities Eligible for PIP Reimbursement

⁷ Chapter 2003-411, L.O.F.

⁸ The Motor Vehicle No-Fault Law was repealed pursuant to s. 19, ch. 2003-411, F.S.

⁹ Section 627.737, F.S.

¹⁰ Section 627.736(4)(b), F.S.

¹¹ Section 627.736(10), F.S.

Pursuant to s. 627.736, F.S., PIP provides medical reimbursement for services and care lawfully provided, supervised, ordered, or prescribed by a licensed physician, osteopath, chiropractor or dentist or provided by the following persons or entities:

- A hospital or ambulatory surgical center;
- An ambulance or emergency medical technician that provides emergency transport and treatment;
- An entity wholly owned by physicians, osteopaths, chiropractors, dentists, or such practitioners and their spouse, parent, child, or sibling;
- An entity wholly owned by a hospital or hospitals;
- Licensed health care clinics that are accredited by a specified accrediting organization;
- Licensed health care clinics that:
 - Have a medical director that is a Florida licensed physician, osteopath, or chiropractor;
 - Have been continuously licensed for more than 3 years or are publicly traded corporations; and
 - Provide at least four of the following medical specialties: general medicine; radiography; orthopedic medicine; physical medicine; physical therapy; physical rehabilitation; prescribing or dispensing outpatient prescription medication; or laboratory services.

Charges for Treatment and Services

The No-Fault law sets forth schedules of maximum reimbursement, each of which applies to specified care and services (e.g., emergency transport and treatment). For medical services, supplies, and care not addressed by a specific reimbursement schedule, the no-fault law provides for reimbursement at 80 percent of 200 percent of the physicians schedule of Medicare Part B,¹² developed by the Centers for Medicare and Medicaid Services (CMS). Currently, CMS develops annual fee schedules for physicians, ambulance services, clinical laboratory services, and durable medical equipment, prosthetics, orthotics, and supplies.¹³

Recent Developments: Case law

Mental and Physical Examinations of PIP Claimants

In *Custer Medical Center v. United Automobile Insurance Co.*,¹⁴ a passenger injured in an automobile accident failed to appear for two medical examinations requested by the insurer. At the time the requests were made, the passenger had received all medical treatment and all bills had been submitted to the insurer. Due to the passenger's failure to attend the examinations, the insurer refused to pay the entity that provided treatment. The Florida Supreme Court remanded the case for reinstatement of a decision vacating a directed verdict for the insurer on the following grounds. Attendance at a medical examination is not a condition precedent to the existence of an automobile insurance policy. A dispute concerning attendance at a medical examination concerns an insured's right to receive "subsequent" PIP benefits pursuant to s. 627.736(7)(b), F.S., under an existing insurance policy, and is not a dispute about the policy's existence. Additionally, s. 627.736(7), F.S., provides that when a person "unreasonably refuses" to submit to an examination, the insurer is not liable for *subsequent* PIP benefits. Here, it was not shown that the injured passenger's failure to attend medical examinations constituted an "unreasonable refusal" to submit to examination. Further, the claim sought payment for medical services that had been provided before, and not after, the passenger failed to appear for examination.

¹² Medicare Part B covers doctors' services (not routine physical exams), outpatient medical and surgical services and supplies, diagnostic tests, ambulatory surgery center facility fees for approved procedures, and durable medical equipment (such as wheelchairs, hospital beds, oxygen, and walkers). Also covers second surgical opinions, outpatient mental health care, outpatient physical and occupational therapy, including speech-language therapy.

¹³ "Fee Schedules – General Information," The Centers for Medicare and Medicaid Services,

<http://www.cms.gov/FeeScheduleGenInfo/> (Last accessed November 8, 2011).

¹⁴ 62 So.3d 1086 (Fla., 2010).

Recent Developments: Regulatory

PIP Data Call by Office of Insurance Regulation and Subsequent Report

Early in 2011, the Florida Office of Insurance Regulation (the OIR), pursuant to s. 624.316, F.S., requested data from insurers writing personal automobile lines of business in Florida. The requested data focused on PIP claims associated with policies bearing a Florida PIP endorsement. Thirty-one companies participated in the data call, which covered a scope period from 2006-2010. Twenty-five of the participating companies represented 80.1% of the marketplace based on 2009 Total Private Passenger Auto No-Fault Premiums reported to the National Association of Insurance Commissioners.

On April 11, 2011, the OIR published "Report on Review of the 2011 Personal Injury Protection Data Call."¹⁵ The report noted over the past several years the number of drivers in Florida has remained stable, the number of accidents has decreased, but that the frequency and severity of PIP claims has increased significantly. Other findings include the following:

- The number of PIP claims opened or recorded in 2010 has increased by 28% since 2006.
- From 2006-2010, insurers have paid \$8.7 billion for PIP claims and the number of PIP lawsuits pending at year end in which the insurer was the defendant increased by 387%.
- From 2008 to 2010, PIP benefits paid by insurers have increased by 70% (\$1.43 billion to \$2.37 billion).¹⁶
- As of 2010, 87% of PIP claims opened originated in South Florida, Tampa/St. Peterburg, Northeast Florida, Southwest Florida, and Central Florida.
- PIP fraud is a significant issue, with Tampa, Miami, Orlando, Hialeah, and West Palm Beach having the highest numbers of staged accidents/questionable claims. Additionally, from July 1, 2007 to April 25, 2010, the number of PIP referrals to the Division of Fraud within the Department of Financial Services increased by more than 60% (from 2,669 referrals to 4,271 referrals).
- In 2010, insurers paid out over \$1.04 for every premium dollar collected.
- Based on current trends, a 19% increase in PIP claims paid, a 9% increase in claim severity, and a 29% increase in pure premium can be expected this year.
- Florida exceeds the national average for number of health care provider charges per PIP claim and the average number of procedures per claim.
- For physical medicine and rehabilitation:
 - The median number of procedures per claim has increased by 59% from 2006 to 2010.
 - Frequency of procedures has increased 22%.
 - The amount billed increased 173% from 2008 to 2010.
 - The number of messages increased 251% from 2007 to 2010, and the amount reimbursed for massages increased 202%.
- For chiropractic treatment:
 - Median number of treatments and duration of treatment has decreased by 10% and 13%, respectively, since 2007, and the median frequency has remained constant.
 - The total billed amount for chiropractic manipulative treatment has increased 46% since 2007, and total allowed reimbursement has increased 23%.

Personal Injury Protection Working Group and Subsequent Report¹⁷

¹⁵ Available at: <http://www.flair.com/Search/Search.aspx> (last accessed: November 6, 2011).

¹⁶ Presentation on PIP fraud and overview of findings of the PIP data call report by Insurance Commissioner McCarty at the August 16, 2011 meeting of the Florida Cabinet. Recording of the meeting available at: <http://www.myflorida.com/myflorida/cabinet/agenda11/0816/audioindex.html> (last accessed: January 7, 2012).

¹⁷ Meeting materials, presentations and Personal Injury Protection Working Group Report available at: <http://www.myfloridacfo.com/ICA/PIPWorkingGroup.htm> (last accessed: January 7, 2012).

In September and October 2011, at a series of three meetings, a PIP Working Group assembled by the Insurance Consumer Advocate (ICA) met to discuss issues of concern in the PIP system. In addition to the ICA, the working group included representatives of various system stakeholders, including hospitals, medical doctors, osteopaths, chiropractors, insurers, and attorneys. The group heard presentations on PIP fraud, results of the OIR's PIP data call, benefits and disadvantages of the current no-fault system, health care clinic licensure (and exemptions from licensure) and fraud, independent medical examinations, and delivery of emergency services, among other matters.

At the conclusion of these meetings, the ICA, in December 2011, published "Report on Florida Motor Vehicle No-Fault Insurance (*Personal Injury Protection*).¹⁸ The report contains data and information collected from various sources, including the OIR, National Association of Insurance Commissioners, Insurance Research Council, National Insurance Crime Bureau, Mitchell International, Inc., other state agencies, etc. Among the reported findings:

- Strains and sprains were the most serious injury reported by 70% of PIP claimants.¹⁸
- The number of PIP claimants treated in emergency room settings declined from 57% in 1997 to 54% in 2007.¹⁹
- In 2010, average charges per PIP claimant (by provider) were lowest for emergency medicine (average charge of \$1,613). The highest average charges per PIP claimant were by chiropractors (\$3,482), acupuncturists (\$3,674), and massage therapists (\$4,350).²⁰
- The number of new message therapist licenses increased from 2,843 in 2010 to an estimated 4,892 in 2011.
- The percentage of PIP claimants visiting chiropractors has increased from 30% in 1997 to 43% in 2007.²¹

Attorney Fee Awards to "Prevailing Claimants" in Litigation Against Insurers

Lodestar Calculation

Pursuant to s. 627.428, F.S., parties that prevail against insurers in court, including PIP claimants, are entitled to an award of reasonable attorney fees. In determining a fee award, a court calculates the lodestar, which is the reasonable number of hours the attorney worked multiplied by a reasonable hourly rate.²²

In determining a reasonable fee, courts should consider the following factors set forth by the Florida Bar:²³

- Time and labor required, the novelty and difficulty of the question involved, and the skill requisite to perform the legal service properly.
- The likelihood that the acceptance of the particular employment will preclude other employment by the lawyer.
- The fee customarily charged.
- The amount involved and the results obtained.
- The time limitations imposed.
- The nature and length of the professional relationship with the client.
- The experience, reputation, and ability of the lawyer(s) performing the services.
- Whether the fee is fixed or contingent.

¹⁸ Source: "PIP Claiming Behavior and Claim Outcomes in Florida's No-Fault Insurance System," Insurance Research Council, February 2011, based on claims data for 2007.

¹⁹ Analysis updated in "PIP Claiming Behavior and Claim Outcomes in Florida's No-Fault Insurance System," Insurance Research Council, February 2011, p. 11.

²⁰ Analysis based on information secured from Mitchell International Inc., that is representative of approximately 70% of the current Florida PIP insurer marketshare.

²¹ Source: Insurance Research Council, "Florida Auto Injury Insurance Claim Environment 2007 Final Report, February 2007.

²² The federal lodestar approach to determining fee awards was adopted by the Florida Supreme Court in *Florida Patient's Compensation Fund v. Rowe*, 472 So.2d 1145 (Fla. 1985).

²³ See Rule 4-1.5(b) of the Rules Regulating the Florida Bar.

Contingency Risk Multiplier

In personal injury cases in which the prevailing claimant's attorney has worked on a contingency fee basis, it is within the court's discretion whether or not to use a contingency risk multiplier of up to 2.5 times the lodestar in determining the fee award.²⁴ For example, if the lodestar were \$20,000 and the court determined it appropriate to apply a contingency risk multiplier of 2.5, the fee award would be \$50,000 (\$20,000 lodestar x 2.5).

The Florida Supreme Court, in *Florida Patient's Compensation Fund v. Rowe*,²⁵ authorized the use of contingency risk multipliers in personal injury cases on two grounds:

- It provides personal injury claimants with increased access to courts.
- Since attorneys working on a contingency fee basis are not paid if they do not prevail, they must charge more for their services than an attorney who is guaranteed payment.

Subsequently, in *Standard Guaranty Insurance Co. v. Quanstrom*,²⁶ the Court clarified that use of a contingency risk multiplier was not mandatory, but was within the trial court's discretion.

In federal cases, the use of a contingency risk multiplier in computing attorney fee awards under federal fee-shifting statutes was effectively eliminated in 1987.²⁷

Currently, there is a split of authority between the First and Fifth District Courts of Appeal with respect to the evidence required to support the use of a contingency risk multiplier in calculating a fee award under s. 627.428, F.S. In *Progressive Express Insurance Co. v. Schultz*,²⁸ the 5th DCA held that use of a contingency risk multiplier in a PIP action was improper because the policyholder did not testify that he had any difficulty obtaining legal representation, there was no evidence presented on the issue, and the lawsuit was essentially a straightforward contract case involving \$1,315. In *Massie v. Progressive Express Insurance Co.*,²⁹ the issue before the 1st DCA was whether use of a contingency risk multiplier was proper when the PIP claimant did not testify that she had difficulty obtaining counsel, but expert testimony was offered that the claimant would have had such difficulty without the opportunity for a multiplier. On direct appeal, the 1st DCA, relying on *Schultz*, held that use of a multiplier was improper, and the claimant petitioned for certiorari review. Based on circuit precedent, the 1st DCA granted the petition, quashed the order on direct appeal, and affirmed the trial court's use of a contingency risk multiplier based on expert testimony.

Effect of Bill

Motor Vehicle Crash Reports

The bill provides for a single crash report form, rather than a long-form report and a short-form report. In addition to other required information, a completed form must clearly identify the driver of each vehicle, the passengers, and the vehicle in which each passenger was traveling. For motor vehicle accidents that result in death, personal injury, or involve a driver who leaves the accident scene or is driving under the influence, the crash report must be submitted to the Florida Department of Highway Safety and Motor Vehicles. All other crash reports are to be maintained by the law enforcement officer's agency.

No-Fault Motor Vehicle Insurance

²⁴ *Standard Guaranty Insurance Co. v. Quanstrom*, 555 So.2d 828 (Fla. 1990).

²⁵ 472 So.2d 1145 (Fla. 1985).

²⁶ 555 So.2d 828 (Fla. 1990).

²⁷ See *Pennsylvania v. Delaware Valley Citizens Council for Clean Air*, 483 U.S. 711 (1987).

²⁸ 948 So.2d 1027 (Fla. 5th DCA 2007).

²⁹ 25 So.3d 584 (Fla. 1st DCA 2009).

The Florida Motor Vehicle Emergency Care Coverage Law (ECC Law), a no-fault motor vehicle insurance system, is created to replace PIP, effective for no-fault insurance policies issued or renewed on and after October 1, 2012. The ECC Law provides a significantly different approach to no-fault insurance, particularly as to the scope of injuries covered, but retains, with varying degrees of change, many aspects of the current no-fault system (demand letters, schedule of maximum charges, etc.). It is the Legislature's intent that the provisions, schedules, and procedures of the ECC Law be given full force and effect, regardless of their inclusion in an insurer's forms, on the effective date of this act.

No-fault insurers will continue to use current forms and rates for all policies issued or renewed before October 1, 2012. All forms and rates for policies used or renewed on or after this date must reflect the provisions of the ECC Law and must be approved by the OIR prior to being used.

The following provides an overview of significant features of the ECC Law.

Mandatory Insurance Coverage

Florida motorists are required to secure and maintain \$10,000 of no-fault, emergency care coverage insurance (ECC insurance) and \$10,000 of property damage liability insurance. Insurers may not require motorists to purchase other types of motor vehicle insurance or coverage in amounts greater than that required by law.

ECC Insurance

ECC insurance provides \$10,000 of coverage (per person) for bodily injury sustained in a motor vehicle accident by the named insured, relatives residing in the same household as the named insured, persons operating the insured motor vehicle, passengers in the insured motor vehicle, and persons struck by the motor vehicle. ECC insurance benefits are payable as follows.

- 80 percent of reasonable medical expenses for:
 1. Emergency transport and treatment rendered by a licensed ambulance provider within 24 hours after the motor vehicle accident.
 2. "Emergency services and care" rendered within 72 hours after the motor vehicle accident in a licensed hospital.
 3. Services and care rendered when an insured is admitted to a hospital within 72 hours after the motor vehicle accident.
 4. Services and care rendered to an insured who is determined more than 72 hours after the motor vehicle accident to have an "emergency medical condition" related to the initial diagnosis and arising from the motor vehicle accident.
 5. If the insured receives services and care pursuant to 2., 3., or 4., subsequent services and care directly related to the medical diagnosis arising from the motor vehicle accident, subject to the following:
 - a) The diagnosis must be rendered in a licensed hospital and rendered by a physician licensed under chapter 458, F.S., or a licensed osteopathic physician; and
 - b) The care and services must be rendered by a physician licensed under chapter 458, a licensed osteopathic physician, a licensed dentist, a physician assistant licensed under chapter 458 or 459, F.S., or a licensed advanced registered nurse practitioner.
- 60 percent of loss of income.
- Death benefit of \$5,000 or the remainder of unused ECC benefits, whichever is less.

"Emergency services and care" means medical screening, examination and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine if an emergency medical condition exists, and, if it does, the care, treatment, or surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the service capability of the facility.

“Emergency medical condition” is defined as a medical condition manifesting itself by acute symptoms of sufficient severity, which may include severe pain, such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

- Serious jeopardy to patient health, including a pregnant woman or fetus.
- Serious impairment to bodily functions.
- Serious dysfunction of any bodily organ or part.

With respect to a pregnant woman, an emergency medical condition exists:

- When there is inadequate time to effect safe transfer to another hospital prior to delivery;
- When a transfer may pose a threat to the health and safety of the patient or fetus; or
- There is evidence of the onset and persistence of uterine contractions or rupture of the membranes.

For purposes of the ECC law, a medical diagnosis that an emergency medical condition exists is presumed to be correct, unless rebutted by clear and convincing evidence to the contrary.

ECC insurance provides the policyholder with immunity from liability, for covered injuries, for economic damages (medical expenses) up to the \$10,000 policy limits and for non-economic damages (pain and suffering). The immunity provision protects the insured, for covered injuries, from tort actions by others (and conversely, the insured may not bring suit to recover damages) for pain, suffering, mental anguish, and inconvenience arising out of a vehicle accident, except in the following cases:

- Significant and permanent loss of an important bodily function.
- Permanent injury within a reasonable degree of medical probability, other than scarring or disfigurement.
- Significant and permanent scarring or disfigurement.
- Death.

Lawsuits for pain and suffering may commence for covered injuries only if the injuries meet these threshold levels.

Payment of Benefits

ECC insurance benefits are payable by the insurer within 30 days after receipt of a covered loss and the amount due. Benefits not paid within this time are overdue. Before filing a lawsuit for overdue ECC benefits, the aggrieved person must give the insurer written notice of intent to sue. If the insurer pays the claim (with interest and penalty) within 30 days of receipt of the pre-suit demand letter, a lawsuit cannot be brought against the insurer.

If an insurer has reasonable belief that a fraudulent insurance act has been committed and reports its suspicions to the Division of Insurance Fraud, the 30-day payment period is tolled as to any portions of the claim reported for investigation. The insurer, within 30 days of receipt of written notice of a covered loss and the amount of the loss, must notify the insurer in writing that the claim is being investigated for fraud. Within 30 days of receiving notice from the Division of Insurance Fraud that a claim has been investigated and no criminal action will be recommended, the insurer must pay the claim with interest. Persons or entities who, in good faith, report suspected fraud or release information in furtherance of a fraud investigation are immune from civil and criminal liability for the reporting or release of such information.

ECC benefits are not due or payable to or on behalf of an insured, claimant, provider, or attorney, if such person has:

- Submitted a false material statement, document, record, or bill.
- Submitted false material information.
- Otherwise committed or attempted to commit a fraudulent insurance act.

Persons who commit such acts are precluded from receiving any ECC benefits relating to the claim, including payment for bills or services, regardless of whether a portion of the claim is legitimate.

Medical providers cannot be denied payment for services rendered solely due to the misconduct of another person.

Medical Reimbursement under the ECC Law

Medical providers and entities may charge the insurer and injured party only a reasonable amount for services and care rendered. Payments made by insurers pursuant to the schedule of maximum charges are considered reasonable. If a provider bills a lesser amount, and the insurer pays the amount billed, the payment is also considered reasonable. Insurers that provide reimbursement under the schedule of charges may use all Medicare coding policies and CMS payment methodologies, including applicable modifiers to determine the appropriate amount of reimbursement for medical services, supplies, or care.

The ECC Law permits reimbursement at 80% of the following schedule of maximum charges:

- For emergency transport and treatment by licensed providers, 200 percent of Medicare.
- For emergency services and care provided by a licensed hospital, 75 percent of the hospital's usual and customary charges.
- For emergency services and care 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.
- 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.
- 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.
- For all other medical services, supplies, and care, 200 percent of the allowable amount under the participating physicians schedule of Medicare Part B. For medical supplies, care, and services rendered by clinical laboratories, 200 percent of the allowable amount under Medicare Part B. For durable medical equipment, the amount contained in the Durable Medical Equipment Prosthetics/Orthotics & Supplies (DMEPOS) fee schedule of Medicare Part B. 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, F.S., 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.

In calculating reimbursements under the schedule of maximum charges, the applicable fee schedule or payment limitation under Medicare is the fee schedule or payment limitation that was in effect as of March 1st of the year in which the services, supplies, or care was rendered., and applies until March 1st of the following year, regardless of any subsequent changes to such fee schedule or payment limitation. However, the reimbursement amount may not be less than the allowable amount under the participating physicians schedule of Medicare Part B for 2007 for medical services, supplies, and care subject to Medicare Part B.

Upon receipt of notice of an accident that is potentially covered by ECC insurance, an insurer must reserve, and hold for 30 days, \$5,000 of ECC benefits for payments to specified health care providers who provide emergency care coverage.

Insurers are authorized to request and conduct onsite physical reviews and examinations of the treatment locations and medical equipment of medical providers and entities that submit claims for payment of ECC benefits.

Examinations Under Oath and Compliance with Policy Terms

All insureds and assignees of ECC policy benefits, including medical providers, are required to comply with all policy terms, including submitting to examinations under oath (EUO). Compliance with policy terms by insureds and assignees is a condition precedent to such person's eligibility for policy benefits. Before requesting that an assignee participate in an EUO, the insurer must request the information sought in writing. EUOs may be recorded.

When an insurer requests that a medical provider submit to an EUO, the provider must produce individuals identified in the request or, or if no person is identified, then the persons who have the most knowledge of the issues identified by the insurer. Medical providers and persons produced in response to the insurer's request are entitled to reasonable compensation for attending an EUO, which must be paid prior to the EUO. Such compensation is to be based on good faith estimates of the hourly rate for the health care provider and other persons to be examined and the time required to conduct the EUO. If additional time is needed for the examination, the insurer must pay additional compensation within 15 days to each person that completes the EUO. Insurers that, as a general business practice, request EUOs of assignees without a reasonable basis commit an unfair and deceptive trade practice.

Insurers must coordinate with claimants for ECC benefits to ensure an appropriate time and location for the EUO. A claimant's failure to agree to attend an EUO after an insurer presents two documented offers of a reasonable time and location, allows the insurer to suspend benefits, until the claimant agrees to submit, and actually submits to, the EUO.

Examinations (Mental or Physical) of the Insured

When an insured unreasonably refuses to submit to or fails to appear at an examination (mental or physical) requested by the insurer, the ECC insurer is not liable for subsequent ECC benefits. An insured's refusal or failure to appear for two examinations (mental or physical) is presumed to be an unreasonable refusal or failure to submit to examination. The presumption, however, is rebuttable, and may be overcome by the claimant upon showing that refusal or failure to attend was not an unreasonable.

Limitations on Attorney Fee Awards

The use of contingency risk multipliers in calculating fee awards in no-fault ECC disputes is prohibited. Fee awards in no-fault litigation are limited to the lesser of the actual fee incurred based upon a rate for attorney services not to exceed \$200 per billable hour or:

- For any disputed amount of less than \$500, 15 times any disputed amount recovered by the attorney, limited to \$5,000.
- For any disputed amount of \$500 or more and less than \$5,000, 10 times any disputed amount recovered by the attorney, limited to a total of \$10,000.
- For any disputed amount of \$5,000 or more and up to \$10,000, 5 times any disputed amount recovered by the attorney, limited to a total of \$15,000.

Attorneys fee awards in a class action are limited to the lesser of \$50,000 or three times the total of any disputed amount recovered in the class action proceeding.

Fees incurred in litigating or quantifying the amount of fees due to the prevailing party under the ECC Law are not recoverable.

These limitations on attorney fee awards are effective upon the bill becoming law.

B. SECTION DIRECTORY:

Section 1. Amends s. 316.066, F.S., effective May 1, 2012, relating to motor vehicle crash report forms.

Section 2. Creates s. 627.748, F.S., providing for ss. 627.748-627.7491, F.S., to be referred to as the Florida Motor Vehicle No-Fault Emergency Care Coverage Law (ECC Law).

Section 3. Creates s. 627.7481, F.S., providing the purpose of the ECC Law.

Section 4. Creates s. 627.74811, F.S., providing the effect of the law on ECC coverage policies.

Section 5. Creates s. 627.7482, F.S., providing definitions.

Section 6. Creates s. 627.7483, F.S., providing for required security for Florida motorists.

Section 7. Creates s. 627.7484, F.S., providing for proof of security.

Section 8. Creates s. 627.7485, F.S., providing required benefits under ECC policies.

Section 9. Creates s. 627.7486, F.S., providing tort exemption for injuries under the ECC law.

Section 10. Creates s. 627.7487, F.S., providing for optional deductibles under ECC policies.

Section 11. Creates s. 627.7488, F.S., providing for a notification of rights to insureds under the ECC Law.

Section 12. Creates s. 627.7489, F.S., requiring mandatory joinder of certain ECC claims.

Section 13. Creates s. 627.749, F.S., providing insurer's right to reimbursement for ECC benefits under specified circumstances.

Section 14. Creates s. 627.7491, F.S., providing for application of the ECC Law.

Sections 15 to 48. Amends ss. 817.234, 316.646, 318.18, 320.02, 320.0609, 320.27, 320.771, 322.34, 324.021, 324.0221, 324.032, 324.171, 400.9935, 409.901, 409.910, 456.057, 456.072, 626.9541, 627.0651, 627.0652, 627.0653, 627.4132, 627.6482, 627.7263, 627.727, 627.728, 627.7295, 627.8405, 628.909, 705.184, 627.915, 628.909, 705.184, 713.78, F.S., conforming and correcting cross-references.

Section 49. Amending s. 627.736, F.S., providing for the applicability of attorney fee provisions.

Section 50. Providing an effective date of October 1, 2012, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that ECC policies provide a narrower range of coverage and curtail fraud in the no-fault system, the ECC Law will lower the premiums paid by Florida motorists for no-fault motor vehicle insurance.

D. FISCAL COMMENTS:

See comments provided in Sec. II.C.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or, reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to motor vehicle insurance; amending
3 s. 316.066, F.S.; revising provisions relating to the
4 contents of written reports of motor vehicle crashes;
5 creating s. 627.748, F.S.; providing for ss. 627.748-
6 627.7491 to be cited as the Florida Motor Vehicle No-
7 Fault Emergency Care Coverage Law; creating s.
8 627.7481, F.S.; providing purpose of the Florida Motor
9 Vehicle No-Fault Emergency Care Coverage Law ;
10 creating s. 627.74811, F.S.; stating Legislative
11 intent that provisions, schedules, or procedures of
12 the Florida Motor Vehicle No-Fault Emergency Care
13 Coverage Law are to be given full force and effect
14 regardless of their express inclusion in insurer
15 forms; creating s. 627.7482, F.S.; providing
16 definitions; creating s. 627.7483, F.S.; requiring
17 every owner or registrant of a motor vehicle required
18 to be registered and licensed in this state to
19 maintain specified security under the Florida Motor
20 Vehicle No-Fault Emergency Care Coverage Law ;
21 providing exceptions; requiring every nonresident
22 owner or registrant of a motor vehicle that has been
23 physically present within this state for a specified
24 period to maintain security under the Florida Motor
25 Vehicle No-Fault Emergency Care Coverage Law ;
26 specifying means by which such security is provided;
27 providing an exemption from security requirements for
28 specified members of the United States Armed Forces;

29 creating s. 627.7484, F.S.; providing requirements
 30 with respect to filing and maintaining proof of
 31 security required under the Florida Motor Vehicle No-
 32 Fault Emergency Care Coverage Law ; providing
 33 penalties for giving false information , forging
 34 evidence of proof of security, and filing forged or
 35 unauthorized evidence of proof of security; creating
 36 s. 627.7485, F.S.; requiring that insurance policies
 37 provide emergency care coverage to specified persons;
 38 providing limits of coverage; specifying limits for
 39 medical benefits; specifying limits for disability
 40 benefits; specifying limits for death benefits;
 41 providing restriction on insurers with respect to
 42 provision of required benefits and requiring purchase
 43 of other motor vehicle coverage as a condition for
 44 providing such benefits; prohibiting insurers from
 45 requiring the purchase of property damage liability
 46 insurance exceeding \$10,000 in conjunction with
 47 emergency care coverage insurance; providing that
 48 failure to comply with specified availability
 49 requirements constitutes an unfair method of
 50 competition or an unfair or deceptive act or practice;
 51 providing penalties; specifying benefits an insurer
 52 may exclude; providing procedure with respect to such
 53 exclusions; specifying when benefits are due from an
 54 insurer; prohibiting insurers from obtaining liens on
 55 recovery of special damages in tort claims for
 56 emergency care coverage benefits; providing that

57 benefits under the Florida Motor Vehicle No-Fault
58 Emergency Care Coverage Law are subject to the
59 provisions of the Medicaid program under specified
60 circumstances; specifying when benefits are overdue;
61 providing for interest on overdue payments; requiring
62 insurers to hold \$5,000 of emergency care coverage
63 benefits in reserve for a certain time for the
64 payment of health care providers and entities that
65 provide emergency services; tolling the time period
66 in which emergency care coverage benefits are required
67 to be paid when the insurer has reasonable belief that
68 fraud has been committed, reports its suspicions to
69 the Division of Insurance Fraud, and provides notice
70 to the claimant; providing immunity to persons or
71 entities that report suspected fraud in good faith;
72 specifying injuries for which an insurer must pay
73 emergency care coverage benefits; disallowing
74 benefits to an insured who has committed insurance
75 fraud; providing that a physician, hospital, clinic,
76 or other person or institution lawfully rendering
77 treatment to an injured person for a bodily injury
78 covered by emergency care coverage may charge the
79 insurer and injured party only a reasonable amount for
80 services and care; providing that the insurer may pay
81 such charges directly to the person or institution
82 lawfully rendering such treatment; providing a limit
83 on such charges; providing for determination of
84 reasonableness of charges; providing that payments

85 | made by an insurer pursuant to the schedule of
 86 | maximum charges, or for lesser amounts billed by
 87 | providers, are considered reasonable; establishing a
 88 | schedule of maximum charges; specifying that
 89 | reimbursement under a schedule of maximum charges that
 90 | is based on Medicare is to be calculated under the
 91 | applicable Medicare schedule in effect on March 1st of
 92 | each year; authorizing insurers to utilize all
 93 | Medicare coding policies and CMS payment methodologies
 94 | in determining reimbursement under a schedule of
 95 | maximum charges that is Medicare based; establishing
 96 | limits on specified emergency services and care;
 97 | providing conditions under which an insurer or insured
 98 | is not required to pay a claim or charges; requiring
 99 | the Department of Health to adopt, by rule, a list of
 100 | diagnostic tests deemed not to be medically necessary
 101 | and to periodically revise the list; providing
 102 | procedures and requirements with respect to statements
 103 | of and bills for charges for emergency services and
 104 | care; directing the Financial Services Commission to
 105 | adopt by a disclosure and acknowledgment form to be
 106 | countersigned by claimants upon receipt of medical
 107 | services; providing procedures and requirements with
 108 | respect to investigation of claims of improper billing
 109 | by a physician or other medical provider; prohibiting
 110 | insurers from systematically downcoding with intent to
 111 | deny reimbursement; requires insureds and persons to
 112 | who the right to payment for emergency care coverage

113 benefits have been assigned to comply with all terms
 114 of the emergency care coverage policy, including
 115 submission to examinations under oath; providing that
 116 compliance with policy terms is a condition precedent
 117 to the receipt of emergency care coverage benefits ;
 118 providing for reasonable payment for attendance at
 119 examinations under oath to health care providers and
 120 other persons produced by the provider in response to
 121 the insurer's request; permits persons appearing for
 122 an examination under oath to have an attorney present
 123 at the person's expense; requiring insurers to
 124 coordinate with claimants for emergency care coverage
 125 benefits to ensure an appropriate time and location
 126 for the examination; authorizing insurers to suspend
 127 benefits to claimants that fail to attend examination
 128 after the insurer has presented two documented offers
 129 of a reasonable time and location for the examination
 130 until the claimant submits to examination; providing
 131 for insurers to inspect the physical premises of
 132 physicians, hospitals, clinics or medical institutions
 133 who seek payment of emergency care coverage benefits;
 134 providing that when an insured fails to appear for two
 135 or more mental or physical examinations, the emergency
 136 care coverage carrier is not liable for subsequent
 137 emergency care coverage benefits; creating a
 138 rebuttable presumption that an insured's failure to
 139 appear for two examinations is an unreasonable
 140 refusal to appear; creating an attorney fee cap;

141 prohibiting the use of contingency risk multipliers in
 142 calculating attorney fee awards for disputes arising
 143 under the Florida Motor Vehicle No-Fault Emergency
 144 Care Coverage Law; requiring that an insurer must be
 145 provided with written notice of an intent to initiate
 146 litigation as a condition precedent to filing any
 147 action for benefits; providing requirements with
 148 respect to a demand letter; providing procedures and
 149 requirements with respect to payment of an overdue
 150 claim; tolling the time period for an action against
 151 an insurer; providing that failure to pay valid claims
 152 with specified frequency constitutes an unfair or
 153 deceptive trade practice; providing penalties;
 154 providing circumstances under which an insurer has a
 155 cause of action; providing for fraud advisory notice;
 156 requiring that all claims related to the same health
 157 care provider for the same injured person be brought
 158 in one action unless good cause is shown; authorizing
 159 the electronic transmission of notices and
 160 communications required under act under certain
 161 conditions; creating s. 627.7486, F.S.; providing a
 162 limitation on legal actions under the Florida Motor
 163 Vehicle No-Fault Emergency Care Coverage Law;
 164 creating s. 627.7487, F.S.; providing for optional
 165 deductibles for emergency care coverage policies;
 166 creating s. 627.7488, F.S.; requiring the Financial
 167 Services Commission to adopt by rule a form for the
 168 notification of insureds of their right to receive

169 emergency care coverage benefits ; specifying contents
 170 of such notice; providing requirements for the
 171 mailing or delivery of such notice; creating s.
 172 627.7489, F.S.; providing for mandatory joinder of
 173 specified claims; creating s. 627.749, F.S.;

174 providing for an insurer's right of reimbursement for
 175 emergency medical care benefits paid to a person
 176 injured by a commercial motor vehicle under specified
 177 circumstances; creating s. 627.7491, F.S.; providing
 178 for application of the Florida Motor Vehicle No-Fault
 179 Emergency Care Coverage Law; amending ss. 817.234,
 180 316.646, 318.18, 320.02, 320.0609, 320.27, 320.771,
 181 322.34, 324.021, 324.0221, 324.032, 324.171, 400.9935,
 182 409.901, 409.910, 456.057, 456.072, 626.9541,
 183 627.06501, 627.0652, 627.0653, 627.4132, 627.6482,
 184 627.7263, 627.727, 627.728, 627.7295, 627.8405,
 185 628.909, 705.184, 627.915, 628.909, 705.184,
 186 713.78, 627.736, F.S.; conforming and correcting
 187 cross-references; amending s. 627.736, F.S.;

188 providing for limitation on attorney fee award;
 189 prohibiting the use of contingency risk multipliers in
 190 calculating attorney fee awards; providing an
 191 effective date.

192
 193 Be It Enacted by the Legislature of the State of Florida:

194
 195 Section 1. Effective May 1, 2012, subsection (1) of
 196 section 316.066, Florida Statutes, is amended to read:

197 316.066 Written reports of crashes.—

198 (1) (a) A Florida Traffic Crash Report must, ~~Long Form is~~

199 ~~required to~~ be completed and submitted to the entities specified

200 in (e) department within 10 days after ~~completing~~ an

201 investigation is completed by the every law enforcement officer

202 who in the regular course of duty investigates a motor vehicle

203 crash. ~~that:~~

204 1. ~~Resulted in death or personal injury.~~

205 2. ~~Involved a violation of s. 316.061(1) or s. 316.193.~~

206 (b) ~~In every crash for which a Florida Traffic Crash~~

207 ~~Report, Long Form is not required by this section, the law~~

208 ~~enforcement officer may complete a short form crash report or~~

209 ~~provide a driver exchange of information form to be completed by~~

210 ~~each party involved in the crash. The short form report must~~

211 include:

212 1. The date, time, and location of the crash.

213 2. A description of the vehicles involved.

214 3. The names and addresses of the parties involved,

215 including all drivers and passengers, each clearly identified as

216 being either a driver or a passenger and specifying the vehicle

217 in which each person was a driver or passenger.

218 4. The names and addresses of witnesses.

219 5. The name, badge number, and law enforcement agency of

220 the officer investigating the crash.

221 6. The names of the insurance companies for the respective

222 parties involved in the crash.

223 (c) Each party to the crash must provide the law

224 enforcement officer with proof of insurance, which must be

225 documented in the crash report. If a law enforcement officer
 226 submits a report on the crash, proof of insurance must be
 227 provided to the officer by each party involved in the crash. Any
 228 party who fails to provide the required information commits a
 229 noncriminal traffic infraction, punishable as a nonmoving
 230 violation as provided in chapter 318, unless the officer
 231 determines that due to injuries or other special circumstances
 232 such insurance information cannot be provided immediately. If
 233 the person provides the law enforcement agency, within 24 hours
 234 after the crash, proof of insurance that was valid at the time
 235 of the crash, the law enforcement agency may void the citation.

236 (d) The driver of a vehicle that was in any manner
 237 involved in a crash resulting in damage to any vehicle or other
 238 property in an amount of \$500 or more which was not investigated
 239 by a law enforcement agency, shall, within 10 days after the
 240 crash, submit a written report of the crash to the department.
 241 The entity receiving the report may require witnesses of the
 242 crash to render reports and may require any driver of a vehicle
 243 involved in a crash of which a written report must be made to
 244 file supplemental written reports if the original report is
 245 deemed insufficient by the receiving entity.

246 (e) For motor vehicle crashes that result in death or
 247 personal injury or involve a violation of s. 316.061(1) or s.
 248 316.193, the crash report shall be submitted to the department.
 249 All other crash reports shall be maintained by the law
 250 enforcement officer's agency. ~~Short-form crash reports prepared~~
 251 ~~by law enforcement shall be maintained by the law enforcement~~
 252 ~~officer's agency.~~

253 Section 2. Section 627.748, Florida Statutes, is created
 254 to read:

255 627.748 Florida Motor Vehicle No-Fault Emergency Care
 256 Coverage Law.—Sections 627.748–627.7491 may be cited and known
 257 as the "Florida Motor Vehicle No-Fault Emergency Care Coverage
 258 Law."

259 Section 3. Section 627.7481, Florida Statutes, is created
 260 to read:

261 627.7481 Purpose.—The purpose of ss. 627.748–627.7491 is
 262 to provide for, without regard to fault, emergency services and
 263 care, services and care provided in a hospital, prescribed
 264 follow-up care, funeral, and disability insurance benefits, and
 265 to require motor vehicle insurance securing such benefits, for
 266 motor vehicles required to be registered in this state and, with
 267 respect to motor vehicle accidents, a limitation on the right to
 268 claim damages for pain, suffering, mental anguish, and
 269 inconvenience.

270 Section 4. Section 627.74811, Florida Statutes, is created
 271 to read:

272 627.74811 Effect of law on emergency care coverage
 273 policies.— The provisions, schedules, and procedures authorized
 274 in ss. 627.748–627.7491 shall be implemented by the insurers
 275 offering policies pursuant to the Florida Motor Vehicle No-Fault
 276 Emergency Care Coverage Law. The legislature intends that these
 277 provisions, schedules, and procedures have full force and effect
 278 regardless of their express inclusion in an insurance policy
 279 form, and a specific provision, schedule, or procedure
 280 authorized herein will govern over general provisions in an

281 insurance policy form. An insurer is not required to amend its
 282 policy form or to expressly notify providers, claimants, or
 283 insureds of the applicable fee schedules to implement and apply
 284 such provisions, schedules, or procedures.

285 Section 5. Section 627.7482, Florida Statutes, is created
 286 to read:

287 627.7482 Definitions.—As used in ss. 627.748-627.7491, the
 288 term:

289 (1) "Emergency medical condition" means:

290 (a) A medical condition manifesting itself by acute
 291 symptoms of sufficient severity, which may include severe pain,
 292 such that the absence of immediate medical attention could
 293 reasonably be expected to result in any of the following:

294 1. Serious jeopardy to patient health, including a
 295 pregnant woman or fetus.

296 2. Serious impairment to bodily functions.

297 3. Serious dysfunction of any bodily organ or part.

298 (b) With respect to a pregnant woman:

299 1. That there is inadequate time to effect safe transfer to
 300 another hospital prior to delivery;

301 2. That a transfer may pose a threat to the health and
 302 safety of the patient or fetus; or

303 3. That there is evidence of the onset and persistence of
 304 uterine contractions or rupture of the membranes.

305 (2) "Emergency services and care" means medical screening,
 306 examination and evaluation by a physician, or, to the extent
 307 permitted by applicable law, by other appropriate personnel
 308 under the supervision of a physician, to determine if an

309 emergency medical condition exists and, if it does, the care,
 310 treatment, or surgery by a physician necessary to relieve or
 311 eliminate the emergency medical condition, within the service
 312 capability of the facility.

313 (3) "Medically necessary" refers to a medical service or
 314 supply that a prudent physician would provide for the purpose of
 315 preventing, diagnosing, or treating an illness, injury, disease,
 316 or symptom in a manner that is:

317 (a) In accordance with generally accepted standards of
 318 medical practice;

319 (b) Clinically appropriate in terms of type, frequency,
 320 extent, site, and duration; and

321 (c) Not primarily for the convenience of the patient,
 322 physician, or other health care provider.

323 (4) "Motor vehicle" means any self-propelled vehicle with
 324 four or more wheels which is of a type both designed and
 325 required to be licensed for use on the highways of this state
 326 and any trailer or semitrailer designed for use with such
 327 vehicle and includes:

328 (a) A "private passenger motor vehicle," which is any
 329 motor vehicle which is a sedan, station wagon, or jeep-type
 330 vehicle and, if not used primarily for occupational,
 331 professional, or business purposes, a motor vehicle of the
 332 pickup, panel, van, camper, or motor home type.

333 (b) A "commercial motor vehicle," which is any motor
 334 vehicle which is not a private passenger motor vehicle.

335
 336 The term "motor vehicle" does not include a mobile home or any

337 motor vehicle which is used in mass transit, other than public
 338 school transportation, and designed to transport more than five
 339 passengers exclusive of the operator of the motor vehicle and
 340 which is owned by a municipality, a transit authority, or a
 341 political subdivision of the state.

342 (5) "Named insured" means a person, usually the owner of a
 343 vehicle, identified in a policy by name as the insured under the
 344 policy.

345 (6) "Owner" means a person who holds the legal title to a
 346 motor vehicle; or, in the event a motor vehicle is the subject
 347 of a security agreement or lease with an option to purchase with
 348 the debtor or lessee having the right to possession, then the
 349 debtor or lessee shall be deemed the owner for the purposes of
 350 ss. 627.74-627.7491.

351 (7) "Relative residing in the same household" means a
 352 relative of any degree by blood or by marriage who usually makes
 353 her or his home in the same family unit, whether or not
 354 temporarily living elsewhere.

355 (8) "Certify" means to swear or attest to being true or
 356 represented in writing.

357 (9) "Knowingly" means that a person, with respect to
 358 information, has actual knowledge of the information; acts in
 359 deliberate ignorance of the truth or falsity of the information;
 360 or acts in reckless disregard of the information, and proof of
 361 specific intent to defraud is not required.

362 (10) "Lawful" or "lawfully" means in substantial
 363 compliance with all relevant applicable criminal, civil, and
 364 administrative requirements of state and federal law related to

365 the provision of medical services or treatment.

366 (11) "Hospital" means a facility that, at the time
 367 services or treatment were rendered, was licensed under chapter
 368 395.

369 (12) "Properly completed" means providing truthful,
 370 substantially complete, and substantially accurate responses as
 371 to all material elements to each applicable request for
 372 information or statement by a means that may lawfully be
 373 provided and that complies with this section, or as agreed by
 374 the parties.

375 (13) "Upcoding" means an action that submits a billing
 376 code that would result in payment greater in amount than would
 377 be paid using a billing code that accurately describes the
 378 services performed. The term does not include an otherwise
 379 lawful bill by a magnetic resonance imaging facility, which
 380 globally combines both technical and professional components, if
 381 the amount of the global bill is not more than the components if
 382 billed separately; however, payment of such a bill constitutes
 383 payment in full for all components of such service.

384 (14) "Unbundling" means an action that submits a billing
 385 code that is properly billed under one billing code, but that
 386 has been separated into two or more billing codes, and would
 387 result in payment greater in amount than would be paid using one
 388 billing code.

389 (15) "Broker" means any person not possessing a license
 390 under chapter 395, chapter 400, chapter 429, chapter 458,
 391 chapter 459, chapter 460, chapter 461, or chapter 641 who
 392 charges or receives compensation for any use of medical

393 equipment and is not the 100-percent owner or the 100-percent
 394 lessee of such equipment. For purposes of this section, such
 395 owner or lessee may be an individual, a corporation, a
 396 partnership, or any other entity and any of its 100-percent-
 397 owned affiliates and subsidiaries. For purposes of this
 398 subsection, the term "lessee" means a long-term lessee under a
 399 capital or operating lease, but does not include a part-time
 400 lessee. The term "broker" does not include a hospital or
 401 physician management company whose medical equipment is
 402 ancillary to the practices managed, a debt collection agency, or
 403 an entity that has contracted with the insurer to obtain a
 404 discounted rate for such services; nor does the term include a
 405 management company that has contracted to provide general
 406 management services for a licensed physician or health care
 407 facility and whose compensation is not materially affected by
 408 the usage or frequency of usage of medical equipment or an
 409 entity that is 100-percent owned by one or more hospitals or
 410 physicians. The term "broker" does not include a person or
 411 entity that certifies, upon request of an insurer, that:
 412 (a) It is a clinic licensed under ss. 400.990-400.995;
 413 (b) It is a 100-percent owner of medical equipment; and
 414 (c) The owner's only part-time lease of medical equipment
 415 for personal injury protection patients is on a temporary basis
 416 not to exceed 30 days in a 12-month period, and such lease is
 417 solely for the purposes of necessary repair or maintenance of
 418 the 100-percent-owned medical equipment or pending the arrival
 419 and installation of the newly purchased or a replacement for the
 420 100-percent-owned medical equipment, or for patients for whom,

421 because of physical size or claustrophobia, it is determined by
 422 the medical director or clinical director to be medically
 423 necessary that the test be performed in medical equipment that
 424 is open-style. The leased medical equipment cannot be used by
 425 patients who are not patients of the registered clinic for
 426 medical treatment of services. Any person or entity making a
 427 false certification under this subsection commits insurance
 428 fraud as defined in s. 817.234. However, the 30-day period
 429 provided in this paragraph may be extended for an additional 60
 430 days as applicable to magnetic resonance imaging equipment if
 431 the owner certifies that the extension otherwise complies with
 432 this paragraph.

433 Section 6. Section 627.7483, Florida Statutes, is created
 434 to read:

435 627.7483 Required security.—

436 (1) (a) Every owner or registrant of a motor vehicle, other
 437 than a motor vehicle used as a school bus as defined in s.
 438 1006.25 or limousine, required to be registered and licensed in
 439 this state shall maintain security as required by subsection (3)
 440 in effect continuously throughout the registration or licensing
 441 period.

442 (b) Every owner or registrant of a motor vehicle used as a
 443 taxicab shall not be governed by paragraph (1) (a) but shall
 444 maintain security as required under s. 324.032(1), and s.
 445 627.7486 shall not apply to any motor vehicle used as a taxicab.

446 (2) Every nonresident owner or registrant of a motor
 447 vehicle which, whether operated or not, has been physically
 448 present within this state for more than 90 days during the

449 preceding 365 days shall thereafter maintain security as defined
 450 by subsection (3) in effect continuously throughout the period
 451 such motor vehicle remains within this state.

452 (3) Such security shall be provided:

453 (a) By an insurance policy delivered or issued for
 454 delivery in this state by an authorized or eligible motor
 455 vehicle liability insurer which provides the benefits and
 456 exemptions contained in ss. 627.748-627.7491. Any policy of
 457 insurance represented or sold as providing the security required
 458 hereunder shall be deemed to provide insurance for the payment
 459 of the required benefits; or

460 (b) By any other method authorized by s. 324.031(2), (3),
 461 or (4) and approved by the Department of Highway Safety and
 462 Motor Vehicles as affording security equivalent to that afforded
 463 by a policy of insurance or by self-insuring as authorized by s.
 464 768.28(16). The person filing such security shall have all of
 465 the obligations and rights of an insurer under ss. 627.748-
 466 627.7491.

467 (4) An owner of a motor vehicle with respect to which
 468 security is required by this section who fails to have such
 469 security in effect at the time of an accident shall have no
 470 immunity from tort liability, but shall be personally liable for
 471 the payment of benefits under s. 627.7485. With respect to such
 472 benefits, such an owner shall have all of the rights and
 473 obligations of an insurer under ss. 627.748-627.7491.

474 (5) In addition to other persons who are not required to
 475 provide required security as required under this section and s.
 476 324.022, the owner or registrant of a motor vehicle is exempt

477 from such requirements if she or he is a member of the United
 478 States Armed Forces and is called to or on active duty outside
 479 the United States in an emergency situation. The exemption
 480 provided by this subsection applies only as long as the member
 481 of the armed forces is on such active duty outside the United
 482 States and applies only while the vehicle covered by the
 483 security required by this section and s. 324.022 is not operated
 484 by any person. Upon receipt of a written request by the insured
 485 to whom the exemption provided in this subsection applies, the
 486 insurer shall cancel the coverages and return any unearned
 487 premium or suspend the security required by this section and s.
 488 324.022. Notwithstanding s. 324.0221(2), the Department of
 489 Highway Safety and Motor Vehicles may not suspend the
 490 registration or operator's license of any owner or registrant of
 491 a motor vehicle during the time she or he qualifies for an
 492 exemption under this subsection. Any owner or registrant of a
 493 motor vehicle who qualifies for an exemption under this
 494 subsection shall immediately notify the department prior to and
 495 at the end of the expiration of the exemption.

496 Section 7. Section 627.7484, Florida Statutes, is created
 497 to read:

498 627.7484 Proof of security; security requirements;
 499 penalties.-

500 (1) The provisions of chapter 324 which pertain to the
 501 method of giving and maintaining proof of financial
 502 responsibility and which govern and define a motor vehicle
 503 liability policy shall apply to filing and maintaining proof of
 504 security required by ss. 627.748-627.7491.

- 505 (2) Any person who:
 506 (a) Gives information required in a report or otherwise as
 507 provided for in ss. 627.748-627.7491, knowing or having reason
 508 to believe that such information is false;
 509 (b) Forges or, without authority, signs any evidence of
 510 proof of security; or
 511 (c) Files, or offers for filing, any such evidence of
 512 proof, knowing or having reason to believe that it is forged or
 513 signed without authority, is guilty of a misdemeanor of the
 514 first degree, punishable as provided in s. 775.082 or s.
 515 775.083.

516 Section 8. Section 627.7485, Florida Statutes, is created
 517 to read:

518 627.7485 Required emergency care coverage benefits;
 519 exclusions; priority; claims.-

520 (1) REQUIRED BENEFITS.-Every insurance policy complying
 521 with the security requirements of s. 627.7483 shall provide
 522 emergency care coverage to the named insured, relatives residing
 523 in the same household, persons operating the insured motor
 524 vehicle, passengers in such motor vehicle, and other persons
 525 struck by such motor vehicle and suffering bodily injury while
 526 not an occupant of a self-propelled vehicle, subject to the
 527 provisions of subsection (2) and paragraph (4)(f), to a limit of
 528 \$10,000 for loss sustained by any such person as a result of
 529 bodily injury, sickness, disease, or death arising out of the
 530 ownership, maintenance, or use of a motor vehicle as follows:

531 (a) Medical benefits.-Eighty percent of all reasonable
 532 expenses as follows:

533 1. Emergency transport and treatment rendered by an
 534 ambulance provider licensed under part III of chapter 401 within
 535 24 hours after the motor vehicle accident.

536 2. Emergency services and care rendered within 72 hours
 537 after the motor vehicle accident in a hospital licensed pursuant
 538 to chapter 395.

539 3. Services and care rendered when an insured is admitted
 540 to a hospital as defined in s. 395.0012(12), within 72 hours
 541 after the motor vehicle accident.

542 4. Services and care rendered to an insured who is
 543 determined more than 72 hours after the motor vehicle accident
 544 to have an emergency medical condition related to the initial
 545 diagnosis and arising from the motor vehicle accident.

546 5. If the insured receives services and care pursuant to
 547 subparagraph 2.3., or 4., subsequent services and care directly
 548 related to the medical diagnosis arising from the motor vehicle
 549 accident, subject to the following:

550 a. The diagnosis shall be rendered in a hospital licensed
 551 under chapter 395 and rendered by a physician licensed under
 552 chapter 458 or an osteopathic physician licensed under chapter
 553 459; and

554 b. The care and services shall be rendered by a physician
 555 licensed under chapter 458, an osteopathic physician licensed
 556 under chapter 459, a dentist licensed under chapter 466, a
 557 physician assistant licensed under chapter 458 or 459, or an
 558 advanced registered nurse practitioner licensed under chapter
 559 464.

560

561 For purposes of this act, a medical diagnosis that an emergency
 562 medical condition exists is presumed to be correct, unless
 563 rebutted by clear and convincing evidence to the contrary.

564 (b) Disability benefits.—Sixty percent of any loss of
 565 gross income and loss of earning capacity per individual from
 566 inability to work proximately caused by the injury sustained by
 567 the injured person, plus all expenses reasonably incurred in
 568 obtaining from others ordinary and necessary services in lieu of
 569 those that, but for the injury, the injured person would have
 570 performed without income for the benefit of his or her
 571 household. All disability benefits payable under this provision
 572 shall be paid not less than every 2 weeks.

573 (c) Death benefits.—Death benefits equal to the lesser of
 574 \$5,000 or the remainder of unused emergency care coverage
 575 insurance benefits per individual. The insurer may pay such
 576 benefits to the executor or administrator of the deceased, to
 577 any of the deceased's relatives by blood or legal adoption or
 578 connection by marriage, or to any person appearing to the
 579 insurer to be equitably entitled thereto.

580
 581 Only insurers writing motor vehicle liability insurance in this
 582 state may provide the required benefits of this section, and no
 583 such insurer shall require the purchase of any other motor
 584 vehicle coverage other than the purchase of property damage
 585 liability coverage as required by s. 627.7275 as a condition for
 586 providing such required benefits. Insurers may not require that
 587 property damage liability insurance in an amount greater than
 588 \$10,000 be purchased in conjunction with emergency care coverage

589 insurance. Such insurers shall make benefits and required
 590 property damage liability insurance coverage available through
 591 normal marketing channels. Any insurer writing motor vehicle
 592 liability insurance in this state who fails to comply with such
 593 availability requirement as a general business practice shall be
 594 deemed to have violated part IX of chapter 626, and such
 595 violation shall constitute an unfair method of competition or an
 596 unfair or deceptive act or practice involving the business of
 597 insurance; and any such insurer committing such violation shall
 598 be subject to the penalties afforded in such part, as well as
 599 those which may be afforded elsewhere in the insurance code.

600 (2) AUTHORIZED EXCLUSIONS.—Any insurer may exclude
 601 benefits:

602 (a) For injury sustained by the named insured and
 603 relatives residing in the same household while occupying another
 604 motor vehicle owned by the named insured and not insured under
 605 the policy or for injury sustained by any person operating the
 606 insured motor vehicle without the express or implied consent of
 607 the insured.

608 (b) To any injured person, if such person's conduct
 609 contributed to his or her injury under any of the following
 610 circumstances:

- 611 1. Causing injury to himself or herself intentionally; or
- 612 2. Being injured while committing a felony.

613
 614 Whenever an insured is charged with conduct as set forth in
 615 subparagraph 2., the 30-day payment provision of paragraph
 616 (4)(b) shall be held in abeyance, and the insurer shall withhold

617 payment of any emergency care coverage benefits pending the
 618 outcome of the case at the trial level. If the charge is nolle
 619 prossed or dismissed or the insured is acquitted, the 30-day
 620 payment provision shall run from the date the insurer is
 621 notified of such action.

622 (3) INSURED'S RIGHTS TO RECOVERY OF SPECIAL DAMAGES IN
 623 TORT CLAIMS.—No insurer shall have a lien on any recovery in
 624 tort by judgment, settlement, or otherwise for emergency care
 625 coverage benefits, whether suit has been filed or settlement has
 626 been reached without suit. An injured party who is entitled to
 627 bring suit under the provisions of ss. 627.748-627.7491, or his
 628 or her legal representative, shall have no right to recover any
 629 damages for which emergency care coverage benefits are paid or
 630 payable. The plaintiff may prove all of his or her special
 631 damages notwithstanding this limitation, but if special damages
 632 are introduced in evidence, the trier of facts, whether judge or
 633 jury, shall not award damages for emergency care coverage
 634 benefits paid or payable. In all cases in which a jury is
 635 required to fix damages, the court shall instruct the jury that
 636 the plaintiff shall not recover such special damages for
 637 emergency care coverage benefits paid or payable.

638 (4) BENEFITS; WHEN DUE.—Benefits due from an insurer under
 639 ss. 627.748-627.7491 shall be primary, except that benefits
 640 received under any workers' compensation law shall be credited
 641 against the benefits provided by subsection (1) and shall be due
 642 and payable as loss accrues, upon receipt of reasonable proof of
 643 such loss and the amount of expenses and loss incurred which are
 644 covered by the policy issued under ss. 627.748-627.7491. When

645 the Agency for Health Care Administration provides, pays, or
 646 becomes liable for medical assistance under the Medicaid program
 647 related to injury, sickness, disease, or death arising out of
 648 the ownership, maintenance, or use of a motor vehicle, benefits
 649 under ss. 627.748-627.7491 shall be subject to the provisions of
 650 the Medicaid program.

651 (a) An insurer may require written notice to be given as
 652 soon as practicable after an accident involving a motor vehicle
 653 with respect to which the policy affords the security required
 654 by ss. 627.748-627.7491.

655 (b) Emergency care coverage benefits paid pursuant to this
 656 section shall be overdue if not paid within 30 days after the
 657 insurer is furnished written notice of the fact of a covered
 658 loss and of the amount of same. If such written notice is not
 659 furnished to the insurer as to the entire claim, any partial
 660 amount supported by written notice is overdue if not paid within
 661 30 days after such written notice is furnished to the insurer.
 662 Any part or all of the remainder of the claim that is
 663 subsequently supported by written notice is overdue if not paid
 664 within 30 days after such written notice is furnished to the
 665 insurer. When an insurer pays only a portion of a claim or
 666 rejects a claim, the insurer shall provide at the time of the
 667 partial payment or rejection an itemized specification of each
 668 item that the insurer had reduced, omitted, or declined to pay
 669 and any information that the insurer desires the claimant to
 670 consider related to the medical necessity of the denied
 671 treatment or to explain the reasonableness of the reduced
 672 charge, provided that this shall not limit the introduction of

673 evidence at trial; and the insurer shall include the name and
 674 address of the person to whom the claimant should respond and a
 675 claim number to be referenced in future correspondence. However,
 676 notwithstanding the fact that written notice has been furnished
 677 to the insurer, any payment shall not be deemed overdue when the
 678 insurer has reasonable proof to establish that the insurer is
 679 not responsible for the payment. For the purpose of calculating
 680 the extent to which any benefits are overdue, payment shall be
 681 treated as being made on the date a draft or other valid
 682 instrument which is equivalent to payment was placed in the
 683 United States mail in a properly addressed, postpaid envelope
 684 or, if not so posted, on the date of delivery. This paragraph
 685 does not preclude or limit the ability of the insurer to assert
 686 that the claim was unrelated, was not medically necessary, or
 687 was unreasonable or that the amount of the charge was in excess
 688 of that permitted under, or in violation of, subsection (5).
 689 Such assertion by the insurer may be made at any time, including
 690 after payment of the claim or after the 30-day time period for
 691 payment set forth in this paragraph.

692 (c) Upon receiving notice of an accident that is
 693 potentially covered by emergency care coverage benefits, the
 694 insurer must reserve \$5,000 of emergency care coverage benefits
 695 for payment to physicians licensed under chapter 458 or chapter
 696 459, dentists licensed under chapter 466, physician assistants
 697 licensed under chapter 458 or 459, or advanced registered nurse
 698 practitioners licensed under chapter 464 who provide emergency
 699 care coverage pursuant to s. 627.7485(1)(a)2. The amount
 700 required to be held in reserve may be used only to pay claims

701 from such medical providers until 30 days after the date the
 702 insurer receives notice of the accident. After the 30-day
 703 period, any amount of the reserve for which the insurer has not
 704 received notice of a claim from such medical provider for
 705 emergency care coverage benefits may then be used by the insurer
 706 to pay other claims. The time periods specified in paragraph (b)
 707 for required payment of emergency care coverage benefits shall
 708 be tolled for the period of time that an insurer is required by
 709 this paragraph to hold payment of a claim that is not from a
 710 medical provider eligible to receive payment of emergency care
 711 coverage benefits to the extent that the emergency care coverage
 712 benefits not held in reserve are insufficient to pay the claim.
 713 This paragraph does not require an insurer to establish a claim
 714 reserve for insurance accounting purposes.

715 (d) All overdue payments shall bear simple interest at the
 716 rate established under s. 55.03 or the rate established in the
 717 insurance contract, whichever is greater, for the quarter in
 718 which the payment became overdue, calculated from the date the
 719 insurer was furnished with written notice of the amount of
 720 covered loss. Interest shall be due at the time payment of the
 721 overdue claim is made.

722 (e)1. If an insurer has reasonable belief that a fraudulent
 723 insurance act, as defined in s. 626.989, has been committed and
 724 reports its suspicions to the Division of Insurance Fraud, the
 725 30-day period for payment is tolled as to any portions of the
 726 claim reported for investigation. The insurer must notify the
 727 claimant in writing that the claim is being investigated for
 728 fraud within 30 days after the insurer is furnished with written

729 notice of the fact of a covered loss and of the amount of same.
 730 Within 30 days after receipt of notice from the Division of
 731 Insurance Fraud that a claim has been investigated and that no
 732 criminal action will be recommended, the insurer must pay the
 733 claim with simple interest as provided in paragraph (d).

734 2. Subject to the provisions of s. 626.989(4), persons or
 735 entities that in good faith report suspected fraud to the
 736 Division of Insurance Fraud or share information in the
 737 furtherance of a fraud investigation are not subject to any
 738 civil or criminal liability relating to the reporting or release
 739 of such information.

740 (f) The insurer of the owner of a motor vehicle shall pay
 741 emergency care coverage benefits for accidental bodily injury
 742 requiring medical treatment as provided in s. 627.7482(1)(a):

743 1. Sustained in this state by the owner while occupying a
 744 motor vehicle, or while not an occupant of a self-propelled
 745 vehicle if the injury is caused by physical contact with a motor
 746 vehicle.

747 2. Sustained outside this state, but within the United
 748 States of America or its territories or possessions or Canada,
 749 by the owner while occupying the owner's motor vehicle.

750 3. Sustained by a relative of the owner residing in the
 751 same household, under the circumstances described in
 752 subparagraph 1. or subparagraph 2., provided the relative at the
 753 time of the accident is domiciled in the owner's household and
 754 is not himself or herself the owner of a motor vehicle with
 755 respect to which security is required under ss. 627.748-
 756 627.7491.

757 4. Sustained in this state by any other person while
 758 occupying the owner's motor vehicle or, if a resident of this
 759 state, while not an occupant of a self-propelled vehicle, if the
 760 injury is caused by physical contact with such motor vehicle,
 761 provided the injured person is not himself or herself:

762 a. The owner of a motor vehicle with respect to which
 763 security is required under ss. 627.748-627.7491; or

764 b. Entitled to emergency care coverage benefits from the
 765 insurer of the owner or owners of such a motor vehicle.

766 (g) If two or more insurers are liable to pay emergency
 767 care coverage benefits for the same injury to any one person,
 768 the maximum payable shall be as specified in subsection (1), and
 769 any insurer paying the benefits shall be entitled to recover
 770 from each of the other insurers an equitable pro rata share of
 771 the benefits paid and expenses incurred in processing the claim.

772 (h) It is a violation of the insurance code for an insurer
 773 to fail to timely provide benefits as required by this section
 774 with such frequency as to constitute a general business
 775 practice.

776 (i) Benefits shall not be due or payable to or on the
 777 behalf of an insured, claimant, medical provider, or attorney if
 778 the insured, claimant, medical provider, or attorney has:

779 1. Submitted a false material statement, document, record,
 780 or bill;

781 2. Submitted false material information; or

782 3. Otherwise committed or attempted to commit a fraudulent
 783 insurance act as defined in s. 626.989.

784

785 A claimant who violates this paragraph is not entitled to any
 786 emergency care coverage benefits or payment for any bills and
 787 services, regardless of whether a portion of the claim may be
 788 legitimate. However, a medical provider who does not violate
 789 this paragraph may not be denied benefits solely due to the
 790 violation by another claimant.

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

792 (a) Any physician, hospital, clinic, or other person or
 793 institution lawfully rendering treatment to an injured person
 794 for a bodily injury covered by emergency care coverage insurance
 795 may charge the insurer and injured party only a reasonable
 796 amount pursuant to this section for the services and supplies
 797 rendered, and the insurer providing such coverage may pay for
 798 such charges directly to such person or institution lawfully
 799 rendering such treatment, if the insured receiving such
 800 treatment or his or her guardian has countersigned the properly
 801 completed, invoice, bill, or claim form approved by the office
 802 upon which such charges are to be paid for as having actually
 803 been rendered, to the best of the knowledge of the insured or
 804 his or her guardian. However, such a charge may not exceed the
 805 amount the person or institution customarily charges for like
 806 services or supplies. When determining whether a charge for a
 807 particular service, treatment, or otherwise is reasonable,
 808 consideration may be given to evidence of usual and customary
 809 charges and payments accepted by the provider involved in the
 810 dispute, reimbursement levels in the community and various
 811 federal and state medical fee schedules applicable to motor
 812 vehicle and other insurance coverages, and other information

813 relevant to the reasonableness of the reimbursement for the
 814 service, treatment, or supply.

815 1. When a health care provider or entity bills an insurer
 816 in an amount less than indicated in the following schedule of
 817 maximum charges, and the insurer pays the amount billed, the
 818 payment shall be considered reasonable. However, a payment made
 819 by an insurer that limits reimbursement to 80 percent of the
 820 following schedule of maximum charges is considered reasonable:

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

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

826 c. For emergency services and care provided in a facility
 827 licensed under chapter 395 rendered by a physician or dentist,
 828 and related hospital inpatient services rendered by a physician
 829 or dentist, the usual and customary charges in the community.

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

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

838 f. For all other medical services, supplies, and care, 200
 839 percent of the allowable amount under the participating
 840 physicians schedule of Medicare Part B. For medical supplies,

841 care, and services rendered by clinical laboratories, 200
 842 percent of the allowable amount under Medicare Part B. For
 843 durable medical equipment, the amount contained in the Durable
 844 Medical Equipment Prosthetics/Orthotics & Supplies (DMEPOS) fee
 845 schedule of Medicare Part B. However, if such services,
 846 supplies, or care is not reimbursable under Medicare Part B, the
 847 insurer may limit reimbursement to 80 percent of the maximum
 848 reimbursable allowance under workers' compensation, as
 849 determined under s. 440.13 and rules adopted thereunder which
 850 are in effect at the time such services, supplies, or care is
 851 provided. Services, supplies, or care that is not reimbursable
 852 under Medicare or workers' compensation is not required to be
 853 reimbursed by the insurer.

854 2. For purposes of subparagraph 1., the applicable fee
 855 schedule or payment limitation under Medicare is the fee
 856 schedule or payment limitation that was in effect as of March 1
 857 of the year in which the services, supplies, or care was
 858 rendered and for the area in which such services were rendered,
 859 and shall apply until March 1 of the following year,
 860 notwithstanding any subsequent changes made to such fee schedule
 861 or payment limitation, except that it may not be less than the
 862 allowable amount under the participating physicians schedule of
 863 Medicare Part B for 2007 for medical services, supplies, and
 864 care subject to Medicare Part B.

865 3. Subparagraph 2. does not allow the insurer to apply any
 866 limitation on the number of treatments or other utilization
 867 limits that apply under Medicare or workers' compensation. An
 868 insurer that applies the allowable payment limitations of

869 subparagraph 1. must reimburse a provider who lawfully provided
 870 care or treatment under the scope of his or her license
 871 regardless of whether such provider is entitled to reimbursement
 872 under Medicare due to restrictions or limitations on the types
 873 or discipline of health care providers who may be reimbursed for
 874 particular procedures or procedure codes. However, nothing in
 875 subparagraph 1. prohibits an insurer from using any and all
 876 Medicare coding policies and CMS payment methodologies,
 877 including applicable modifiers, to determine the appropriate
 878 amount of reimbursement for medical services, supplies, or care.

879 4. If an insurer limits payment as authorized by
 880 subparagraph 2., the person providing such services, supplies,
 881 or care may not bill or attempt to collect from the insured any
 882 amount in excess of such limits, except for amounts that are not
 883 covered by the insured's emergency care coverage insurance due
 884 to the coinsurance amount or maximum policy limits.

885 (b)1. An insurer or insured is not required to pay a claim
 886 or charges:

887 a. Made by a broker or by a person making a claim on
 888 behalf of a broker;

889 b. For any service or treatment that was not lawful at the
 890 time rendered;

891 c. To any person who knowingly submits a false material
 892 statement relating to the claim or charges;

893 d. With respect to a bill or statement that does not
 894 substantially meet the applicable requirements of paragraph (d);

895 e. For any treatment or service that is upcoded, or that
 896 is unbundled when such treatment or services should be bundled,

897 in accordance with paragraph (d). To facilitate prompt payment
 898 of lawful services, an insurer may change codes that it
 899 determines to have been improperly or incorrectly upcoded or
 900 unbundled, and may make payment based on the changed codes,
 901 without affecting the right of the provider to dispute the
 902 change by the insurer, provided that before doing so, the
 903 insurer must contact the health care provider and discuss the
 904 reasons for the insurer's change and the health care provider's
 905 reason for the coding, or make a reasonable good faith effort to
 906 do so, as documented in the insurer's file; and

907 f. For medical services or treatment billed by a physician
 908 and not provided in a hospital unless such services are rendered
 909 by the physician or are incident to his or her professional
 910 services and are included on the physician's bill, including
 911 documentation verifying that the physician is responsible for
 912 the medical services that were rendered and billed.

913 2. The Department of Health, in consultation with the
 914 appropriate professional licensing boards, shall adopt, by rule,
 915 a list of diagnostic tests deemed not to be medically necessary
 916 for use in the treatment of persons sustaining bodily injury
 917 covered by personal injury protection benefits under this
 918 section. The list shall be revised from time to time as
 919 determined by the Department of Health, in consultation with the
 920 respective professional licensing boards. Inclusion of a test on
 921 the list of invalid diagnostic tests shall be based on lack of
 922 demonstrated medical value and a level of general acceptance by
 923 the relevant provider community and shall not be dependent for
 924 results entirely upon subjective patient response.

925 Notwithstanding its inclusion on a fee schedule in this
 926 subsection, an insurer or insured is not required to pay any
 927 charges or reimburse claims for any invalid diagnostic test as
 928 determined by the Department of Health.

929 (c)1. With respect to any treatment or service, other than
 930 medical services billed by a hospital or other provider for
 931 emergency services and care or inpatient services rendered at a
 932 hospital-owned facility, the statement of charges must be
 933 furnished to the insurer by the provider and may not include,
 934 and the insurer is not required to pay, charges for treatment or
 935 services rendered more than 35 days before the postmark date or
 936 electronic transmission date of the statement, except for past
 937 due amounts previously billed on a timely basis under this
 938 paragraph, and except that, if the provider submits to the
 939 insurer a notice of initiation of treatment within 21 days after
 940 its first examination or treatment of the claimant, the
 941 statement may include charges for treatment or services rendered
 942 up to, but not more than, 75 days before the postmark date of
 943 the statement. The injured party is not liable for, and the
 944 provider shall not bill the injured party for, charges that are
 945 unpaid because of the provider's failure to comply with this
 946 paragraph. Any agreement requiring the injured person or insured
 947 to pay for such charges is unenforceable.

948 2. If, however, the insured fails to furnish the provider
 949 with the correct name and address of the insured's emergency
 950 care coverage insurer, the provider has 35 days from the date
 951 the provider obtains the correct information to furnish the
 952 insurer with a statement of the charges. The insurer is not

953 required to pay for such charges unless the provider includes
 954 with the statement documentary evidence that was provided by the
 955 insured during the 35-day period demonstrating that the provider
 956 reasonably relied on erroneous information from the insured and
 957 either:

- 958 a. A denial letter from the incorrect insurer; or
- 959 b. Proof of mailing, which may include an affidavit under
 960 penalty of perjury, reflecting timely mailing to the incorrect
 961 address or insurer.

962 3. For emergency services and care rendered in a hospital
 963 emergency department or for transport and treatment rendered by
 964 an ambulance provider licensed pursuant to part III of chapter
 965 401, the provider is not required to furnish the statement of
 966 charges within the time periods established by this paragraph;
 967 and the insurer shall not be considered to have been furnished
 968 with notice of the amount of covered loss for purposes of
 969 paragraph (4) (b) until it receives a statement complying with
 970 paragraph (d), or copy thereof, which specifically identifies
 971 the place of service to be a hospital emergency department or an
 972 ambulance in accordance with billing standards recognized by the
 973 Health Care Finance Administration.

974 4. Each notice of insured's rights under s. 627.7488 must
 975 include the following statement in type no smaller than 12
 976 points:

977 BILLING REQUIREMENTS.—Florida Statutes provide that with respect
 978 to any treatment or services, other than certain hospital and
 979 emergency services, the statement of charges furnished to the

980 insurer by the provider may not include, and the insurer and the
 981 injured party are not required to pay, charges for treatment or
 982 services rendered more than 35 days before the postmark date of
 983 the statement, except for past due amounts previously billed on
 984 a timely basis, and except that, if the provider submits to the
 985 insurer a notice of initiation of treatment within 21 days after
 986 its first examination or treatment of the claimant, the
 987 statement may include charges for treatment or services rendered
 988 up to, but not more than, 75 days before the postmark date of
 989 the statement.

990 (d) All statements and bills for medical services rendered
 991 by any physician, hospital, clinic, or other person or
 992 institution shall be submitted to the insurer on a properly
 993 completed Centers for Medicare and Medicaid Services (CMS) 1500
 994 form, UB 92 forms, or any other standard form approved by the
 995 office or adopted by the commission for purposes of this
 996 paragraph. All billings for such services rendered by providers
 997 shall, to the extent applicable, follow the Physicians' Current
 998 Procedural Terminology (CPT) or Healthcare Correct Procedural
 999 Coding System (HCPCS), or ICD-9 in effect for the year in which
 1000 services are rendered and comply with the Centers for Medicare
 1001 and Medicaid Services (CMS) 1500 form instructions and the
 1002 American Medical Association Current Procedural Terminology
 1003 (CPT) Editorial Panel and Healthcare Correct Procedural Coding
 1004 System (HCPCS). All providers other than hospitals shall include
 1005 on the applicable claim form the professional license number of
 1006 the provider in the line or space provided for "Signature of

1007 Physician or Supplier, Including Degrees or Credentials." In
 1008 determining compliance with applicable CPT and HCPCS coding,
 1009 guidance shall be provided by the Physicians' Current Procedural
 1010 Terminology (CPT) or the Healthcare Correct Procedural Coding
 1011 System (HCPCS) in effect for the year in which services were
 1012 rendered, the Office of the Inspector General (OIG), Physicians
 1013 Compliance Guidelines, and other authoritative treatises
 1014 designated by rule by the Agency for Health Care Administration.
 1015 No statement of medical services may include charges for medical
 1016 services of a person or entity that performed such services
 1017 without possessing the valid licenses required to perform such
 1018 services. For purposes of paragraph (4) (b), an insurer shall not
 1019 be considered to have been furnished with notice of the amount
 1020 of covered loss or medical bills due unless the statements or
 1021 bills comply with this paragraph, and unless the statements or
 1022 bills are properly completed in their entirety as to all
 1023 material provisions, with all relevant information being
 1024 provided therein.

1025 (e)1. At the initial treatment or service provided, each
 1026 physician, other licensed professional, clinic, or other medical
 1027 institution providing medical services upon which a claim for
 1028 emergency care coverage benefits is based shall require an
 1029 insured person, or his or her guardian, to execute a disclosure
 1030 and acknowledgment form, which reflects at a minimum that:

1031 a. The insured, or his or her guardian, must countersign
 1032 the form attesting to the fact that the services set forth
 1033 therein were actually rendered;

1034 b. The insured, or his or her guardian, has both the right
 1035 and affirmative duty to confirm that the services were actually
 1036 rendered;

1037 c. The insured, or his or her guardian, was not solicited
 1038 by any person to seek any services from the medical provider;

1039 d. The physician, other licensed professional, clinic, or
 1040 other medical institution rendering services for which payment
 1041 is being claimed explained the services to the insured or his or
 1042 her guardian; and

1043 e. If the insured notifies the insurer in writing of a
 1044 billing error, the insured may be entitled to a certain
 1045 percentage of a reduction in the amounts paid by the insured's
 1046 motor vehicle insurer.

1047 2. The physician, other licensed professional, clinic, or
 1048 other medical institution rendering services for which payment
 1049 is being claimed has the affirmative duty to explain the
 1050 services rendered to the insured, or his or her guardian, so
 1051 that the insured, or his or her guardian, countersigns the form
 1052 with informed consent.

1053 3. Countersignature by the insured, or his or her
 1054 guardian, is not required for the reading of diagnostic tests or
 1055 other services that are of such a nature that they are not
 1056 required to be performed in the presence of the insured.

1057 4. The licensed medical professional rendering treatment
 1058 for which payment is being claimed must sign, by his or her own
 1059 hand, the form complying with this paragraph.

1060 5. The original completed disclosure and acknowledgment
 1061 form shall be furnished to the insurer pursuant to paragraph

1062 (4) (b) and may not be electronically furnished.

1063 6. This disclosure and acknowledgment form is not required
 1064 for services billed by a provider for emergency services and
 1065 care rendered in a hospital emergency department, or for
 1066 transport and treatment rendered by an ambulance provider
 1067 licensed pursuant to part III of chapter 401.

1068 7. The Financial Services Commission shall adopt, by rule,
 1069 a standard disclosure and acknowledgment form that shall be used
 1070 to fulfill the requirements of this paragraph, effective 90 days
 1071 after such form is adopted and becomes final. The commission
 1072 shall adopt a proposed rule by January 1, 2013. Until the rule
 1073 is final, the provider may use a form of its own which otherwise
 1074 complies with the requirements of this paragraph.

1075 8. As used in this paragraph, "countersigned" means a
 1076 second or verifying signature, as on a previously signed
 1077 document, and is not satisfied by the statement "signature on
 1078 file" or any similar statement.

1079 9. The requirements of this paragraph apply only with
 1080 respect to the initial treatment or service of the insured by a
 1081 provider. For subsequent treatments or service, the provider
 1082 must maintain a patient log signed by the patient, in
 1083 chronological order by date of service, that is consistent with
 1084 the services being rendered to the patient as claimed. The
 1085 requirements of this subparagraph for maintaining a patient log
 1086 signed by the patient may be met by a hospital that maintains
 1087 medical records as required by s. 395.3025 and applicable rules
 1088 and makes such records available to the insurer upon request.

1089 (f) Upon written notification by any person, an insurer

1090 shall investigate any claim of improper billing by a physician
 1091 or other medical provider. The insurer shall determine if the
 1092 insured was properly billed for only those services and
 1093 treatments that the insured actually received. If the insurer
 1094 determines that the insured has been improperly billed, the
 1095 insurer shall notify the insured, the person making the written
 1096 notification and the provider of its findings and shall reduce
 1097 the amount of payment to the provider by the amount determined
 1098 to be improperly billed. If a reduction is made due to such
 1099 written notification by any person, the insurer shall pay to the
 1100 person 20 percent of the amount of the reduction, up to \$500. If
 1101 the provider is arrested due to the improper billing, then the
 1102 insurer shall pay to the person 40 percent of the amount of the
 1103 reduction, up to \$500.

1104 (g) An insurer may not systematically downcode with the
 1105 intent to deny reimbursement otherwise due. Such action
 1106 constitutes a material misrepresentation under s.
 1107 626.9541(1)(i)2.

1108 (6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON; DISPUTES.-

1109 (a) In all circumstances, an insured seeking benefits
 1110 under ss. 627.748-627.7491, including omnibus insureds, must
 1111 comply with the terms of the policy, which include, but are not
 1112 limited to, submitting to an examination under oath. Compliance
 1113 with this paragraph is a condition precedent to the insured
 1114 receiving benefits. Every employer shall, if a request is made
 1115 by an insurer providing emergency care coverage under ss.
 1116 627.748-627.7491 against whom a claim has been made, furnish
 1117 forthwith, in a form approved by the office, a sworn statement

1118 of the earnings, since the time of the bodily injury and for a
 1119 reasonable period before the injury, of the person upon whose
 1120 injury the claim is based.

1121 (b) If an insured seeking to recover benefits pursuant to
 1122 ss. 627.748-627.7491 assigns the contractual right to these
 1123 benefits or payment of those benefits to any person or entity,
 1124 the assignee must comply with the terms of the policy. In all
 1125 circumstances the assignee is obligated to cooperate under the
 1126 policy, including, but not limited to, submitting to an
 1127 examination under oath. Examinations under oath may be recorded
 1128 by audio, video, court reporter, or any combination thereof.
 1129 Compliance with this paragraph by the assignee is a condition
 1130 precedent to the assignee's recovery of benefits.

1131 1. If an insurer requests an examination under oath of a
 1132 medical provider, the provider must produce those individuals
 1133 identified in the request, or if no person is specifically
 1134 identified, then the persons having the most knowledge of the
 1135 issues identified by the insurer in the request for the
 1136 examination under oath. All claimants must produce and allow for
 1137 the inspection of all documents requested by the insurer that
 1138 are relevant to the services rendered and reasonably obtainable
 1139 by the claimant. No later than the time of the examination under
 1140 oath, the insurer must pay the medical provider, and other
 1141 persons produced in response to the insurer's request,
 1142 reasonable compensation for attending the examination under
 1143 oath. Such compensation shall be based upon good faith estimates
 1144 of the hourly rate for the health care provider and other
 1145 persons to be examined and the time required to conduct the

1146 examination under oath. If additional time is necessary for
 1147 completion of the examination under oath, the insurer must
 1148 provide compensation for the time that exceeds the good faith
 1149 estimate within 15 days after the examination under oath to each
 1150 person that completes the examination. All persons appearing for
 1151 an examination under oath may have an attorney present at their
 1152 own expense.

1153 2. Before requesting that an assignee participate in an
 1154 examination under oath, the insurer must send a written request
 1155 to the assignee requesting all information that the insurer
 1156 believes is necessary to process the claim and relevant to the
 1157 services rendered, including the information contemplated under
 1158 this subparagraph.

1159 3. An insurer that, as a general practice, requests
 1160 examinations under oath of an assignee without a reasonable
 1161 basis is subject to s. 626.9541.

1162 4. An insurer must coordinate with the claimant for
 1163 emergency care coverage benefits to ensure an appropriate time
 1164 and location for the examination. A claimant's failure to agree
 1165 to attend an examination after an insurer presents two
 1166 documented offers of a reasonable time and location allows the
 1167 insurer to suspend benefits, until such time that the claimant
 1168 agrees to submit to, and does actually submit to, an
 1169 examination.

1170 (c) Every physician, hospital, clinic, or other medical
 1171 institution providing, before or after bodily injury upon which
 1172 a claim for emergency care coverage benefits is based, any
 1173 products, services, or accommodations in relation to that or any

1174 other injury, or in relation to a condition claimed to be
 1175 connected with that or any other injury, shall, if requested to
 1176 do so by the insurer against whom the claim has been made,
 1177 permit the insurer or the insurer's representative to conduct an
 1178 onsite physical review and examination of the treatment
 1179 location, treatment apparatuses, diagnostic devices, and any
 1180 other medical equipment used for the services rendered within 10
 1181 days after the insurer's request and furnish forthwith a written
 1182 report of the history, condition, treatment, dates, and costs of
 1183 such treatment of the injured person and why the items
 1184 identified by the insurer were reasonable in amount and
 1185 medically necessary, together with a sworn statement that the
 1186 treatment or services rendered were reasonable and necessary
 1187 with respect to the bodily injury sustained and identifying
 1188 which portion of the expenses for such treatment or services was
 1189 incurred as a result of such bodily injury, and produce
 1190 forthwith, and permit the inspection and copying of, his or her
 1191 or its records regarding such history, condition, treatment,
 1192 dates, and costs of treatment; provided that this shall not
 1193 limit the introduction of evidence at trial. Such sworn
 1194 statement shall read as follows: "Under penalty of perjury, I
 1195 declare that I have read the foregoing, and the facts alleged
 1196 are true, to the best of my knowledge and belief." No cause of
 1197 action for violation of the physician-patient privilege or
 1198 invasion of the right of privacy shall be permitted against any
 1199 physician, hospital, clinic, or other medical institution
 1200 complying with the provisions of this section. The person
 1201 requesting such records and such sworn statement shall pay all

1202 reasonable costs connected therewith. If an insurer makes a
 1203 written request for documentation or information under this
 1204 paragraph within 30 days after having received notice of the
 1205 amount of a covered loss under paragraph (4) (a), the amount or
 1206 the partial amount which is the subject of the insurer's inquiry
 1207 shall become overdue if the insurer does not pay in accordance
 1208 with paragraph (4) (b) or within 10 days after the insurer's
 1209 receipt of the requested documentation or information, whichever
 1210 occurs later. For purposes of this paragraph, the term "receipt"
 1211 includes, but is not limited to, inspection and copying pursuant
 1212 to this paragraph. Any insurer that requests documentation or
 1213 information pertaining to reasonableness of charges or medical
 1214 necessity under this paragraph without a reasonable basis for
 1215 such requests as a general business practice is engaging in an
 1216 unfair trade practice under the insurance code. The provisions
 1217 of s. 626.989(4) (d) shall apply to the sharing of information
 1218 related to reviews and examinations conducted pursuant to this
 1219 section.

1220 (d) In the event of any dispute regarding an insurer's
 1221 right to discovery of facts under this section, the insurer may
 1222 petition a court of competent jurisdiction to enter an order
 1223 permitting such discovery. The order may be made only on motion
 1224 for good cause shown and upon notice to all persons having an
 1225 interest, and it shall specify the time, place, manner,
 1226 conditions, and scope of the discovery. Such court may, in order
 1227 to protect against annoyance, embarrassment, or oppression, as
 1228 justice requires, enter an order refusing discovery or
 1229 specifying conditions of discovery and may order payments of

1230 costs and expenses of the proceeding, including reasonable fees
 1231 for the appearance of attorneys at the proceedings, as justice
 1232 requires.

1233 (e) The injured person shall be furnished, upon request, a
 1234 copy of all information obtained by the insurer under the
 1235 provisions of this section, and shall pay a reasonable charge,
 1236 if required by the insurer.

1237 (f) Notice to an insurer of the existence of a claim shall
 1238 not be unreasonably withheld by an insured.

1239 (7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;
 1240 REPORTS.-

1241 (a) Whenever the mental or physical condition of an
 1242 injured person covered by emergency care coverage insurance is
 1243 material to any claim that has been or may be made for past or
 1244 future emergency care coverage insurance benefits, such person
 1245 shall, upon the request of an insurer, submit to mental or
 1246 physical examination by a physician or physicians. The costs of
 1247 any examinations requested by an insurer shall be borne entirely
 1248 by the insurer. Such examination shall be conducted within the
 1249 municipality where the insured is receiving treatment, or in a
 1250 location reasonably accessible to the insured, which, for
 1251 purposes of this paragraph, means any location within the
 1252 municipality in which the insured resides, or any location
 1253 within 10 miles by road of the insured's residence, provided
 1254 such location is within the county in which the insured resides.
 1255 If the examination is to be conducted in a location reasonably
 1256 accessible to the insured, and if there is no qualified
 1257 physician to conduct the examination in a location reasonably

1258 accessible to the insured, then such examination shall be
 1259 conducted in an area of the closest proximity to the insured's
 1260 residence. Emergency care coverage insurers are authorized to
 1261 include reasonable provisions in emergency care coverage
 1262 insurance policies for mental and physical examination of those
 1263 claiming emergency care coverage insurance benefits. An insurer
 1264 may not withdraw payment of a treating physician without the
 1265 consent of the injured person covered by the emergency care
 1266 coverage insurance, unless the insurer first obtains a valid
 1267 report by a Florida physician licensed under the same chapter as
 1268 the treating physician whose treatment authorization is sought
 1269 to be withdrawn, stating that treatment was not reasonable,
 1270 related, or necessary. A valid report is one that is prepared
 1271 and signed by the physician examining the injured person or
 1272 reviewing the treatment records of the injured person and is
 1273 factually supported by the examination and treatment records if
 1274 reviewed and that has not been modified by anyone other than the
 1275 physician. The physician preparing the report must be in active
 1276 practice, unless the physician is physically disabled. Active
 1277 practice means that during the 3 years immediately preceding the
 1278 date of the physical examination or review of the treatment
 1279 records the physician must have devoted professional time to the
 1280 active clinical practice of evaluation, diagnosis, or treatment
 1281 of medical conditions or to the instruction of students in an
 1282 accredited health professional school or accredited residency
 1283 program or a clinical research program that is affiliated with
 1284 an accredited health professional school or teaching hospital or
 1285 accredited residency program. The physician preparing a report

1286 at the request of an insurer and physicians rendering expert
 1287 opinions on behalf of persons claiming medical benefits for
 1288 emergency care coverage, or on behalf of an insured through an
 1289 attorney or another entity, shall maintain, for at least 3
 1290 years, copies of all examination reports as medical records and
 1291 shall maintain, for at least 3 years, records of all payments
 1292 for the examinations and reports. Neither an insurer nor any
 1293 person acting at the direction of or on behalf of an insurer may
 1294 materially change an opinion in a report prepared under this
 1295 paragraph or direct the physician preparing the report to change
 1296 such opinion. The denial of a payment as the result of such a
 1297 changed opinion constitutes a material misrepresentation under
 1298 s. 626.9541(1)(i)2.; however, this provision does not preclude
 1299 the insurer from calling to the attention of the physician
 1300 errors of fact in the report based upon information in the claim
 1301 file.

1302 (b) If requested by the person examined, a party causing
 1303 an examination to be made shall deliver to him or her a copy of
 1304 every written report concerning the examination rendered by an
 1305 examining physician, at least one of which reports must set out
 1306 the examining physician's findings and conclusions in detail.
 1307 After such request and delivery, the party causing the
 1308 examination to be made is entitled, upon request, to receive
 1309 from the person examined every written report available to him
 1310 or her or his or her representative concerning any examination,
 1311 previously or thereafter made, of the same mental or physical
 1312 condition. By requesting and obtaining a report of the
 1313 examination so ordered, or by taking the deposition of the

1314 examiner, the person examined waives any privilege he or she may
 1315 have, in relation to the claim for benefits, regarding the
 1316 testimony of every other person who has examined, or may
 1317 thereafter examine, him or her in respect to the same mental or
 1318 physical condition. If a person unreasonably refuses to submit
 1319 to or fails to appear at an examination, the emergency care
 1320 coverage carrier is no longer liable for subsequent emergency
 1321 care coverage benefits. Refusal or failure to appear for two
 1322 examinations raises a rebuttable presumption that such refusal
 1323 or failure was unreasonable.

1324 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY'S
 1325 FEES.—

1326 (a) With respect to any dispute under ss. 627.748-627.7491
 1327 between the insured and the insurer, or between an assignee of
 1328 an insured's rights and the insurer, s. 627.428 applies, except
 1329 as provided in paragraphs (b) and (c) and subsections (9) and
 1330 (14) and except that any attorney fees recovered are limited to
 1331 the lesser of the actual fee incurred based upon a rate for
 1332 attorney services not to exceed \$200 per billable hour or:

1333 1. For any disputed amount of less than \$500, 15 times any
 1334 disputed amount recovered by the attorney under ss. 627.748-
 1335 627.7491, limited to a total of \$5,000.

1336 2. For any disputed amount of \$500 or more and less than
 1337 \$5,000, 10 times any disputed amount recovered by the attorney
 1338 under ss. 627.748-627.7491, limited to a total of \$10,000.

1339 3. For any disputed amount of \$5,000 or more and up to
 1340 \$10,000, 5 times any disputed amount recovered by the attorney
 1341 under ss. 627.748-627.7491, limited to a total of \$15,000.

1342
 1343 Fees incurred in litigating or quantifying the amount of fees
 1344 due to the prevailing party under ss. 627.748-627.7491 are not
 1345 recoverable.

1346 (b) Notwithstanding s. 627.428, the attorney fees
 1347 recovered under ss. 627.748-627.7491 shall be calculated without
 1348 regard to any contingency risk multiplier.

1349 (c) Attorney fees in a class action under ss. 627.748-
 1350 627.7491 are limited to the lesser of \$50,000 or 3 times the
 1351 total of any disputed amount recovered in the class action
 1352 proceeding.

1353 (9) DEMAND LETTER.—

1354 (a) As a condition precedent to filing any action for
 1355 benefits under this section, the insurer must be provided with
 1356 written notice of an intent to initiate litigation. Such notice
 1357 may not be sent until the claim is overdue, including any
 1358 additional time the insurer has to pay the claim pursuant to
 1359 paragraph (4) (b).

1360 (b) The notice required shall state that it is a "demand
 1361 letter under s. 627.736(910)" and shall state with specificity:

1362 1. The name of the insured upon which such benefits are
 1363 being sought, including a copy of the assignment giving rights
 1364 to the claimant if the claimant is not the insured.

1365 2. The claim number or policy number upon which such claim
 1366 was originally submitted to the insurer.

1367 3. To the extent applicable, the name of any medical
 1368 provider who rendered to an insured the treatment, services,
 1369 accommodations, or supplies that form the basis of such claim;

1370 and an itemized statement specifying each exact amount, the date
 1371 of treatment, service, or accommodation, and the type of benefit
 1372 claimed to be due. A completed form satisfying the requirements
 1373 of paragraph (5) (d) or the lost-wage statement previously
 1374 submitted may be used as the itemized statement. To the extent
 1375 that the demand involves an insurer's withdrawal of payment
 1376 under paragraph (7) (a) for future treatment not yet rendered,
 1377 the claimant shall attach a copy of the insurer's notice
 1378 withdrawing such payment and an itemized statement of the type,
 1379 frequency, and duration of future treatment claimed to be
 1380 reasonable and medically necessary.

1381 (c) Each notice required by this subsection must be
 1382 delivered to the insurer by United States certified or
 1383 registered mail, return receipt requested. Such postal costs
 1384 shall be reimbursed by the insurer if so requested by the
 1385 claimant in the notice, when the insurer pays the claim. Such
 1386 notice must be sent to the person and address specified by the
 1387 insurer for the purposes of receiving notices under this
 1388 subsection. Each licensed insurer, whether domestic, foreign, or
 1389 alien, shall file with the office designation of the name and
 1390 address of the person to whom notices pursuant to this
 1391 subsection shall be sent which the office shall make available
 1392 on its Internet website. The name and address on file with the
 1393 office pursuant to s. 624.422 shall be deemed the authorized
 1394 representative to accept notice pursuant to this subsection in
 1395 the event no other designation has been made.

1396 (d) If, within 30 days after receipt of notice by the
 1397 insurer, the overdue claim specified in the notice is paid by

1398 the insurer together with applicable interest and a penalty of
 1399 10 percent of the overdue amount paid by the insurer, subject to
 1400 a maximum penalty of \$250, no action may be brought against the
 1401 insurer. If the demand involves an insurer's withdrawal of
 1402 payment under paragraph (7) (a) for future treatment not yet
 1403 rendered, no action may be brought against the insurer if,
 1404 within 30 days after its receipt of the notice, the insurer
 1405 mails to the person filing the notice a written statement of the
 1406 insurer's agreement to pay for such treatment in accordance with
 1407 the notice and to pay a penalty of 10 percent, subject to a
 1408 maximum penalty of \$250, when it pays for such future treatment
 1409 in accordance with the requirements of this section. To the
 1410 extent the insurer determines not to pay any amount demanded,
 1411 the penalty shall not be payable in any subsequent action. For
 1412 purposes of this subsection, payment or the insurer's agreement
 1413 shall be treated as being made on the date a draft or other
 1414 valid instrument that is equivalent to payment, or the insurer's
 1415 written statement of agreement, is placed in the United States
 1416 mail in a properly addressed, postpaid envelope, or if not so
 1417 posted, on the date of delivery. The insurer is not obligated to
 1418 pay any attorney's fees if the insurer pays the claim or mails
 1419 its agreement to pay for future treatment within the time
 1420 prescribed by this subsection.

1421 (e) The applicable statute of limitation for an action
 1422 under this section shall be tolled for a period of 30 business
 1423 days by the mailing of the notice required by this subsection.

1424 (f) Any insurer making a general business practice of not
 1425 paying valid claims until receipt of the notice required by this

1426 subsection is engaging in an unfair trade practice under the
 1427 insurance code.

1428 (10) FAILURE TO PAY VALID CLAIMS; UNFAIR OR DECEPTIVE
 1429 PRACTICE.—

1430 (a) If an insurer fails to pay valid claims for emergency
 1431 care coverage with such frequency so as to indicate a general
 1432 business practice, the insurer is engaging in a prohibited
 1433 unfair or deceptive practice that is subject to the penalties
 1434 provided in s. 626.9521 and the office has the powers and duties
 1435 specified in ss. 626.9561-626.9601 with respect thereto.

1436 (b) Notwithstanding s. 501.212, the Department of Legal
 1437 Affairs may investigate and initiate actions for a violation of
 1438 this subsection, including, but not limited to, the powers and
 1439 duties specified in part II of chapter 501.

1440 (11) CIVIL ACTION FOR INSURANCE FRAUD.—An insurer shall
 1441 have a cause of action against any person convicted of, or who,
 1442 regardless of adjudication of guilt, pleads guilty or nolo
 1443 contendere to insurance fraud under s. 817.234, patient
 1444 brokering under s. 817.505, or kickbacks under s. 456.054,
 1445 associated with a claim for emergency care coverage benefits in
 1446 accordance with this section. An insurer prevailing in an action
 1447 brought under this subsection may recover compensatory,
 1448 consequential, and punitive damages subject to the requirements
 1449 and limitations of part II of chapter 768, and attorney's fees
 1450 and costs incurred in litigating a cause of action against any
 1451 person convicted of, or who, regardless of adjudication of
 1452 guilt, pleads guilty or nolo contendere to insurance fraud under
 1453 s. 817.234, patient brokering under s. 817.505, or kickbacks

1454 under s. 456.054, associated with a claim for emergency care
 1455 coverage benefits in accordance with this section.

1456 (12) FRAUD ADVISORY NOTICE.—Upon receiving notice of a
 1457 claim under this section, an insurer shall provide a notice to
 1458 the insured or to a person for whom a claim for reimbursement
 1459 for diagnosis or treatment of injuries has been filed, advising
 1460 that:

1461 (a) Pursuant to s. 626.9892, the Department of Financial
 1462 Services may pay rewards of up to \$25,000 to persons providing
 1463 information leading to the arrest and conviction of persons
 1464 committing crimes investigated by the Division of Insurance
 1465 Fraud arising from violations of s. 440.105, s. 624.15, s.
 1466 626.9541, s. 626.989, or s. 817.234.

1467 (b) Solicitation of a person injured in a motor vehicle
 1468 crash for purposes of filing emergency care coverage or tort
 1469 claims could be a violation of s. 817.234, s. 817.505, or the
 1470 rules regulating The Florida Bar and should be immediately
 1471 reported to the Division of Insurance Fraud if such conduct has
 1472 taken place.

1473 (13) ALL CLAIMS BROUGHT IN A SINGLE ACTION.—In any civil
 1474 action to recover emergency care coverage benefits brought by a
 1475 claimant pursuant to this section against an insurer, all claims
 1476 related to the same health care provider for the same injured
 1477 person shall be brought in one action, unless good cause is
 1478 shown why such claims should be brought separately. If the court
 1479 determines that a civil action is filed for a claim that should
 1480 have been brought in a prior civil action, the court may not
 1481 award attorney's fees to the claimant.

1482 (14) SECURE ELECTRONIC DATA TRANSFER.-If all parties
 1483 mutually and expressly agree, a notice, documentation,
 1484 transmission, or communication of any kind required or
 1485 authorized under ss. 627.748~~30~~-627.7491~~05~~ may be transmitted
 1486 electronically if it is transmitted by secure electronic data
 1487 transfer that is consistent with state and federal privacy and
 1488 security laws.

1489 Section 9. Section 627.7486, Florida Statutes, is created
 1490 to read:

1491 627.7486 Tort exemption; limitation on right to damages;
 1492 punitive damages.-

1493 (1) Every owner, registrant, operator, or occupant of a
 1494 motor vehicle with respect to which security has been provided
 1495 as required by ss. 627.748-627.7491, and every person or
 1496 organization legally responsible for her or his acts or
 1497 omissions, is hereby exempted from tort liability for damages
 1498 because of bodily injury, sickness, or disease arising out of
 1499 the ownership, operation, maintenance, or use of such motor
 1500 vehicle in this state to the extent that the benefits described
 1501 in s. 627.7485(1) are payable for such injury, or would be
 1502 payable but for any exclusion authorized by ss. 627.748-
 1503 627.7491, under any insurance policy or other method of security
 1504 complying with the requirements of s. 627.7483, or by an owner
 1505 personally liable under s. 627.7483 for the payment of such
 1506 benefits, unless a person is entitled to maintain an action for
 1507 pain, suffering, mental anguish, and inconvenience for such
 1508 injury under the provisions of subsection (2).

1509 (2) In any action of tort brought against the owner,

1510 registrant, operator, or occupant of a motor vehicle with
 1511 respect to which security has been provided as required by ss.
 1512 627.748-627.7491, or against any person or organization legally
 1513 responsible for her or his acts or omissions, a plaintiff may
 1514 recover damages in tort for pain, suffering, mental anguish, and
 1515 inconvenience because of bodily injury, sickness, or disease
 1516 arising out of the ownership, maintenance, operation, or use of
 1517 such motor vehicle only in the event that the injury or disease
 1518 consists in whole or in part of:

1519 (a) Significant and permanent loss of an important bodily
 1520 function.

1521 (b) Permanent injury within a reasonable degree of medical
 1522 probability, other than scarring or disfigurement.

1523 (c) Significant and permanent scarring or disfigurement.

1524 (d) Death.

1525 (3) When a defendant, in a proceeding brought pursuant to
 1526 ss. 627.748-627.7491, questions whether the plaintiff has met
 1527 the requirements of subsection (2), then the defendant may file
 1528 an appropriate motion with the court, and the court shall, on a
 1529 one-time basis only, 30 days before the date set for the trial
 1530 or the pretrial hearing, whichever is first, by examining the
 1531 pleadings and the evidence before it, ascertain whether the
 1532 plaintiff will be able to submit some evidence that the
 1533 plaintiff will meet the requirements of subsection (2). If the
 1534 court finds that the plaintiff will not be able to submit such
 1535 evidence, then the court shall dismiss the plaintiff's claim
 1536 without prejudice.

1537 (4) In any action brought against an automobile liability
 1538 insurer for damages in excess of its policy limits, no claim for
 1539 punitive damages shall be allowed.

1540 Section 10. Section 627.7487, Florida Statutes, is created
 1541 to read:

1542 627.7487 Emergency care coverage; optional limitations;
 1543 deductibles.-

1544 (1) The named insured may elect a deductible or modified
 1545 coverage or combination thereof to apply to the named insured
 1546 alone or to the named insured and dependent relatives residing
 1547 in the same household, but may not elect a deductible or
 1548 modified coverage to apply to any other person covered under the
 1549 policy.

1550 (2) Insurers shall offer to each applicant and to each
 1551 policyholder, upon the renewal of an existing policy,
 1552 deductibles, in amounts of \$250, \$500, and \$1,000. The
 1553 deductible amount must be applied to 100 percent of the expenses
 1554 and losses described in s. 627.7485. After the deductible is
 1555 met, each insured is eligible to receive up to \$10,000 in total
 1556 benefits described in s. 627.7485(1). However, this subsection
 1557 shall not be applied to reduce the amount of any benefits
 1558 received in accordance with s. 627.7485(1)(c).

1559 (3) Insurers shall offer coverage wherein, at the election
 1560 of the named insured, the benefits for loss of gross income and
 1561 loss of earning capacity described in s. 627.7485(1)(b) shall be
 1562 excluded.

1563 (4) The named insured shall not be prevented from electing
 1564 a deductible under subsection (2) and modified coverage under

1565 subsection (3). Each election made by the named insured under
 1566 this section shall result in an appropriate reduction of premium
 1567 associated with that election.

1568 (5) All such offers shall be made in clear and unambiguous
 1569 language at the time the initial application is taken and prior
 1570 to each annual renewal and shall indicate that a premium
 1571 reduction will result from each election. At the option of the
 1572 insurer, the requirements of the preceding sentence are met by
 1573 using forms of notice approved by the office, or by providing
 1574 the following notice in 10-point type in the insurer's
 1575 application for initial issuance of a policy of motor vehicle
 1576 insurance and the insurer's annual notice of renewal premium:
 1577 For emergency care coverage insurance, the named insured may
 1578 elect a deductible and to exclude coverage for loss of gross
 1579 income and loss of earning capacity ("lost wages"). These
 1580 elections apply to the named insured alone, or to the named
 1581 insured and all dependent resident relatives. A premium
 1582 reduction will result from these elections. The named insured is
 1583 hereby advised not to elect the lost wage exclusion if the named
 1584 insured or dependent resident relatives are employed, since lost
 1585 wages will not be payable in the event of an accident.

1586 Section 11. Section 627.7488, Florida Statutes, is created
 1587 to read:

1588 627.7488 Notification of insured's rights.-

1589 (1) The commission, by rule, shall adopt a form for the
 1590 notification of insureds of their right to receive emergency
 1591 care coverage under the Florida Motor Vehicle No-Fault Emergency
 1592 Care Coverage Law. Such notice shall include:

1593 (a) A description of the benefits provided by emergency
 1594 care coverage insurance, including, but not limited to, the
 1595 specific types of services for which medical benefits are paid,
 1596 disability benefits, death benefits, significant exclusions from
 1597 and limitations on emergency care coverage benefits, when
 1598 payments are due, how benefits are coordinated with other
 1599 insurance benefits that the insured may have, penalties and
 1600 interest that may be imposed on insurers for failure to make
 1601 timely payments of benefits, and rights of parties regarding
 1602 disputes as to benefits.

1603 (b) An advisory informing insureds that:

1604 1. Pursuant to s. 626.9892, the Department of Financial
 1605 Services may pay rewards of up to \$25,000 to persons providing
 1606 information leading to the arrest and conviction of persons
 1607 committing crimes investigated by the Division of Insurance
 1608 Fraud arising from violations of s. 440.105, s. 624.15, s.
 1609 626.9541, s. 626.989, or s. 817.234.

1610 2. Pursuant to s. 627.7485(5)(e)1., if the insured
 1611 notifies the insurer of a billing error, the insured may be
 1612 entitled to a certain percentage of a reduction in the amount
 1613 paid by the insured's motor vehicle insurer.

1614 (c) A notice that solicitation of a person injured in a
 1615 motor vehicle crash for purposes of filing emergency care
 1616 coverage or tort claims could be a violation of s. 817.234, s
 1617 817.505, or the rules regulating The Florida Bar and should be
 1618 immediately reported to the Division of Insurance Fraud if such
 1619 conduct has taken place.

1620 (2) Each insurer issuing a policy in this state providing

1621 emergency care coverage benefits must mail or deliver the notice
 1622 as specified in subsection (1) to an insured within 21 days
 1623 after receiving from the insured notice of an automobile
 1624 accident or claim involving personal injury to an insured who is
 1625 covered under the policy. The office may allow an insurer
 1626 additional time to provide the notice specified in subsection
 1627 (1) not to exceed 30 days, upon a showing by the insurer that an
 1628 emergency justifies an extension of time.

1629 (3) The notice required by this section does not alter or
 1630 modify the terms of the insurance contract or other requirements
 1631 of this act.

1632 Section 12. Section 627.7489, Florida Statutes, is created
 1633 to read:

1634 627.7489 Mandatory joinder of derivative claim.—In any
 1635 action brought pursuant to the provisions of s. 627.7486
 1636 claiming personal injuries, all claims arising out of the
 1637 plaintiff's injuries, including all derivative claims, shall be
 1638 brought together, unless good cause is shown why such claims
 1639 should be brought separately.

1640 Section 13. Section 627.749, Florida Statutes, is created
 1641 to read:

1642 627.749 Insurers' right of reimbursement.—Notwithstanding
 1643 any other provisions of ss. 627.748-627.7491, any insurer
 1644 providing emergency care coverage benefits on a private
 1645 passenger motor vehicle shall have, to the extent of any
 1646 emergency care coverage benefits paid to any person as a benefit
 1647 arising out of such private passenger motor vehicle insurance, a
 1648 right of reimbursement against the owner or the insurer of the

1649 owner of a commercial motor vehicle, if the benefits paid result
 1650 from such person having been an occupant of the commercial motor
 1651 vehicle or having been struck by the commercial motor vehicle
 1652 while not an occupant of any self-propelled vehicle.

1653 Section 14. Section 627.7491, Florida Statutes, is created
 1654 to read:

1655 627.7491 Application of the Florida Motor Vehicle No-Fault
 1656 Emergency Care Coverage Law.—

1657 (1) Any person subject to the requirements of ss. 627.748-
 1658 627.7491 must maintain security for emergency care coverage on
 1659 and after the effective date of this act.

1660 (2) All forms and rates for policies issued or renewed on
 1661 or after October 1, 2012, must reflect the provisions of this
 1662 act and must be approved by the office prior to their use.

1663 (3) After the effective date of this act, insurers must
 1664 provide existing policyholders, at least 30 days before the
 1665 policy expiration date, and applicants for no-fault coverage,
 1666 upon receipt of the application, with notice of the provisions
 1667 of the Florida Motor Vehicle No-Fault Emergency Care Coverage
 1668 Act. The notice is not subject to approval by the office and
 1669 must clearly inform the person of the following:

1670 (a) That no-fault motor vehicle insurance requirements are
 1671 governed by the Florida Motor Vehicle No-Fault Emergency Care
 1672 Coverage Law and an explanation of emergency care coverage.
 1673 Current policyholders, with respect to the initial renewal after
 1674 the effective date of this act, must also be provided with an
 1675 explanation of differences between their current policy and the
 1676 coverage provided under emergency care coverage policies.

1677 (b) That failure to maintain required emergency care
 1678 coverage, and \$10,000 in property damage liability coverage, may
 1679 result in suspension of the policyholder's driver's license and
 1680 vehicle registration by the State of Florida.

1681 (c) The name and phone number of a person to contact with
 1682 any questions they may have.

1683 Section 15. Paragraphs (a), (b), and (c) of subsection (8)
 1684 and subsection (9) of section 817.234, Florida Statutes, are
 1685 amended to read:

1686 817.234 False and fraudulent insurance claims.—

1687 (8) (a) It is unlawful for any person intending to defraud
 1688 any other person to solicit or cause to be solicited any
 1689 business from a person involved in a motor vehicle accident for
 1690 the purpose of making, adjusting, or settling motor vehicle tort
 1691 claims or claims for emergency care coverage ~~personal injury~~
 1692 ~~protection~~ benefits required by s. 627.7485 ~~627.736~~. Any person
 1693 who violates the provisions of this paragraph commits a felony
 1694 of the second degree, punishable as provided in s. 775.082, s.
 1695 775.083, or s. 775.084. A person who is convicted of a violation
 1696 of this subsection shall be sentenced to a minimum term of
 1697 imprisonment of 2 years.

1698 (b) A person may not solicit or cause to be solicited any
 1699 business from a person involved in a motor vehicle accident by
 1700 any means of communication other than advertising directed to
 1701 the public for the purpose of making motor vehicle tort claims
 1702 or claims for emergency care coverage ~~personal injury protection~~
 1703 benefits required by s. 627.7485 ~~627.736~~, within 60 days after
 1704 the occurrence of the motor vehicle accident. Any person who

1705 violates this paragraph commits a felony of the third degree,
 1706 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1707 (c) A lawyer, health care practitioner as defined in s.
 1708 456.001, or owner or medical director of a clinic required to be
 1709 licensed pursuant to s. 400.9905 may not, at any time after 60
 1710 days have elapsed from the occurrence of a motor vehicle
 1711 accident, solicit or cause to be solicited any business from a
 1712 person involved in a motor vehicle accident by means of in
 1713 person or telephone contact at the person's residence, for the
 1714 purpose of making motor vehicle tort claims or claims for
 1715 emergency care coverage ~~personal injury protection~~ benefits
 1716 required by s. 627.7485 ~~627.736~~. Any person who violates this
 1717 paragraph commits a felony of the third degree, punishable as
 1718 provided in s. 775.082, s. 775.083, or s. 775.084.

1719 (9) A person may not organize, plan, or knowingly
 1720 participate in an intentional motor vehicle crash or a scheme to
 1721 create documentation of a motor vehicle crash that did not occur
 1722 for the purpose of making motor vehicle tort claims or claims
 1723 for emergency care coverage ~~personal injury protection~~ benefits
 1724 as required by s. 627.7485 ~~627.736~~. Any person who violates this
 1725 subsection commits a felony of the second degree, punishable as
 1726 provided in s. 775.082, s. 775.083, or s. 775.084. A person who
 1727 is convicted of a violation of this subsection shall be
 1728 sentenced to a minimum term of imprisonment of 2 years.

1729 Section 16. Subsection (1) of section 316.646, Florida
 1730 Statutes, is amended to read:

1731 316.646 Security required; proof of security and display
 1732 thereof; dismissal of cases.—

1733 (1) Any person required by s. 324.022 to maintain property
 1734 damage liability security, required by s. 324.023 to maintain
 1735 liability security for bodily injury or death, or required by s.
 1736 627.7483 ~~627.733~~ to maintain emergency care coverage ~~personal~~
 1737 ~~injury protection~~ security on a motor vehicle shall have in his
 1738 or her immediate possession at all times while operating such
 1739 motor vehicle proper proof of maintenance of the required
 1740 security. Such proof shall be a uniform proof-of-insurance card
 1741 in a form prescribed by the department, a valid insurance
 1742 policy, an insurance policy binder, a certificate of insurance,
 1743 or such other proof as may be prescribed by the department.

1744 Section 17. Paragraph (b) of subsection (2) of section
 1745 318.18, Florida Statutes, is amended to read:

1746 318.18 Amount of penalties.—The penalties required for a
 1747 noncriminal disposition pursuant to s. 318.14 or a criminal
 1748 offense listed in s. 318.17 are as follows:

1749 (2) Thirty dollars for all nonmoving traffic violations
 1750 and:

1751 (b) For all violations of ss. 320.0605, 320.07(1),
 1752 322.065, and 322.15(1). Any person who is cited for a violation
 1753 of s. 320.07(1) shall be charged a delinquent fee pursuant to s.
 1754 320.07(4).

1755 1. If a person who is cited for a violation of s. 320.0605
 1756 or s. 320.07 can show proof of having a valid registration at
 1757 the time of arrest, the clerk of the court may dismiss the case
 1758 and may assess a dismissal fee of up to \$10. A person who finds
 1759 it impossible or impractical to obtain a valid registration
 1760 certificate must submit an affidavit detailing the reasons for

1761 the impossibility or impracticality. The reasons may include,
 1762 but are not limited to, the fact that the vehicle was sold,
 1763 stolen, or destroyed; that the state in which the vehicle is
 1764 registered does not issue a certificate of registration; or that
 1765 the vehicle is owned by another person.

1766 2. If a person who is cited for a violation of s. 322.03,
 1767 s. 322.065, or s. 322.15 can show a driver's license issued to
 1768 him or her and valid at the time of arrest, the clerk of the
 1769 court may dismiss the case and may assess a dismissal fee of up
 1770 to \$10.

1771 3. If a person who is cited for a violation of s. 316.646
 1772 can show proof of security as required by s. 627.7483 ~~627.733~~,
 1773 issued to the person and valid at the time of arrest, the clerk
 1774 of the court may dismiss the case and may assess a dismissal fee
 1775 of up to \$10. A person who finds it impossible or impractical to
 1776 obtain proof of security must submit an affidavit detailing the
 1777 reasons for the impracticality. The reasons may include, but are
 1778 not limited to, the fact that the vehicle has since been sold,
 1779 stolen, or destroyed; that the owner or registrant of the
 1780 vehicle is not required by s. 627.7483 ~~627.733~~ to maintain
 1781 emergency care coverage ~~personal injury protection~~ insurance; or
 1782 that the vehicle is owned by another person.

1783 Section 18. Paragraphs (a) and (d) of subsection (5) of
 1784 section 320.02, Florida Statutes, are amended to read:

1785 320.02 Registration required; application for
 1786 registration; forms.-

1787 (5) (a) Proof that emergency care coverage ~~personal injury~~
 1788 ~~protection~~ benefits have been purchased when required under s.

1789 627.7483 ~~627.733~~, that property damage liability coverage has
 1790 been purchased as required under s. 324.022, that bodily injury
 1791 or death coverage has been purchased if required under s.
 1792 324.023, and that combined bodily liability insurance and
 1793 property damage liability insurance have been purchased when
 1794 required under s. 627.7415 shall be provided in the manner
 1795 prescribed by law by the applicant at the time of application
 1796 for registration of any motor vehicle that is subject to such
 1797 requirements. The issuing agent shall refuse to issue
 1798 registration if such proof of purchase is not provided. Insurers
 1799 shall furnish uniform proof-of-purchase cards in a form
 1800 prescribed by the department and shall include the name of the
 1801 insured's insurance company, the coverage identification number,
 1802 and the make, year, and vehicle identification number of the
 1803 vehicle insured. The card shall contain a statement notifying
 1804 the applicant of the penalty specified in s. 316.646(4). The
 1805 card or insurance policy, insurance policy binder, or
 1806 certificate of insurance or a photocopy of any of these; an
 1807 affidavit containing the name of the insured's insurance
 1808 company, the insured's policy number, and the make and year of
 1809 the vehicle insured; or such other proof as may be prescribed by
 1810 the department shall constitute sufficient proof of purchase. If
 1811 an affidavit is provided as proof, it shall be in substantially
 1812 the following form:

1813 Under penalty of perjury, I ... (Name of insured)... do hereby
 1814 certify that I have ... (Emergency Care Coverage Personal Injury
 1815 ~~Protection~~, Property Damage Liability, and, when required,

1816 Bodily Injury Liability)... Insurance currently in effect with
 1817 ... (Name of insurance company)... under ... (policy number)...
 1818 covering ... (make, year, and vehicle identification number of
 1819 vehicle).... ... (Signature of Insured)...

1820 Such affidavit shall include the following warning:

1821 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
 1822 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
 1823 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
 1824 SUBJECT TO PROSECUTION.

1825 When an application is made through a licensed motor vehicle
 1826 dealer as required in s. 319.23, the original or a photostatic
 1827 copy of such card, insurance policy, insurance policy binder, or
 1828 certificate of insurance or the original affidavit from the
 1829 insured shall be forwarded by the dealer to the tax collector of
 1830 the county or the Department of Highway Safety and Motor
 1831 Vehicles for processing. By executing the aforesaid affidavit,
 1832 no licensed motor vehicle dealer will be liable in damages for
 1833 any inadequacy, insufficiency, or falsification of any statement
 1834 contained therein. A card shall also indicate the existence of
 1835 any bodily injury liability insurance voluntarily purchased.

1836 (d) The verifying of proof of emergency care coverage
 1837 ~~personal injury protection~~ insurance, proof of property damage
 1838 liability insurance, proof of combined bodily liability
 1839 insurance and property damage liability insurance, or proof of
 1840 financial responsibility insurance and the issuance or failure
 1841 to issue the motor vehicle registration under the provisions of

PCS for HB 119

ORIGINAL

2012

1842 this chapter may not be construed in any court as a warranty of
 1843 the reliability or accuracy of the evidence of such proof.
 1844 Neither the department nor any tax collector is liable in
 1845 damages for any inadequacy, insufficiency, falsification, or
 1846 unauthorized modification of any item of the proof of emergency
 1847 care coverage ~~personal injury protection~~ insurance, proof of
 1848 property damage liability insurance, proof of combined bodily
 1849 liability insurance and property damage liability insurance, or
 1850 proof of financial responsibility insurance prior to, during, or
 1851 subsequent to the verification of the proof. The issuance of a
 1852 motor vehicle registration does not constitute prima facie
 1853 evidence or a presumption of insurance coverage.

1854 Section 19. Paragraph (b) of subsection (1) of section
 1855 320.0609, Florida Statutes, is amended to read:

1856 320.0609 Transfer and exchange of registration license
 1857 plates; transfer fee.—

1858 (1)

1859 (b) The transfer of a license plate from a vehicle
 1860 disposed of to a newly acquired vehicle does not constitute a
 1861 new registration. The application for transfer shall be accepted
 1862 without requiring proof of emergency care coverage ~~personal~~
 1863 ~~injury protection~~ or liability insurance.

1864 Section 20. Subsection (3) of section 320.27, Florida
 1865 Statutes, is amended to read:

1866 320.27 Motor vehicle dealers.—

1867 (3) APPLICATION AND FEE.—The application for the license
 1868 shall be in such form as may be prescribed by the department and
 1869 shall be subject to such rules with respect thereto as may be so

1870 prescribed by it. Such application shall be verified by oath or
 1871 affirmation and shall contain a full statement of the name and
 1872 birth date of the person or persons applying therefor; the name
 1873 of the firm or copartnership, with the names and places of
 1874 residence of all members thereof, if such applicant is a firm or
 1875 copartnership; the names and places of residence of the
 1876 principal officers, if the applicant is a body corporate or
 1877 other artificial body; the name of the state under whose laws
 1878 the corporation is organized; the present and former place or
 1879 places of residence of the applicant; and prior business in
 1880 which the applicant has been engaged and the location thereof.
 1881 Such application shall describe the exact location of the place
 1882 of business and shall state whether the place of business is
 1883 owned by the applicant and when acquired, or, if leased, a true
 1884 copy of the lease shall be attached to the application. The
 1885 applicant shall certify that the location provides an adequately
 1886 equipped office and is not a residence; that the location
 1887 affords sufficient unoccupied space upon and within which
 1888 adequately to store all motor vehicles offered and displayed for
 1889 sale; and that the location is a suitable place where the
 1890 applicant can in good faith carry on such business and keep and
 1891 maintain books, records, and files necessary to conduct such
 1892 business, which will be available at all reasonable hours to
 1893 inspection by the department or any of its inspectors or other
 1894 employees. The applicant shall certify that the business of a
 1895 motor vehicle dealer is the principal business which shall be
 1896 conducted at that location. Such application shall contain a
 1897 statement that the applicant is either franchised by a

1898 manufacturer of motor vehicles, in which case the name of each
 1899 motor vehicle that the applicant is franchised to sell shall be
 1900 included, or an independent (nonfranchised) motor vehicle
 1901 dealer. Such application shall contain such other relevant
 1902 information as may be required by the department, including
 1903 evidence that the applicant is insured under a garage liability
 1904 insurance policy or a general liability insurance policy coupled
 1905 with a business automobile policy, which shall include, at a
 1906 minimum, \$25,000 combined single-limit liability coverage
 1907 including bodily injury and property damage protection and
 1908 \$10,000 emergency care coverage ~~personal injury protection~~.
 1909 Franchise dealers must submit a garage liability insurance
 1910 policy, and all other dealers must submit a garage liability
 1911 insurance policy or a general liability insurance policy coupled
 1912 with a business automobile policy. Such policy shall be for the
 1913 license period, and evidence of a new or continued policy shall
 1914 be delivered to the department at the beginning of each license
 1915 period. Upon making initial application, the applicant shall pay
 1916 to the department a fee of \$300 in addition to any other fees
 1917 now required by law; upon making a subsequent renewal
 1918 application, the applicant shall pay to the department a fee of
 1919 \$75 in addition to any other fees now required by law. Upon
 1920 making an application for a change of location, the person shall
 1921 pay a fee of \$50 in addition to any other fees now required by
 1922 law. The department shall, in the case of every application for
 1923 initial licensure, verify whether certain facts set forth in the
 1924 application are true. Each applicant, general partner in the
 1925 case of a partnership, or corporate officer and director in the

1926 case of a corporate applicant, must file a set of fingerprints
 1927 with the department for the purpose of determining any prior
 1928 criminal record or any outstanding warrants. The department
 1929 shall submit the fingerprints to the Department of Law
 1930 Enforcement for state processing and forwarding to the Federal
 1931 Bureau of Investigation for federal processing. The actual cost
 1932 of state and federal processing shall be borne by the applicant
 1933 and is in addition to the fee for licensure. The department may
 1934 issue a license to an applicant pending the results of the
 1935 fingerprint investigation, which license is fully revocable if
 1936 the department subsequently determines that any facts set forth
 1937 in the application are not true or correctly represented.

1938 Section 21. Paragraph (j) of subsection (3) of section
 1939 320.771, Florida Statutes, is amended to read:

1940 320.771 License required of recreational vehicle dealers.—

1941 (3) APPLICATION.—The application for such license shall be
 1942 in the form prescribed by the department and subject to such
 1943 rules as may be prescribed by it. The application shall be
 1944 verified by oath or affirmation and shall contain:

1945 (j) A statement that the applicant is insured under a
 1946 garage liability insurance policy, which shall include, at a
 1947 minimum, \$25,000 combined single-limit liability coverage,
 1948 including bodily injury and property damage protection, and
 1949 \$10,000 emergency care coverage ~~personal injury protection~~, if
 1950 the applicant is to be licensed as a dealer in, or intends to
 1951 sell, recreational vehicles.

1952

1953 The department shall, if it deems necessary, cause an
 1954 investigation to be made to ascertain if the facts set forth in
 1955 the application are true and shall not issue a license to the
 1956 applicant until it is satisfied that the facts set forth in the
 1957 application are true.

1958 Section 22. Paragraph (a) of subsection (8) of section
 1959 322.34, Florida Statutes, is amended to read:

1960 322.34 Driving while license suspended, revoked, canceled,
 1961 or disqualified.—

1962 (8) (a) Upon the arrest of a person for the offense of
 1963 driving while the person's driver's license or driving privilege
 1964 is suspended or revoked, the arresting officer shall determine:

1965 1. Whether the person's driver's license is suspended or
 1966 revoked.

1967 2. Whether the person's driver's license has remained
 1968 suspended or revoked since a conviction for the offense of
 1969 driving with a suspended or revoked license.

1970 3. Whether the suspension or revocation was made under s.
 1971 316.646 or s. 627.7483 ~~627.733~~, relating to failure to maintain
 1972 required security, or under s. 322.264, relating to habitual
 1973 traffic offenders.

1974 4. Whether the driver is the registered owner or coowner
 1975 of the vehicle.

1976 Section 23. Subsection (1) and paragraph (c) of subsection
 1977 (9) of section 324.021, Florida Statutes, is amended to read:

1978 324.021 Definitions; minimum insurance required.—The
 1979 following words and phrases when used in this chapter shall, for
 1980 the purpose of this chapter, have the meanings respectively

1981 ascribed to them in this section, except in those instances
 1982 where the context clearly indicates a different meaning:
 1983 (1) MOTOR VEHICLE.—Every self-propelled vehicle which is
 1984 designed and required to be licensed for use upon a highway,
 1985 including trailers and semitrailers designed for use with such
 1986 vehicles, except traction engines, road rollers, farm tractors,
 1987 power shovels, and well drillers, and every vehicle which is
 1988 propelled by electric power obtained from overhead wires but not
 1989 operated upon rails, but not including any bicycle or moped.
 1990 However, the term "motor vehicle" shall not include any motor
 1991 vehicle as defined in s. 627.7482(4) ~~627.732(3)~~ when the owner
 1992 of such vehicle has complied with the requirements of ss.
 1993 627.748-627.7491 ~~627.730-627.7405~~, inclusive, unless the
 1994 provisions of s. 324.051 apply; and, in such case, the
 1995 applicable proof of insurance provisions of s. 320.02 apply.
 1996 (9) OWNER; OWNER/LESSOR.—
 1997 (c) Application.—
 1998 1. The limits on liability in subparagraphs (b)2. and 3.
 1999 do not apply to an owner of motor vehicles that are used for
 2000 commercial activity in the owner's ordinary course of business,
 2001 other than a rental company that rents or leases motor vehicles.
 2002 For purposes of this paragraph, the term "rental company"
 2003 includes only an entity that is engaged in the business of
 2004 renting or leasing motor vehicles to the general public and that
 2005 rents or leases a majority of its motor vehicles to persons with
 2006 no direct or indirect affiliation with the rental company. The
 2007 term also includes a motor vehicle dealer that provides
 2008 temporary replacement vehicles to its customers for up to 10

2009 days. The term "rental company" also includes:

2010 a. A related rental or leasing company that is a
 2011 subsidiary of the same parent company as that of the renting or
 2012 leasing company that rented or leased the vehicle.

2013 b. The holder of a motor vehicle title or an equity
 2014 interest in a motor vehicle title if the title or equity
 2015 interest is held pursuant to or to facilitate an asset-backed
 2016 securitization of a fleet of motor vehicles used solely in the
 2017 business of renting or leasing motor vehicles to the general
 2018 public and under the dominion and control of a rental company,
 2019 as described in this subparagraph, in the operation of such
 2020 rental company's business.

2021 2. Furthermore, with respect to commercial motor vehicles
 2022 as defined in s. 627.7482 ~~627.732~~, the limits on liability in
 2023 subparagraphs (b)2. and 3. do not apply if, at the time of the
 2024 incident, the commercial motor vehicle is being used in the
 2025 transportation of materials found to be hazardous for the
 2026 purposes of the Hazardous Materials Transportation Authorization
 2027 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is
 2028 required pursuant to such act to carry placards warning others
 2029 of the hazardous cargo, unless at the time of lease or rental
 2030 either:

2031 a. The lessee indicates in writing that the vehicle will
 2032 not be used to transport materials found to be hazardous for the
 2033 purposes of the Hazardous Materials Transportation Authorization
 2034 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

2035 b. The lessee or other operator of the commercial motor
 2036 vehicle has in effect insurance with limits of at least

PCS for HB 119

ORIGINAL

2012

2037 \$5,000,000 combined property damage and bodily injury liability.
 2038 Section 24. Subsection (1) and paragraph (a) of subsection
 2039 (2) of section 324.0221, Florida Statutes, is amended to read:
 2040 324.0221 Reports by insurers to the department; suspension
 2041 of driver's license and vehicle registrations; reinstatement.-
 2042 (1)(a) Each insurer that has issued a policy providing
 2043 emergency care ~~personal injury protection~~ coverage or property
 2044 damage liability coverage shall report the renewal,
 2045 cancellation, or nonrenewal thereof to the department within 45
 2046 days after the effective date of each renewal, cancellation, or
 2047 nonrenewal. Upon the issuance of a policy providing emergency
 2048 care coverage ~~personal injury protection coverage~~ or property
 2049 damage liability coverage to a named insured not previously
 2050 insured by the insurer during that calendar year, the insurer
 2051 shall report the issuance of the new policy to the department
 2052 within 30 days. The report shall be in the form and format and
 2053 contain any information required by the department and must be
 2054 provided in a format that is compatible with the data processing
 2055 capabilities of the department. The department may adopt rules
 2056 regarding the form and documentation required. Failure by an
 2057 insurer to file proper reports with the department as required
 2058 by this subsection or rules adopted with respect to the
 2059 requirements of this subsection constitutes a violation of the
 2060 Florida Insurance Code. These records shall be used by the
 2061 department only for enforcement and regulatory purposes,
 2062 including the generation by the department of data regarding
 2063 compliance by owners of motor vehicles with the requirements for
 2064 financial responsibility coverage.

2065 (b) With respect to an insurance policy providing
 2066 emergency care ~~personal injury protection~~ coverage or property
 2067 damage liability coverage, each insurer shall notify the named
 2068 insured, or the first-named insured in the case of a commercial
 2069 fleet policy, in writing that any cancellation or nonrenewal of
 2070 the policy will be reported by the insurer to the department.
 2071 The notice must also inform the named insured that failure to
 2072 maintain emergency care ~~personal injury protection~~ coverage and
 2073 property damage liability coverage on a motor vehicle when
 2074 required by law may result in the loss of registration and
 2075 driving privileges in this state and inform the named insured of
 2076 the amount of the reinstatement fees required by this section.
 2077 This notice is for informational purposes only, and an insurer
 2078 is not civilly liable for failing to provide this notice.

2079 (2) The department shall suspend, after due notice and an
 2080 opportunity to be heard, the registration and driver's license
 2081 of any owner or registrant of a motor vehicle with respect to
 2082 which security is required under ss. 324.022 and 627.7483
 2083 ~~627.733~~ upon:

2084 (a) The department's records showing that the owner or
 2085 registrant of such motor vehicle did not have in full force and
 2086 effect when required security that complies with the
 2087 requirements of ss. 324.022 and 627.7483 ~~627.733~~; or

2088 Section 25. Paragraph (a) of subsection (1) of section
 2089 324.032, Florida Statutes, is amended to read:

2090 324.032 Manner of proving financial responsibility; for-
 2091 hire passenger transportation vehicles.—Notwithstanding the
 2092 provisions of s. 324.031:

PCS for HB 119

ORIGINAL

2012

2093 (1) (a) A person who is either the owner or a lessee
 2094 required to maintain insurance under s. 627.7483(1) (b)
 2095 ~~627.733(1) (b)~~ and who operates one or more taxicabs, limousines,
 2096 jitneys, or any other for-hire passenger transportation vehicles
 2097 may prove financial responsibility by furnishing satisfactory
 2098 evidence of holding a motor vehicle liability policy, but with
 2099 minimum limits of \$125,000/250,000/50,000.

2100
 2101 Upon request by the department, the applicant must provide the
 2102 department at the applicant's principal place of business in
 2103 this state access to the applicant's underlying financial
 2104 information and financial statements that provide the basis of
 2105 the certified public accountant's certification. The applicant
 2106 shall reimburse the requesting department for all reasonable
 2107 costs incurred by it in reviewing the supporting information.
 2108 The maximum amount of self-insurance permissible under this
 2109 subsection is \$300,000 and must be stated on a per-occurrence
 2110 basis, and the applicant shall maintain adequate excess
 2111 insurance issued by an authorized or eligible insurer licensed
 2112 or approved by the Office of Insurance Regulation. All risks
 2113 self-insured shall remain with the owner or lessee providing it,
 2114 and the risks are not transferable to any other person, unless a
 2115 policy complying with subsection (1) is obtained.

2116 Section 26. Subsection (2) of section 324.171, Florida
 2117 Statutes, is amended to read:

2118 324.171 Self-insurer.—

2119 (2) The self-insurance certificate shall provide limits of
 2120 liability insurance in the amounts specified under s. 324.021(7)

2121 or s. 627.7415 and shall provide emergency care ~~personal injury~~
 2122 ~~protection~~ coverage under s. 627.7483(3)(b) ~~627.733(3)(b)~~.

2123 Section 27. Paragraph (g) of subsection (1) of section
 2124 400.9935, Florida Statutes, is amended to read:

2125 400.9935 Clinic responsibilities.—

2126 (1) Each clinic shall appoint a medical director or clinic
 2127 director who shall agree in writing to accept legal
 2128 responsibility for the following activities on behalf of the
 2129 clinic. The medical director or the clinic director shall:

2130 (g) Conduct systematic reviews of clinic billings to
 2131 ensure that the billings are not fraudulent or unlawful. Upon
 2132 discovery of an unlawful charge, the medical director or clinic
 2133 director shall take immediate corrective action. If the clinic
 2134 performs only the technical component of magnetic resonance
 2135 imaging, static radiographs, computed tomography, or positron
 2136 emission tomography, and provides the professional
 2137 interpretation of such services, in a fixed facility that is
 2138 accredited by the Joint Commission on Accreditation of
 2139 Healthcare Organizations or the Accreditation Association for
 2140 Ambulatory Health Care, and the American College of Radiology;
 2141 and if, in the preceding quarter, the percentage of scans
 2142 performed by that clinic which was billed to all emergency care
 2143 coverage ~~personal injury protection~~ insurance carriers was less
 2144 than 15 percent, the chief financial officer of the clinic may,
 2145 in a written acknowledgment provided to the agency, assume the
 2146 responsibility for the conduct of the systematic reviews of
 2147 clinic billings to ensure that the billings are not fraudulent
 2148 or unlawful.

PCS for HB 119

ORIGINAL

2012

2149 Section 28. Subsection (28) of section 409.901, Florida
 2150 Statutes, is amended to read:

2151 409.901 Definitions; ss. 409.901-409.920.—As used in ss.
 2152 409.901-409.920, except as otherwise specifically provided, the
 2153 term:

2154 (28) "Third-party benefit" means any benefit that is or
 2155 may be available at any time through contract, court award,
 2156 judgment, settlement, agreement, or any arrangement between a
 2157 third party and any person or entity, including, without
 2158 limitation, a Medicaid recipient, a provider, another third
 2159 party, an insurer, or the agency, for any Medicaid-covered
 2160 injury, illness, goods, or services, including costs of medical
 2161 services related thereto, for personal injury or for death of
 2162 the recipient, but specifically excluding policies of life
 2163 insurance on the recipient, unless available under terms of the
 2164 policy to pay medical expenses prior to death. The term
 2165 includes, without limitation, collateral, as defined in this
 2166 section, health insurance, any benefit under a health
 2167 maintenance organization, a preferred provider arrangement, a
 2168 prepaid health clinic, liability insurance, uninsured motorist
 2169 insurance or emergency care ~~personal injury protection~~ coverage,
 2170 medical benefits under workers' compensation, and any obligation
 2171 under law or equity to provide medical support.

2172 Section 29. Paragraph (f) of subsection (11) of section
 2173 409.910, Florida Statutes, is amended to read:

2174 409.910 Responsibility for payments on behalf of Medicaid-
 2175 eligible persons when other parties are liable.—

2176 (11) The agency may, as a matter of right, in order to

2177 enforce its rights under this section, institute, intervene in,
 2178 or join any legal or administrative proceeding in its own name
 2179 in one or more of the following capacities: individually, as
 2180 subrogee of the recipient, as assignee of the recipient, or as
 2181 lienholder of the collateral.

2182 (f) Notwithstanding any provision in this section to the
 2183 contrary, in the event of an action in tort against a third
 2184 party in which the recipient or his or her legal representative
 2185 is a party which results in a judgment, award, or settlement
 2186 from a third party, the amount recovered shall be distributed as
 2187 follows:

2188 1. After attorney's fees and taxable costs as defined by
 2189 the Florida Rules of Civil Procedure, one-half of the remaining
 2190 recovery shall be paid to the agency up to the total amount of
 2191 medical assistance provided by Medicaid.

2192 2. The remaining amount of the recovery shall be paid to
 2193 the recipient.

2194 3. For purposes of calculating the agency's recovery of
 2195 medical assistance benefits paid, the fee for services of an
 2196 attorney retained by the recipient or his or her legal
 2197 representative shall be calculated at 25 percent of the
 2198 judgment, award, or settlement.

2199 4. Notwithstanding any provision of this section to the
 2200 contrary, the agency shall be entitled to all medical coverage
 2201 benefits up to the total amount of medical assistance provided
 2202 by Medicaid. For purposes of this paragraph, "medical coverage"
 2203 means any benefits under health insurance, a health maintenance
 2204 organization, a preferred provider arrangement, or a prepaid

PCS for HB 119

ORIGINAL

2012

2205 health clinic, and the portion of benefits designated for
 2206 medical payments under coverage for workers' compensation,
 2207 emergency care ~~personal injury protection~~, and casualty.

2208 Section 30. Paragraph (k) of subsection (2) of section
 2209 456.057, Florida Statutes, is amended to read:

2210 456.057 Ownership and control of patient records; report
 2211 or copies of records to be furnished.-

2212 (2) As used in this section, the terms "records owner,"
 2213 "health care practitioner," and "health care practitioner's
 2214 employer" do not include any of the following persons or
 2215 entities; furthermore, the following persons or entities are not
 2216 authorized to acquire or own medical records, but are authorized
 2217 under the confidentiality and disclosure requirements of this
 2218 section to maintain those documents required by the part or
 2219 chapter under which they are licensed or regulated:

2220 (k) Persons or entities practicing under s.627.7485
 2221 ~~627.736(7)~~.

2222 Section 31. Paragraphs (ee) and (ff) of subsection (1) of
 2223 section 456.072, Florida Statutes, are amended to read:

2224 456.072 Grounds for discipline; penalties; enforcement.-

2225 (1) The following acts shall constitute grounds for which
 2226 the disciplinary actions specified in subsection (2) may be
 2227 taken:

2228 (ee) With respect to making an emergency care coverage a
 2229 ~~personal injury protection~~ claim as required by s. 627.7485
 2230 ~~627.736~~, intentionally submitting a claim, statement, or bill
 2231 that has been "upcoded" as defined in s. 627.7482 ~~627.732~~.

2232 (ff) With respect to making an emergency care coverage a

2233 ~~personal injury protection~~ claim as required by s. 627.7485
 2234 ~~627.736~~, intentionally submitting a claim, statement, or bill
 2235 for payment of services that were not rendered.

2236 Section 32. Paragraph (o) of subsection (1) of section
 2237 626.9541, Florida Statutes, is amended to read:

2238 626.9541 Unfair methods of competition and unfair or
 2239 deceptive acts or practices defined.—

2240 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
 2241 ACTS.—The following are defined as unfair methods of competition
 2242 and unfair or deceptive acts or practices:

2243 (o) Illegal dealings in premiums; excess or reduced
 2244 charges for insurance.—

2245 1. Knowingly collecting any sum as a premium or charge for
 2246 insurance, which is not then provided, or is not in due course
 2247 to be provided, subject to acceptance of the risk by the
 2248 insurer, by an insurance policy issued by an insurer as
 2249 permitted by this code.

2250 2. Knowingly collecting as a premium or charge for
 2251 insurance any sum in excess of or less than the premium or
 2252 charge applicable to such insurance, in accordance with the
 2253 applicable classifications and rates as filed with and approved
 2254 by the office, and as specified in the policy; or, in cases when
 2255 classifications, premiums, or rates are not required by this
 2256 code to be so filed and approved, premiums and charges collected
 2257 from a Florida resident in excess of or less than those
 2258 specified in the policy and as fixed by the insurer. This
 2259 provision shall not be deemed to prohibit the charging and
 2260 collection, by surplus lines agents licensed under part VIII of

2261 | this chapter, of the amount of applicable state and federal
 2262 | taxes, or fees as authorized by s. 626.916(4), in addition to
 2263 | the premium required by the insurer or the charging and
 2264 | collection, by licensed agents, of the exact amount of any
 2265 | discount or other such fee charged by a credit card facility in
 2266 | connection with the use of a credit card, as authorized by
 2267 | subparagraph (q)3., in addition to the premium required by the
 2268 | insurer. This subparagraph shall not be construed to prohibit
 2269 | collection of a premium for a universal life or a variable or
 2270 | indeterminate value insurance policy made in accordance with the
 2271 | terms of the contract.

2272 | 3.a. Imposing or requesting an additional premium for a
 2273 | policy of motor vehicle liability, emergency care coverage
 2274 | ~~personal injury protection~~, medical payment, or collision
 2275 | insurance or any combination thereof or refusing to renew the
 2276 | policy solely because the insured was involved in a motor
 2277 | vehicle accident unless the insurer's file contains information
 2278 | from which the insurer in good faith determines that the insured
 2279 | was substantially at fault in the accident.

2280 | b. An insurer which imposes and collects such a surcharge
 2281 | or which refuses to renew such policy shall, in conjunction with
 2282 | the notice of premium due or notice of nonrenewal, notify the
 2283 | named insured that he or she is entitled to reimbursement of
 2284 | such amount or renewal of the policy under the conditions listed
 2285 | below and will subsequently reimburse him or her or renew the
 2286 | policy, if the named insured demonstrates that the operator
 2287 | involved in the accident was:

2288 | (I) Lawfully parked;

2289 (II) Reimbursed by, or on behalf of, a person responsible
 2290 for the accident or has a judgment against such person;

2291 (III) Struck in the rear by another vehicle headed in the
 2292 same direction and was not convicted of a moving traffic
 2293 violation in connection with the accident;

2294 (IV) Hit by a "hit-and-run" driver, if the accident was
 2295 reported to the proper authorities within 24 hours after
 2296 discovering the accident;

2297 (V) Not convicted of a moving traffic violation in
 2298 connection with the accident, but the operator of the other
 2299 automobile involved in such accident was convicted of a moving
 2300 traffic violation;

2301 (VI) Finally adjudicated not to be liable by a court of
 2302 competent jurisdiction;

2303 (VII) In receipt of a traffic citation which was dismissed
 2304 or nolle prossed; or

2305 (VIII) Not at fault as evidenced by a written statement
 2306 from the insured establishing facts demonstrating lack of fault
 2307 which are not rebutted by information in the insurer's file from
 2308 which the insurer in good faith determines that the insured was
 2309 substantially at fault.

2310 c. In addition to the other provisions of this
 2311 subparagraph, an insurer may not fail to renew a policy if the
 2312 insured has had only one accident in which he or she was at
 2313 fault within the current 3-year period. However, an insurer may
 2314 nonrenew a policy for reasons other than accidents in accordance
 2315 with s. 627.728. This subparagraph does not prohibit nonrenewal
 2316 of a policy under which the insured has had three or more

PCS for HB 119

ORIGINAL

2012

2317 accidents, regardless of fault, during the most recent 3-year
 2318 period.

2319 4. Imposing or requesting an additional premium for, or
 2320 refusing to renew, a policy for motor vehicle insurance solely
 2321 because the insured committed a noncriminal traffic infraction
 2322 as described in s. 318.14 unless the infraction is:

2323 a. A second infraction committed within an 18-month
 2324 period, or a third or subsequent infraction committed within a
 2325 36-month period.

2326 b. A violation of s. 316.183, when such violation is a
 2327 result of exceeding the lawful speed limit by more than 15 miles
 2328 per hour.

2329 5. Upon the request of the insured, the insurer and
 2330 licensed agent shall supply to the insured the complete proof of
 2331 fault or other criteria which justifies the additional charge or
 2332 cancellation.

2333 6. No insurer shall impose or request an additional
 2334 premium for motor vehicle insurance, cancel or refuse to issue a
 2335 policy, or refuse to renew a policy because the insured or the
 2336 applicant is a handicapped or physically disabled person, so
 2337 long as such handicap or physical disability does not
 2338 substantially impair such person's mechanically assisted driving
 2339 ability.

2340 7. No insurer may cancel or otherwise terminate any
 2341 insurance contract or coverage, or require execution of a
 2342 consent to rate endorsement, during the stated policy term for
 2343 the purpose of offering to issue, or issuing, a similar or
 2344 identical contract or coverage to the same insured with the same

2345 exposure at a higher premium rate or continuing an existing
 2346 contract or coverage with the same exposure at an increased
 2347 premium.

2348 8. No insurer may issue a nonrenewal notice on any
 2349 insurance contract or coverage, or require execution of a
 2350 consent to rate endorsement, for the purpose of offering to
 2351 issue, or issuing, a similar or identical contract or coverage
 2352 to the same insured at a higher premium rate or continuing an
 2353 existing contract or coverage at an increased premium without
 2354 meeting any applicable notice requirements.

2355 9. No insurer shall, with respect to premiums charged for
 2356 motor vehicle insurance, unfairly discriminate solely on the
 2357 basis of age, sex, marital status, or scholastic achievement.

2358 10. Imposing or requesting an additional premium for motor
 2359 vehicle comprehensive or uninsured motorist coverage solely
 2360 because the insured was involved in a motor vehicle accident or
 2361 was convicted of a moving traffic violation.

2362 11. No insurer shall cancel or issue a nonrenewal notice
 2363 on any insurance policy or contract without complying with any
 2364 applicable cancellation or nonrenewal provision required under
 2365 the Florida Insurance Code.

2366 12. No insurer shall impose or request an additional
 2367 premium, cancel a policy, or issue a nonrenewal notice on any
 2368 insurance policy or contract because of any traffic infraction
 2369 when adjudication has been withheld and no points have been
 2370 assessed pursuant to s. 318.14(9) and (10). However, this
 2371 subparagraph does not apply to traffic infractions involving
 2372 accidents in which the insurer has incurred a loss due to the

PCS for HB 119

ORIGINAL

2012

2373 fault of the insured.

2374 Section 33. Subsection (1) of section 627.06501, Florida
 2375 Statutes, is amended to read:

2376 627.06501 Insurance discounts for certain persons
 2377 completing driver improvement course.-

2378 (1) Any rate, rating schedule, or rating manual for the
 2379 liability, emergency care ~~personal injury protection~~, and
 2380 collision coverages of a motor vehicle insurance policy filed
 2381 with the office may provide for an appropriate reduction in
 2382 premium charges as to such coverages when the principal operator
 2383 on the covered vehicle has successfully completed a driver
 2384 improvement course approved and certified by the Department of
 2385 Highway Safety and Motor Vehicles which is effective in reducing
 2386 crash or violation rates, or both, as determined pursuant to s.
 2387 318.1451(5). Any discount, not to exceed 10 percent, used by an
 2388 insurer is presumed to be appropriate unless credible data
 2389 demonstrates otherwise.

2390 Section 34. Subsection (1) of section 627.0652, Florida
 2391 Statutes, is amended to read:

2392 627.0652 Insurance discounts for certain persons
 2393 completing safety course.-

2394 (1) Any rates, rating schedules, or rating manuals for the
 2395 liability, emergency care ~~personal injury protection~~, and
 2396 collision coverages of a motor vehicle insurance policy filed
 2397 with the office shall provide for an appropriate reduction in
 2398 premium charges as to such coverages when the principal operator
 2399 on the covered vehicle is an insured 55 years of age or older
 2400 who has successfully completed a motor vehicle accident

PCS for HB 119

ORIGINAL

2012

2401 prevention course approved by the Department of Highway Safety
 2402 and Motor Vehicles. Any discount used by an insurer is presumed
 2403 to be appropriate unless credible data demonstrates otherwise.

2404 Section 35. Subsections (1) and (3) of section 627.0653,
 2405 Florida Statutes, are amended to read:

2406 627.0653 Insurance discounts for specified motor vehicle
 2407 equipment.—

2408 (1) Any rates, rating schedules, or rating manuals for the
 2409 liability, emergency care ~~personal injury protection~~, and
 2410 collision coverages of a motor vehicle insurance policy filed
 2411 with the office shall provide a premium discount if the insured
 2412 vehicle is equipped with factory-installed, four-wheel antilock
 2413 brakes.

2414 (3) Any rates, rating schedules, or rating manuals for
 2415 emergency care ~~personal injury protection~~ coverage and medical
 2416 payments coverage, if offered, of a motor vehicle insurance
 2417 policy filed with the office shall provide a premium discount if
 2418 the insured vehicle is equipped with one or more air bags which
 2419 are factory installed.

2420 Section 36. Section 627.4132, Florida Statutes, is amended
 2421 to read:

2422 627.4132 Stacking of coverages prohibited.—If an insured
 2423 or named insured is protected by any type of motor vehicle
 2424 insurance policy for liability, emergency care ~~personal injury~~
 2425 ~~protection~~, or other coverage, the policy shall provide that the
 2426 insured or named insured is protected only to the extent of the
 2427 coverage she or he has on the vehicle involved in the accident.
 2428 However, if none of the insured's or named insured's vehicles is

PCS for HB 119

ORIGINAL

2012

2429 involved in the accident, coverage is available only to the
 2430 extent of coverage on any one of the vehicles with applicable
 2431 coverage. Coverage on any other vehicles shall not be added to
 2432 or stacked upon that coverage. This section does not apply:

2433 (1) To uninsured motorist coverage which is separately
 2434 governed by s. 627.727.

2435 (2) To reduce the coverage available by reason of
 2436 insurance policies insuring different named insureds.

2437 Section 37. Subsection (6) of section 627.6482, Florida
 2438 Statutes, is amended to read:

2439 627.6482 Definitions.—As used in ss. 627.648–627.6498, the
 2440 term:

2441 (6) "Health insurance" means any hospital and medical
 2442 expense incurred policy, minimum premium plan, stop-loss
 2443 coverage, health maintenance organization contract, prepaid
 2444 health clinic contract, multiple-employer welfare arrangement
 2445 contract, or fraternal benefit society health benefits contract,
 2446 whether sold as an individual or group policy or contract. The
 2447 term does not include any policy covering medical payment
 2448 coverage or emergency care ~~personal injury protection~~ coverage
 2449 in a motor vehicle policy, coverage issued as a supplement to
 2450 liability insurance, or workers' compensation.

2451 Section 38. Section 627.7263, Florida Statutes, is amended
 2452 to read:

2453 627.7263 Rental and leasing driver's insurance to be
 2454 primary; exception.—

2455 (1) The valid and collectible liability insurance or
 2456 emergency care coverage ~~personal injury protection~~ insurance

PCS for HB 119

ORIGINAL

2012

2457 providing coverage for the lessor of a motor vehicle for rent or
 2458 lease is primary unless otherwise stated in at least 10-point
 2459 type on the face of the rental or lease agreement. Such
 2460 insurance is primary for the limits of liability and emergency
 2461 care ~~personal injury protection~~ coverage as required by ss.
 2462 324.021(7) and 627.7485 ~~627.736~~.

2463 (2) If the lessee's coverage is to be primary, the rental
 2464 or lease agreement must contain the following language, in at
 2465 least 10-point type:

2466 "The valid and collectible liability insurance and emergency
 2467 care coverage ~~personal injury protection~~ insurance of any
 2468 authorized rental or leasing driver is primary for the limits of
 2469 liability and emergency care ~~personal injury protection~~ coverage
 2470 required by ss. 324.021(7) and 627.7485 ~~627.736~~, Florida
 2471 Statutes."

2472 Section 39. Subsection (1) of section 627.727, Florida
 2473 Statutes, is amended to read:

2474 627.727 Motor vehicle insurance; uninsured and
 2475 underinsured vehicle coverage; insolvent insurer protection.—

2476 (1) No motor vehicle liability insurance policy which
 2477 provides bodily injury liability coverage shall be delivered or
 2478 issued for delivery in this state with respect to any
 2479 specifically insured or identified motor vehicle registered or
 2480 principally garaged in this state unless uninsured motor vehicle
 2481 coverage is provided therein or supplemental thereto for the
 2482 protection of persons insured thereunder who are legally
 2483 entitled to recover damages from owners or operators of

2484 | uninsured motor vehicles because of bodily injury, sickness, or
 2485 | disease, including death, resulting therefrom. However, the
 2486 | coverage required under this section is not applicable when, or
 2487 | to the extent that, an insured named in the policy makes a
 2488 | written rejection of the coverage on behalf of all insureds
 2489 | under the policy. When a motor vehicle is leased for a period of
 2490 | 1 year or longer and the lessor of such vehicle, by the terms of
 2491 | the lease contract, provides liability coverage on the leased
 2492 | vehicle, the lessee of such vehicle shall have the sole
 2493 | privilege to reject uninsured motorist coverage or to select
 2494 | lower limits than the bodily injury liability limits, regardless
 2495 | of whether the lessor is qualified as a self-insurer pursuant to
 2496 | s. 324.171. Unless an insured, or lessee having the privilege of
 2497 | rejecting uninsured motorist coverage, requests such coverage or
 2498 | requests higher uninsured motorist limits in writing, the
 2499 | coverage or such higher uninsured motorist limits need not be
 2500 | provided in or supplemental to any other policy which renews,
 2501 | extends, changes, supersedes, or replaces an existing policy
 2502 | with the same bodily injury liability limits when an insured or
 2503 | lessee had rejected the coverage. When an insured or lessee has
 2504 | initially selected limits of uninsured motorist coverage lower
 2505 | than her or his bodily injury liability limits, higher limits of
 2506 | uninsured motorist coverage need not be provided in or
 2507 | supplemental to any other policy which renews, extends, changes,
 2508 | supersedes, or replaces an existing policy with the same bodily
 2509 | injury liability limits unless an insured requests higher
 2510 | uninsured motorist coverage in writing. The rejection or
 2511 | selection of lower limits shall be made on a form approved by

PCS for HB 119

ORIGINAL

2012

2512 the office. The form shall fully advise the applicant of the
 2513 nature of the coverage and shall state that the coverage is
 2514 equal to bodily injury liability limits unless lower limits are
 2515 requested or the coverage is rejected. The heading of the form
 2516 shall be in 12-point bold type and shall state: "You are
 2517 electing not to purchase certain valuable coverage which
 2518 protects you and your family or you are purchasing uninsured
 2519 motorist limits less than your bodily injury liability limits
 2520 when you sign this form. Please read carefully." If this form is
 2521 signed by a named insured, it will be conclusively presumed that
 2522 there was an informed, knowing rejection of coverage or election
 2523 of lower limits on behalf of all insureds. The insurer shall
 2524 notify the named insured at least annually of her or his options
 2525 as to the coverage required by this section. Such notice shall
 2526 be part of, and attached to, the notice of premium, shall
 2527 provide for a means to allow the insured to request such
 2528 coverage, and shall be given in a manner approved by the office.
 2529 Receipt of this notice does not constitute an affirmative waiver
 2530 of the insured's right to uninsured motorist coverage where the
 2531 insured has not signed a selection or rejection form. The
 2532 coverage described under this section shall be over and above,
 2533 but shall not duplicate, the benefits available to an insured
 2534 under any workers' compensation law, emergency care coverage
 2535 ~~personal injury protection~~ benefits, disability benefits law, or
 2536 similar law; under any automobile medical expense coverage;
 2537 under any motor vehicle liability insurance coverage; or from
 2538 the owner or operator of the uninsured motor vehicle or any
 2539 other person or organization jointly or severally liable

PCS for HB 119

ORIGINAL

2012

2540 together with such owner or operator for the accident; and such
 2541 coverage shall cover the difference, if any, between the sum of
 2542 such benefits and the damages sustained, up to the maximum
 2543 amount of such coverage provided under this section. The amount
 2544 of coverage available under this section shall not be reduced by
 2545 a setoff against any coverage, including liability insurance.
 2546 Such coverage shall not inure directly or indirectly to the
 2547 benefit of any workers' compensation or disability benefits
 2548 carrier or any person or organization qualifying as a self-
 2549 insurer under any workers' compensation or disability benefits
 2550 law or similar law.

2551 ~~(7) The legal liability of an uninsured motorist coverage~~
 2552 ~~insurer does not include damages in tort for pain, suffering,~~
 2553 ~~mental anguish, and inconvenience unless the injury or disease~~
 2554 ~~is described in one or more of paragraphs (a) (d) of s.~~
 2555 ~~627.737(2).~~

2556 Section 40. Paragraph (a) of subsection (1) of section
 2557 627.728, Florida Statutes, is amended to read:

2558 627.728 Cancellations; nonrenewals.—

2559 (1) As used in this section, the term:

2560 (a) "Policy" means the bodily injury and property damage
 2561 liability, emergency care ~~personal injury protection~~, medical
 2562 payments, comprehensive, collision, and uninsured motorist
 2563 coverage portions of a policy of motor vehicle insurance
 2564 delivered or issued for delivery in this state:

2565 1. Insuring a natural person as named insured or one or
 2566 more related individuals resident of the same household; and

2567 2. Insuring only a motor vehicle of the private passenger

2568 type or station wagon type which is not used as a public or
 2569 livery conveyance for passengers or rented to others; or
 2570 insuring any other four-wheel motor vehicle having a load
 2571 capacity of 1,500 pounds or less which is not used in the
 2572 occupation, profession, or business of the insured other than
 2573 farming; other than any policy issued under an automobile
 2574 insurance assigned risk plan; insuring more than four
 2575 automobiles; or covering garage, automobile sales agency, repair
 2576 shop, service station, or public parking place operation
 2577 hazards.

2578
 2579 The term "policy" does not include a binder as defined in s.
 2580 627.420 unless the duration of the binder period exceeds 60
 2581 days.

2582 Section 41. Subsection (1), paragraph (a) of subsection
 2583 (5), and subsections (6) and (7) of section 627.7295, Florida
 2584 Statutes, are amended to read:

2585 627.7295 Motor vehicle insurance contracts.—

2586 (1) As used in this section, the term:

2587 (a) "Policy" means a motor vehicle insurance policy that
 2588 provides emergency care ~~personal injury protection~~ coverage,
 2589 property damage liability coverage, or both.

2590 (b) "Binder" means a binder that provides motor vehicle
 2591 emergency care ~~personal injury protection~~ and property damage
 2592 liability coverage.

2593 (5) (a) A licensed general lines agent may charge a per-
 2594 policy fee not to exceed \$10 to cover the administrative costs
 2595 of the agent associated with selling the motor vehicle insurance

2596 policy if the policy covers only emergency care ~~personal injury~~
 2597 ~~protection~~ coverage as provided by s. 627.7485 ~~627.736~~ and
 2598 property damage liability coverage as provided by s. 627.7275
 2599 and if no other insurance is sold or issued in conjunction with
 2600 or collateral to the policy. The fee is not considered part of
 2601 the premium.

2602 (6) If a motor vehicle owner's driver license, license
 2603 plate, and registration have previously been suspended pursuant
 2604 to s. 316.646 or s 627.733, or s.627.7483, as applicable, an
 2605 insurer may cancel a new policy only as provided in s. 627.7275.

2606 (7) A policy of private passenger motor vehicle insurance
 2607 or a binder for such a policy may be initially issued in this
 2608 state only if, before the effective date of such binder or
 2609 policy, the insurer or agent has collected from the insured an
 2610 amount equal to 2 months' premium. An insurer, agent, or premium
 2611 finance company may not, directly or indirectly, take any action
 2612 resulting in the insured having paid from the insured's own
 2613 funds an amount less than the 2 months' premium required by this
 2614 subsection. This subsection applies without regard to whether
 2615 the premium is financed by a premium finance company or is paid
 2616 pursuant to a periodic payment plan of an insurer or an
 2617 insurance agent. This subsection does not apply if an insured or
 2618 member of the insured's family is renewing or replacing a policy
 2619 or a binder for such policy written by the same insurer or a
 2620 member of the same insurer group. This subsection does not apply
 2621 to an insurer that issues private passenger motor vehicle
 2622 coverage primarily to active duty or former military personnel
 2623 or their dependents. This subsection does not apply if all

PCS for HB 119

ORIGINAL

2012

2624 policy payments are paid pursuant to a payroll deduction plan or
 2625 an automatic electronic funds transfer payment plan from the
 2626 policyholder. This subsection and subsection (4) do not apply if
 2627 all policy payments to an insurer are paid pursuant to an
 2628 automatic electronic funds transfer payment plan from an agent,
 2629 a managing general agent, or a premium finance company and if
 2630 the policy includes, at a minimum, personal injury protection or
 2631 emergency care coverage, as applicable, pursuant to ss. 627.730-
 2632 627.7405 or 627.748-627.7491, as applicable; motor vehicle
 2633 property damage liability pursuant to s. 627.7275; and bodily
 2634 injury liability in at least the amount of \$10,000 because of
 2635 bodily injury to, or death of, one person in any one accident
 2636 and in the amount of \$20,000 because of bodily injury to, or
 2637 death of, two or more persons in any one accident. This
 2638 subsection and subsection (4) do not apply if an insured has had
 2639 a policy in effect for at least 6 months, the insured's agent is
 2640 terminated by the insurer that issued the policy, and the
 2641 insured obtains coverage on the policy's renewal date with a new
 2642 company through the terminated agent.

2643 Section 42. Section 627.8405, Florida Statutes, is amended
 2644 to read:

2645 627.8405 Prohibited acts; financing companies.—No premium
 2646 finance company shall, in a premium finance agreement or other
 2647 agreement, finance the cost of or otherwise provide for the
 2648 collection or remittance of dues, assessments, fees, or other
 2649 periodic payments of money for the cost of:

2650 (1) A membership in an automobile club. The term
 2651 "automobile club" means a legal entity which, in consideration

2652 of dues, assessments, or periodic payments of money, promises
 2653 its members or subscribers to assist them in matters relating to
 2654 the ownership, operation, use, or maintenance of a motor
 2655 vehicle; however, this definition of "automobile club" does not
 2656 include persons, associations, or corporations which are
 2657 organized and operated solely for the purpose of conducting,
 2658 sponsoring, or sanctioning motor vehicle races, exhibitions, or
 2659 contests upon racetracks, or upon racecourses established and
 2660 marked as such for the duration of such particular events. The
 2661 words "motor vehicle" used herein have the same meaning as
 2662 defined in chapter 320.

2663 (2) An accidental death and dismemberment policy sold in
 2664 combination with an emergency care ~~a personal injury protection~~
 2665 and property damage only policy.

2666 (3) Any product not regulated under the provisions of this
 2667 insurance code.

2668
 2669 This section also applies to premium financing by any insurance
 2670 agent or insurance company under part XVI. The commission shall
 2671 adopt rules to assure disclosure, at the time of sale, of
 2672 coverages financed with emergency care coverage ~~personal injury~~
 2673 ~~protection~~ and shall prescribe the form of such disclosure.

2674 Section 43. Paragraph (d) of subsection (2) and paragraph
 2675 (d) of subsection (3) of section 628.909, Florida Statutes, is
 2676 amended to read:

2677 628.909 Applicability of other laws.—

2678 (2) The following provisions of the Florida Insurance Code
 2679 shall apply to captive insurers who are not industrial insured

2680 captive insurers to the extent that such provisions are not
 2681 inconsistent with this part:

2682 (d) Sections 627.730-627.7405~~7~~ or 627.748-627.7491, as
 2683 applicable, when no-fault coverage is provided.

2684 (3) The following provisions of the Florida Insurance Code
 2685 shall apply to industrial insured captive insurers to the extent
 2686 that such provisions are not inconsistent with this part:

2687 (d) Sections 627.730-627.7405 or 627.748-627.7491, as
 2688 applicable, when no-fault coverage is provided.

2689 Section 44. Subsections (2) and (6) and paragraphs (a),
 2690 (c), and (d) of subsection (7) of section 705.184, Florida
 2691 Statutes, are amended to read:

2692 705.184 Derelict or abandoned motor vehicles on the
 2693 premises of public-use airports.—

2694 (2) The airport director or the director's designee shall
 2695 contact the Department of Highway Safety and Motor Vehicles to
 2696 notify that department that the airport has possession of the
 2697 abandoned or derelict motor vehicle and to determine the name
 2698 and address of the owner of the motor vehicle, the insurance
 2699 company insuring the motor vehicle, notwithstanding the
 2700 provisions of s. 627.736, or s. 627.7485, as applicable, and any
 2701 person who has filed a lien on the motor vehicle. Within 7
 2702 business days after receipt of the information, the director or
 2703 the director's designee shall send notice by certified mail,
 2704 return receipt requested, to the owner of the motor vehicle, the
 2705 insurance company insuring the motor vehicle, notwithstanding
 2706 the provisions of s. 627.736~~7~~ or s. 627.7485, as applicable, and
 2707 all persons of record claiming a lien against the motor vehicle.

PCS for HB 119

ORIGINAL

2012

2708 The notice shall state the fact of possession of the motor
 2709 vehicle, that charges for reasonable towing, storage, and
 2710 parking fees, if any, have accrued and the amount thereof, that
 2711 a lien as provided in subsection (6) will be claimed, that the
 2712 lien is subject to enforcement pursuant to law, that the owner
 2713 or lienholder, if any, has the right to a hearing as set forth
 2714 in subsection (4), and that any motor vehicle which, at the end
 2715 of 30 calendar days after receipt of the notice, has not been
 2716 removed from the airport upon payment in full of all accrued
 2717 charges for reasonable towing, storage, and parking fees, if
 2718 any, may be disposed of as provided in s. 705.182(2)(a), (b),
 2719 (d), or (e), including, but not limited to, the motor vehicle
 2720 being sold free of all prior liens after 35 calendar days after
 2721 the time the motor vehicle is stored if any prior liens on the
 2722 motor vehicle are more than 5 years of age or after 50 calendar
 2723 days after the time the motor vehicle is stored if any prior
 2724 liens on the motor vehicle are 5 years of age or less.

2725 (6) The airport pursuant to this section or, if used, a
 2726 licensed independent wrecker company pursuant to s. 713.78 shall
 2727 have a lien on an abandoned or derelict motor vehicle for all
 2728 reasonable towing, storage, and accrued parking fees, if any,
 2729 except that no storage fee shall be charged if the motor vehicle
 2730 is stored less than 6 hours. As a prerequisite to perfecting a
 2731 lien under this section, the airport director or the director's
 2732 designee must serve a notice in accordance with subsection (2)
 2733 on the owner of the motor vehicle, the insurance company
 2734 insuring the motor vehicle, notwithstanding the provisions of s.
 2735 627.736 ~~or s. 627.7485,~~ as applicable, and all persons of

2736 record claiming a lien against the motor vehicle. If attempts to
2737 notify the owner, the insurance company insuring the motor
2738 vehicle, notwithstanding the provisions of s. 627.736~~7~~ or s.
2739 627.7485, as applicable, or lienholders are not successful, the
2740 requirement of notice by mail shall be considered met. Serving
2741 of the notice does not dispense with recording the claim of
2742 lien.

2743 (7) (a) For the purpose of perfecting its lien under this
2744 section, the airport shall record a claim of lien which shall
2745 state:

- 2746 1. The name and address of the airport.
- 2747 2. The name of the owner of the motor vehicle, the
2748 insurance company insuring the motor vehicle, notwithstanding
2749 the provisions of s. 627.736~~7~~ or s. 627.7485, as applicable, and
2750 all persons of record claiming a lien against the motor vehicle.
- 2751 3. The costs incurred from reasonable towing, storage, and
2752 parking fees, if any.
- 2753 4. A description of the motor vehicle sufficient for
2754 identification.

2755 (c) The claim of lien shall be sufficient if it is in
2756 substantially the following form:

CLAIM OF LIEN

2757 State of

2758 County of

2760 Before me, the undersigned notary public, personally appeared
2761, who was duly sworn and says that he/she is the
2762 of, whose address is.....; and that the

PCS for HB 119

ORIGINAL

2012

2763 following described motor vehicle:
 2764 ... (Description of motor vehicle) ...
 2765 owned by, whose address is, has accrued
 2766 \$..... in fees for a reasonable tow, for storage, and for
 2767 parking, if applicable; that the lienor served its notice to the
 2768 owner, the insurance company insuring the motor vehicle
 2769 notwithstanding the provisions of s. 627.736, Florida Statutes,
 2770 and all persons of record claiming a lien against the motor
 2771 vehicle on, ... (year) ..., by.....
 2772 ... (Signature) ...
 2773 Sworn to (or affirmed) and subscribed before me this day of
 2774, ... (year) ..., by ... (name of person making statement) ...
 2775 ... (Signature of Notary Public) (Print, Type, or Stamp
 2776 Commissioned name of Notary Public) ...
 2777 Personally Known....OR Produced....as identification.

2778 However, the negligent inclusion or omission of any information
 2779 in this claim of lien which does not prejudice the owner does
 2780 not constitute a default that operates to defeat an otherwise
 2781 valid lien.

2782 (d) The claim of lien shall be served on the owner of the
 2783 motor vehicle, the insurance company insuring the motor vehicle,
 2784 notwithstanding the provisions of s. 627.736, and all persons of
 2785 record claiming a lien against the motor vehicle. If attempts to
 2786 notify the owner, the insurance company insuring the motor
 2787 vehicle notwithstanding the provisions of s. 627.736, or
 2788 lienholders are not successful, the requirement of notice by
 2789 mail shall be considered met. The claim of lien shall be so

2790 served before recordation.

2791 Section 45. Subsection (1) of section 627.915, Florida
 2792 Statutes, is amended to read:

2793 627.915 Insurer experience reporting.—

2794 (1) Each insurer transacting private passenger automobile
 2795 insurance in this state shall report certain information
 2796 annually to the office. The information will be due on or before
 2797 July 1 of each year. The information shall be divided into the
 2798 following categories: bodily injury liability; property damage
 2799 liability; uninsured motorist; emergency care coverage ~~personal~~
 2800 ~~injury protection~~ benefits; medical payments; comprehensive and
 2801 collision. The information given shall be on direct insurance
 2802 writings in the state alone and shall represent total limits
 2803 data. The information set forth in paragraphs (a)-(f) is
 2804 applicable to voluntary private passenger and Joint Underwriting
 2805 Association private passenger writings and shall be reported for
 2806 each of the latest 3 calendar-accident years, with an evaluation
 2807 date of March 31 of the current year. The information set forth
 2808 in paragraphs (g)-(j) is applicable to voluntary private
 2809 passenger writings and shall be reported on a calendar-accident
 2810 year basis ultimately seven times at seven different stages of
 2811 development.

2812 (a) Premiums earned for the latest 3 calendar-accident
 2813 years.

2814 (b) Loss development factors and the historic development
 2815 of those factors.

2816 (c) Policyholder dividends incurred.

2817 (d) Expenses for other acquisition and general expense.

2818 (e) Expenses for agents' commissions and taxes, licenses,
2819 and fees.

2820 (f) Profit and contingency factors as utilized in the
2821 insurer's automobile rate filings for the applicable years.

2822 (g) Losses paid.

2823 (h) Losses unpaid.

2824 (i) Loss adjustment expenses paid.

2825 (j) Loss adjustment expenses unpaid.

2826 Section 46. Paragraph (d) of subsection (2) and paragraph
2827 (d) of subsection (3) of section 628.909, Florida Statutes, is
2828 amended to read:

2829 628.909 Applicability of other laws.—

2830 (2) The following provisions of the Florida Insurance Code
2831 shall apply to captive insurers who are not industrial insured
2832 captive insurers to the extent that such provisions are not
2833 inconsistent with this part:

2834 (d) Sections 627.748-627.7491 ~~627.730-627.7405~~, when no-
2835 fault coverage is provided.

2836 (3) The following provisions of the Florida Insurance Code
2837 shall apply to industrial insured captive insurers to the extent
2838 that such provisions are not inconsistent with this part:

2839 (d) Sections 627.748-627.7491 ~~627.730-627.7405~~ when no-
2840 fault coverage is provided.

2841 Section 47. Subsections (2) and (6) and paragraphs (a),
2842 (c), and (d) of subsection (7) of section 705.184, Florida
2843 Statutes, are amended to read:

2844 705.184 Derelict or abandoned motor vehicles on the
2845 premises of public-use airports.—

2846 (2) The airport director or the director's designee shall
 2847 contact the Department of Highway Safety and Motor Vehicles to
 2848 notify that department that the airport has possession of the
 2849 abandoned or derelict motor vehicle and to determine the name
 2850 and address of the owner of the motor vehicle, the insurance
 2851 company insuring the motor vehicle, notwithstanding the
 2852 provisions of s. 627.7485 ~~627.736~~, and any person who has filed
 2853 a lien on the motor vehicle. Within 7 business days after
 2854 receipt of the information, the director or the director's
 2855 designee shall send notice by certified mail, return receipt
 2856 requested, to the owner of the motor vehicle, the insurance
 2857 company insuring the motor vehicle, notwithstanding the
 2858 provisions of s. 627.7485 ~~627.736~~, and all persons of record
 2859 claiming a lien against the motor vehicle. The notice shall
 2860 state the fact of possession of the motor vehicle, that charges
 2861 for reasonable towing, storage, and parking fees, if any, have
 2862 accrued and the amount thereof, that a lien as provided in
 2863 subsection (6) will be claimed, that the lien is subject to
 2864 enforcement pursuant to law, that the owner or lienholder, if
 2865 any, has the right to a hearing as set forth in subsection (4),
 2866 and that any motor vehicle which, at the end of 30 calendar days
 2867 after receipt of the notice, has not been removed from the
 2868 airport upon payment in full of all accrued charges for
 2869 reasonable towing, storage, and parking fees, if any, may be
 2870 disposed of as provided in s. 705.182(2)(a), (b), (d), or (e),
 2871 including, but not limited to, the motor vehicle being sold free
 2872 of all prior liens after 35 calendar days after the time the
 2873 motor vehicle is stored if any prior liens on the motor vehicle

2874 are more than 5 years of age or after 50 calendar days after the
 2875 time the motor vehicle is stored if any prior liens on the motor
 2876 vehicle are 5 years of age or less.

2877 (6) The airport pursuant to this section or, if used, a
 2878 licensed independent wrecker company pursuant to s. 713.78 shall
 2879 have a lien on an abandoned or derelict motor vehicle for all
 2880 reasonable towing, storage, and accrued parking fees, if any,
 2881 except that no storage fee shall be charged if the motor vehicle
 2882 is stored less than 6 hours. As a prerequisite to perfecting a
 2883 lien under this section, the airport director or the director's
 2884 designee must serve a notice in accordance with subsection (2)
 2885 on the owner of the motor vehicle, the insurance company
 2886 insuring the motor vehicle, notwithstanding the provisions of s.
 2887 627.7485 ~~627.736~~, and all persons of record claiming a lien
 2888 against the motor vehicle. If attempts to notify the owner, the
 2889 insurance company insuring the motor vehicle, notwithstanding
 2890 the provisions of s. 627.7485 ~~627.736~~, or lienholders are not
 2891 successful, the requirement of notice by mail shall be
 2892 considered met. Serving of the notice does not dispense with
 2893 recording the claim of lien.

2894 (7) (a) For the purpose of perfecting its lien under this
 2895 section, the airport shall record a claim of lien which shall
 2896 state:

- 2897 1. The name and address of the airport.
- 2898 2. The name of the owner of the motor vehicle, the
 2899 insurance company insuring the motor vehicle, notwithstanding
 2900 the provisions of s. 627.7485 ~~627.736~~, and all persons of record
 2901 claiming a lien against the motor vehicle.

PCS for HB 119

ORIGINAL

2012

2902 3. The costs incurred from reasonable towing, storage, and
2903 parking fees, if any.

2904 4. A description of the motor vehicle sufficient for
2905 identification.

2906 (c) The claim of lien shall be sufficient if it is in
2907 substantially the following form:

CLAIM OF LIEN

State of

County of

Before me, the undersigned notary public, personally appeared
....., who was duly sworn and says that he/she is the
..... of, whose address is.....; and that the
following described motor vehicle:

...(Description of motor vehicle)...

owned by, whose address is, has accrued
\$..... in fees for a reasonable tow, for storage, and for
parking, if applicable; that the lienor served its notice to the
owner, the insurance company insuring the motor vehicle
notwithstanding the provisions of s. 627.7485 ~~627.736~~, Florida
Statutes, and all persons of record claiming a lien against the
motor vehicle on, ...(year)...., by.....

...(Signature)...

Sworn to (or affirmed) and subscribed before me this day of
....., ...(year)...., by ...(name of person making statement)....

...(Signature of Notary Public).....(Print, Type, or Stamp

Commissioned name of Notary Public)...

Personally Known....OR Produced....as identification.

2929 However, the negligent inclusion or omission of any information
 2930 in this claim of lien which does not prejudice the owner does
 2931 not constitute a default that operates to defeat an otherwise
 2932 valid lien.

2933 (d) The claim of lien shall be served on the owner of the
 2934 motor vehicle, the insurance company insuring the motor vehicle,
 2935 notwithstanding the provisions of s. 627.7485 ~~627.736~~, and all
 2936 persons of record claiming a lien against the motor vehicle. If
 2937 attempts to notify the owner, the insurance company insuring the
 2938 motor vehicle notwithstanding the provisions of s. 627.7485
 2939 ~~627.736~~, or lienholders are not successful, the requirement of
 2940 notice by mail shall be considered met. The claim of lien shall
 2941 be so served before recordation.

2942 Section 48. Paragraphs (a), (b), and (c) of subsection (4)
 2943 of section 713.78, Florida Statutes, are amended to read:

2944 713.78 Liens for recovering, towing, or storing vehicles
 2945 and vessels.—

2946 (4) (a) Any person regularly engaged in the business of
 2947 recovering, towing, or storing vehicles or vessels who comes
 2948 into possession of a vehicle or vessel pursuant to subsection
 2949 (2), and who claims a lien for recovery, towing, or storage
 2950 services, shall give notice to the registered owner, the
 2951 insurance company insuring the vehicle notwithstanding the
 2952 provisions of s. 627.7485 ~~627.736~~, and to all persons claiming a
 2953 lien thereon, as disclosed by the records in the Department of
 2954 Highway Safety and Motor Vehicles or of a corresponding agency
 2955 in any other state.

2956 (b) Whenever any law enforcement agency authorizes the

2957 removal of a vehicle or vessel or whenever any towing service,
 2958 garage, repair shop, or automotive service, storage, or parking
 2959 place notifies the law enforcement agency of possession of a
 2960 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
 2961 enforcement agency of the jurisdiction where the vehicle or
 2962 vessel is stored shall contact the Department of Highway Safety
 2963 and Motor Vehicles, or the appropriate agency of the state of
 2964 registration, if known, within 24 hours through the medium of
 2965 electronic communications, giving the full description of the
 2966 vehicle or vessel. Upon receipt of the full description of the
 2967 vehicle or vessel, the department shall search its files to
 2968 determine the owner's name, the insurance company insuring the
 2969 vehicle or vessel, and whether any person has filed a lien upon
 2970 the vehicle or vessel as provided in s. 319.27(2) and (3) and
 2971 notify the applicable law enforcement agency within 72 hours.
 2972 The person in charge of the towing service, garage, repair shop,
 2973 or automotive service, storage, or parking place shall obtain
 2974 such information from the applicable law enforcement agency
 2975 within 5 days after the date of storage and shall give notice
 2976 pursuant to paragraph (a). The department may release the
 2977 insurance company information to the requestor notwithstanding
 2978 the provisions of s. 627.7485 ~~627.736~~.

2979 (c) Notice by certified mail shall be sent within 7
 2980 business days after the date of storage of the vehicle or vessel
 2981 to the registered owner, the insurance company insuring the
 2982 vehicle notwithstanding the provisions of s. 627.7485 ~~627.736~~,
 2983 and all persons of record claiming a lien against the vehicle or
 2984 vessel. It shall state the fact of possession of the vehicle or

2985 vessel, that a lien as provided in subsection (2) is claimed,
 2986 that charges have accrued and the amount thereof, that the lien
 2987 is subject to enforcement pursuant to law, and that the owner or
 2988 lienholder, if any, has the right to a hearing as set forth in
 2989 subsection (5), and that any vehicle or vessel which remains
 2990 unclaimed, or for which the charges for recovery, towing, or
 2991 storage services remain unpaid, may be sold free of all prior
 2992 liens after 35 days if the vehicle or vessel is more than 3
 2993 years of age or after 50 days if the vehicle or vessel is 3
 2994 years of age or less.

2995 Section 49. Effective upon this act becoming a law,
 2996 subsection (8) of section 627.736, Florida Statutes, is amended
 2997 to read:

2998 627.736 Required personal injury protection benefits;
 2999 exclusions; priority; claims.—

3000 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY'S
 3001 FEES.—

3002 (a) For legal actions commenced on or after the effective
 3003 date of this act, with respect to any dispute under the
 3004 provisions of ss. 627.730-627.7405 between the insured and the
 3005 insurer, or between an assignee of an insured's rights and the
 3006 insurer, ~~the provisions of s. 627.428 applies shall apply,~~
 3007 except as provided in paragraphs (b) and (c) and subsections (10)
 3008 and (15) and except that any attorney fees recovered are limited
 3009 to the lesser of the actual fee incurred based upon a rate for
 3010 attorney services not to exceed \$200 per billable hour or:

3011 1. For any disputed amount of less than \$500, 15 times any
 3012 disputed amount recovered by the attorney under ss. 627.730-

PCS for HB 119

ORIGINAL

2012

3013 627.7405, limited to a total of \$5,000.

3014 2. For any disputed amount of \$500 or more and less than
 3015 \$5,000, 10 times any disputed amount recovered by the attorney
 3016 under ss. 627.730-627.7405, limited to a total of \$10,000.

3017 3. For any disputed amount of \$5,000 or more and up to
 3018 \$10,000, 5 times any disputed amount recovered by the attorney
 3019 under ss. 627.730-627.7405, limited to a total of \$15,000.

3020

3021 Fees incurred in litigating or quantifying the amount of fees
 3022 due to the prevailing party under ss. 627.730-627.7405 are not
 3023 recoverable.

3024 (b) Notwithstanding s. 627.428, the attorney fees recovered
 3025 under ss. 627.730-627.7405 shall be calculated without regard to
 3026 any contingency risk multiplier.

3027 (c) Attorney fees in a class action under ss. 627.730-
 3028 627.7405 are limited to the lesser of \$50,000 or 3 times the
 3029 total of any disputed amount recovered in the class action
 3030 proceeding.

3031 Section 50. Except as otherwise expressly provided in this
 3032 act and except for this section, which shall take effect upon
 3033 this act becoming a law, this act shall take effect October 1,
 3034 2012, and shall apply to policies issued or renewed on or after
 3035 this date.



Insurance & Banking Subcommittee

Wednesday, January 11, 2012

8:00 AM

404 HOB

AMENDMENT PACKET

INSURANCE & BANKING SUBCOMMITTEE

HB 505 by Rep. Bernard Mortgages

AMENDMENT SUMMARY January 11, 2012

Amendment 1 by Rep. Bernard (Strike-all). The amendment contains many of the same provisions of the bill while making the following changes:

- Removing the phrase “owner of an interest in property encumbered by a mortgage” and replacing it with the phrase “record title owner of the property or any person lawfully authorized to act on behalf of a mortgagor or record title owner of the property.” To account for this change, some technical changes have been made as well.
- Adding a section that relieves financial institutions of liability for releasing mortgage information to the record title owner of the property or any person lawfully authorized to act on behalf of a mortgagor or record titled owner of the property.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 505 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Insurance & Banking
2 Subcommittee

3 Representative Bernard offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 701.04, Florida Statutes, is amended to
8 read:

9 701.04 Cancellation of mortgages, liens, and judgments.—

10 (1) Within 14 days after receipt of the written request of
11 a mortgagor, record title owner of the property, or any person
12 lawfully authorized to act on behalf of a mortgagor or record
13 title owner of the property, the holder of a mortgage shall
14 deliver or cause the servicer of the mortgage to deliver to the
15 person making the request ~~mortgagor~~ at a place designated in the
16 written request an estoppel letter setting forth the unpaid
17 balance of the loan secured by the mortgage.7

18 (a) If the mortgagor makes the request, the estoppel
19 letter must include an itemization of the ~~including~~ principal,

Amendment No. 1

20 interest, and any other charges properly due under or secured by
21 the mortgage and interest on a per-day basis for the unpaid
22 balance.

23 (b) If a record title owner of the property, or any person
24 lawfully authorized to act on behalf of a mortgagor or record
25 title owner of the property, makes the request, the request must
26 include a copy of the instrument showing title in the property
27 or lawful authorization, and the estoppel letter may include the
28 itemization of information required under paragraph (a), but
29 must at a minimum include the total unpaid balance due under or
30 secured by the mortgage on a per-day basis.

31 (2) Whenever the amount of money due on any mortgage,
32 lien, or judgment has been shall be fully paid to the person or
33 party entitled to the payment thereof, the mortgagee, creditor,
34 or assignee, or the attorney of record in the case of a
35 judgment, to whom the such payment was shall have been made,
36 shall execute in writing an instrument acknowledging
37 satisfaction of the said mortgage, lien, or judgment and have
38 the instrument same acknowledged, or proven, and duly entered of
39 record in the book provided by law for such purposes in the
40 official records of the proper county. Within 60 days after of
41 the date of receipt of the full payment of the mortgage, lien,
42 or judgment, the person required to acknowledge satisfaction of
43 the mortgage, lien, or judgment shall send or cause to be sent
44 the recorded satisfaction to the person who has made the full
45 payment. In the case of a civil action arising out of the
46 provisions of this section, the prevailing party is shall be
47 entitled to attorney attorney's fees and costs.

Amendment No. 1

48 (3)~~(2)~~ Whenever a writ of execution has been issued,
49 docketed, and indexed with a sheriff and the judgment upon which
50 it was issued has been fully paid, it is ~~shall be~~ the
51 responsibility of the party receiving payment to request, in
52 writing, addressed to the sheriff, return of the writ of
53 execution as fully satisfied.

54 Section 2. Paragraph (i) of subsection (1) of section
55 655.059, Florida Statutes, is amended to read:

56 655.059 Access to books and records; confidentiality;
57 penalty for disclosure.-

58 (1) The books and records of a financial institution are
59 confidential and shall be made available for inspection and
60 examination only:

61 (i) As provided by s. 701.04; or

62 (j)~~(i)~~ As provided in subsection (2).

63 Section 3. This act shall take effect upon becoming a law.
64

65 -----
66 **T I T L E A M E N D M E N T**

67 Remove the entire title and insert:

68 A bill to be entitled

69 An act relating to mortgages; amending s. 701.04, F.S.;
70 requiring a mortgage holder to provide certain information
71 within a specified time relating to the unpaid loan balance due
72 under a mortgage if a mortgagor, record title owner of the
73 property, or any person lawfully authorized to act on behalf of
74 a mortgagor or record title owner of the property, makes a
75 written request under certain circumstances; amending s.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 505 (2012)

Amendment No. 1

76 655.059, F.S.; allowing financial institutions to release
77 certain mortgagor information to specified persons without
78 penalty; providing an effective date.

INSURANCE & BANKING SUBCOMMITTEE

**HB 669 by Rep. Brodeur
Public Depositories**

**AMENDMENT SUMMARY
January 11, 2012**

Amendment by Rep. Wood (Between Lines 213-214):

- Provides for taxation of credit unions serving as qualified public depositories.
- Provides for revocation of authority to accept and retain public deposits.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 669 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Insurance & Banking
2 Subcommittee

3 Representative Wood offered the following:

4

5 **Amendment (with title amendment)**

6 Between lines 213 and 214, insert:

7 Section 8. Section 280.161, Florida Statutes, is created to
8 read:

9 280.161 Requirements of qualified public depositories;
10 taxes and fees.--

11 (1) The provisions of s. 213.12(2) shall not apply to any
12 qualified public depository.

13 (2) For the privilege of serving as a public depository,
14 any qualified public depository that is exempt or immune from
15 state and local taxation because it is a federally chartered
16 credit union shall, while serving as a public depository, waive
17 its immunity from state and local taxes in this state; submit
18 itself to the taxing jurisdiction of the state, political
19 subdivisions of the state and all regional or local taxing

Amendment No. 1

20 authorities in this state; and voluntarily pay all state and
21 local taxes that would be applicable except for its immunity.
22 Failure of a qualified public depository to comply with this
23 subsection shall result in revocation of its authority to accept
24 or retain public deposits and revocation of its status as a
25 qualified public depository.

26
27 -----
28 **T I T L E A M E N D M E N T**

29 Remove line 8 and insert:

30 reporting requirements; creates s. 280.161, F.S.; providing for
31 taxation of credit unions under certain circumstances; providing
32 for revocation of authority to accept and retain public deposits
33 under certain circumstances; amending s. 280.17, F.S.;

34

INSURANCE & BANKING SUBCOMMITTEE

HB 725 by Rep. Hager

Insurance Agents and Adjusters

AMENDMENT SUMMARY

January 11, 2012

Amendment 1 (strike all) by Rep. Hager: Many of the changes made by the strike all correct bill drafting errors and internal inconsistencies in the bill. In addition, the following changes are made to the filed version of the bill, with conforming changes:

- Limits the examination exemption for adjusters reinstating their license after a four year suspension to all-lines adjusters, instead of all adjusters. The Department of Financial Services still decides whether the adjuster should be exempt from examination, the exemption is not automatic.
- Restores rulemaking authority for the Department of Financial Services relating to the adoption of revised versions of the uniform application for licensure.
- Requires applicants for licensure to provide email addresses on the application for license examination.
- Restricts license applicants from taking the licensing examination more than 5 times in a 12 month period.
- Exempts only limited lines agents for crop or hail or multi-peril crop insurance from continuing education requirements, instead of all limited license agents.
- Corrects a drafting error and restores current law requiring continuing education on suitability of annuities for life insurance agents until October 1, 2014. This requirement is removed after that date when suitability of insurance products is required as part of the 7 hour continuing education update course.
- Clarifies the continuing education requirement for bail bond agents is 14 hours, instead of 24 hours.
- Requires the 7 hour continuing education update course covers premium discounts.
- Corrects a drafting error and restores current law relating to parameters of a credit insurance limited license because that license is still available.
- Requires renewal of a branch office's appointment to sell portable electronics insurance every 24 months after the lead business's initial appointment date.
- Corrects an internal inconsistency and conforms qualifications of a nonresidential all-lines adjuster to the definition of this type of adjuster.
- Specifies information required on an application for a bail bond agent license.
- Requires bail bond agents to notify DFS of e-mail address changes within 10 days of the change.
- Removes repeal of the \$35,000 surety bond or deposit required for title insurance agencies and provided to the Department of Financial Services.
- Removes provision in the bill relating to bail bond forfeitures due to single subject concerns.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Insurance & Banking
2 Subcommittee

3 Representative Hager offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (e) of subsection (27) of section
8 624.501, Florida Statutes, is amended to read:

9 624.501 Filing, license, appointment, and miscellaneous
10 fees.—The department, commission, or office, as appropriate,
11 shall collect in advance, and persons so served shall pay to it
12 in advance, fees, licenses, and miscellaneous charges as
13 follows:

14 (27) Title insurance agents:

15 (e) Title insurer ~~and title insurance agency~~

16 administrative surcharge:

17 ~~1.~~ On or before January 30 of each calendar year, each
18 title insurer shall pay an administrative surcharge of \$200.00
19 to the office for each licensed title insurance agency appointed

Amendment No.

20 by the title insurer and for each title insurer's retail office
21 ~~of the insurer as of~~ on January 1 of that calendar year an
22 ~~administrative surcharge of \$200.00.~~

23 ~~2. On or before January 30 of each calendar year, each~~
24 ~~licensed title insurance agency shall remit to the department an~~
25 ~~administrative surcharge of \$200.00. The administrative~~
26 ~~surcharge may be used solely to defray the costs to the~~
27 ~~department and office for gathering and evaluating in their~~
28 ~~examination or audit of title insurance agencies and retail~~
29 ~~offices of title insurers and to gather title insurance data~~
30 from title insurance agencies and insurers for statistical
31 purposes, which shall ~~to~~ be furnished to and used by the office
32 in its regulation of title insurance.

33 Section 2. Subsection (1) of section 624.505, Florida
34 Statutes, is amended to read:

35 624.505 County tax; determination; ~~additional offices;~~
36 nonresident agents.-

37 (1) The county tax imposed ~~provided for~~ under s. 624.501
38 for as to an agent shall be paid by each insurer for each agent
39 only for the county where the agent resides, or if the such
40 agent's place of business is not located in the a county where
41 the agent resides ~~other than that of her or his residence, then~~
42 for the county in which the agent's wherein is located such
43 place of business is located. ~~If an agent maintains an office or~~
44 ~~place of business in more than one county, the tax shall be paid~~
45 ~~for her or him by each such insurer for each county wherein the~~
46 ~~agent represents such insurer and has a place of business. If~~
47 ~~when under this subsection an insurer is~~ paying the required to

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

48 ~~pay~~ county tax ~~for an agent~~ for a county ~~or counties~~ other than
49 the agent's county of residence, the insurer must ~~shall~~
50 designate the county ~~or counties~~ for which the taxes are paid.

51 Section 3. Subsections (1) and (7) of section 626.015,
52 Florida Statutes, are amended to read:

53 626.015 Definitions.—As used in this part:

54 (1) "Adjuster" means a public adjuster as defined in s.
55 626.854, a public adjuster apprentice as defined in s. 626.8541,
56 or an all-lines adjuster as defined in s. 626.8548 ~~independent~~
57 ~~adjuster as defined in s. 626.855, or company employee adjuster~~
58 ~~as defined in s. 626.856.~~

59 (7) "Home state" means the District of Columbia and any
60 state or territory of the United States in which an ~~insurance~~
61 agent or adjuster maintains his or her principal place of
62 residence or principal place of business and is licensed to act
63 as an insurance agent or adjuster.

64 Section 4. Subsections (2) and (3) of section 626.0428,
65 Florida Statutes, are amended to read:

66 626.0428 Agency personnel powers, duties, and
67 limitations.—

68 (2) An ~~No~~ employee of an agent or agency may not bind
69 insurance coverage unless licensed and appointed as an ~~a general~~
70 ~~lines~~ agent or customer representative.

71 (3) An ~~No~~ employee of an agent or agency may not initiate
72 contact with any person for the purpose of soliciting insurance
73 unless licensed and appointed as an ~~a general lines~~ agent or
74 customer representative.

Amendment No.

75 Section 5. Subsection (1) and paragraph (b) of subsection
76 (2) of section 626.171, Florida Statutes, are amended to read:

77 626.171 Application for license as an agent, customer
78 representative, adjuster, service representative, managing
79 general agent, or reinsurance intermediary.-

80 (1) The department may ~~shall~~ not issue a license as agent,
81 customer representative, adjuster, service representative,
82 managing general agent, or reinsurance intermediary to any
83 person except upon written application ~~therefor~~ filed with the
84 department ~~it~~, meeting the qualifications for the license
85 applied for as determined by the department ~~qualification~~
86 ~~therefor~~, and payment in advance of all applicable fees. The ~~Any~~
87 ~~such~~ application must ~~shall~~ be made under the oath of the
88 applicant and be signed by the applicant. An applicant may
89 permit a third party to complete, submit, and sign an
90 application on the applicant's behalf, but is responsible for
91 ensuring that the information on the application is true and
92 correct and is accountable for any misstatements or
93 misrepresentations. The department shall accept the uniform
94 application for nonresident agent licensing. The department may
95 adopt revised versions of the uniform application by rule.

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

97 (b) A statement indicating the method the applicant used
98 or is using to meet any required prelicensing education,
99 knowledge, experience, or instructional requirements for the
100 type of license applied for. ~~Proof that he or she has completed~~
101 ~~or is in the process of completing any required prelicensing~~
102 ~~course.~~

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

103
104 However, the application must contain a statement that an
105 applicant is not required to disclose his or her race or
106 ethnicity, gender, or native language, that he or she will not
107 be penalized for not doing so, and that the department will use
108 this information exclusively for research and statistical
109 purposes and to improve the quality and fairness of the
110 examinations.

111 Section 6. Section 626.191, Florida Statutes, is amended
112 to read:

113 626.191 Repeated applications.—The failure of an applicant
114 to secure a license upon ~~an~~ application does ~~shall~~ not preclude
115 the applicant from applying again. However ~~as many times as~~
116 ~~desired, but~~ the department may ~~shall~~ not consider ~~give~~
117 ~~consideration to~~ or accept any further application by the same
118 applicant individual for a similar license dated or filed within
119 30 days after ~~subsequent to~~ the date the department denied the
120 last application, except as provided under ~~in~~ s. 626.281.

121 Section 7. Subsection (2) of section 626.221, Florida
122 Statutes, is amended to read:

123 626.221 Examination requirement; exemptions.—

124 (2) However, an ~~no such~~ examination is not ~~shall be~~
125 necessary for ~~in~~ any of the following ~~eases~~:

126 (a) An applicant for renewal of appointment as an agent,
127 customer representative, or adjuster, unless the department
128 determines that an examination is necessary to establish the
129 competence or trustworthiness of the ~~such~~ applicant.

Amendment No.

130 (b) An applicant for a limited license as agent for travel
131 insurance, motor vehicle rental ~~personal accident insurance,~~
132 baggage and motor vehicle excess liability insurance, credit
133 life or disability insurance, credit insurance, ~~credit property~~
134 insurance, in-transit and storage personal property insurance,
135 or ~~portable electronics communications equipment property~~
136 insurance or ~~communication equipment inland marine insurance~~
137 under s. 626.321.

138 (c) In the discretion of the department, an applicant for
139 reinstatement of license or appointment as an agent, customer
140 representative, ~~company employee adjuster,~~ or all-lines
141 ~~independent~~ adjuster whose license has been suspended within the
142 4 years before ~~prior to~~ the date of application or written
143 request for reinstatement.

144 (d) An applicant who, within the 4 years before ~~prior to~~
145 application for license and appointment as an agent, customer
146 representative, or adjuster, was a full-time salaried employee
147 of the department who and had continuously been such an employee
148 with responsible insurance duties for at least ~~not less than 2~~
149 continuous years and who had been a licensee within the 4 years
150 before ~~prior to~~ employment by the department with the same class
151 of license as that being applied for.

152 (e) An applicant ~~A person~~ who has been licensed as an all-
153 lines adjuster and appointed as an independent adjuster or
154 company employee adjuster ~~as to all property, casualty, and~~
155 ~~surety insurances may be licensed and appointed as a company~~
156 ~~employee adjuster or independent adjuster, as to these kinds of~~
157 ~~insurance, without additional written examination if an~~

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

158 application for licensure is filed with the department within 48
159 months following the date of cancellation or expiration of the
160 prior appointment.

161 ~~(f) A person who has been licensed as a company employee~~
162 ~~adjuster or independent adjuster for motor vehicle, property and~~
163 ~~casualty, workers' compensation, and health insurance may be~~
164 ~~licensed as such an adjuster without additional written~~
165 ~~examination if his or her application for licensure is filed~~
166 ~~with the department within 48 months after cancellation or~~
167 ~~expiration of the prior license.~~

168 ~~(f)(g)~~ An applicant for a temporary license, except as
169 otherwise provided in this code.

170 ~~(g)(h)~~ An applicant for a license as a life or health
171 agent ~~license~~ who has received the designation of chartered life
172 underwriter (CLU) from the American College of Life Underwriters
173 and ~~who~~ has been engaged in the insurance business within the
174 past 4 years, except that the applicant ~~such an individual~~ may
175 be examined on pertinent provisions of this code.

176 ~~(h)(i)~~ An applicant for license as a general lines agent,
177 customer representative, or adjuster who has received the
178 designation of chartered property and casualty underwriter
179 (CPCU) from the American Institute for Property and Liability
180 Underwriters and ~~who~~ has been engaged in the insurance business
181 within the past 4 years, except that the applicant ~~such an~~
182 ~~individual~~ may be examined on pertinent provisions of this code.

183 ~~(i)(j)~~ An applicant for license as a customer
184 representative who has earned the designation of Accredited
185 Advisor in Insurance (AAI) from the Insurance Institute of

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

186 America, the designation of Certified Insurance Counselor (CIC)
187 from the Society of Certified Insurance Service Counselors, the
188 designation of Accredited Customer Service Representative (ACSR)
189 from the Independent Insurance Agents of America, the
190 designation of Certified Professional Service Representative
191 (CPSR) from the National Foundation for Certified Professional
192 Service Representatives, the designation of Certified Insurance
193 Service Representative (CISR) from the Society of Certified
194 Insurance Service Representatives, or the designation of
195 Certified Insurance Representative (CIR) from the National
196 Association of Christian Catastrophe Insurance Adjusters. Also,
197 an applicant for license as a customer representative who has
198 earned an associate degree or bachelor's degree from an
199 accredited college or university and has completed ~~with~~ at least
200 9 academic hours of property and casualty insurance curriculum,
201 or the equivalent, or has earned the designation of Certified
202 Customer Service Representative (CCSR) from the Florida
203 Association of Insurance Agents, or the designation of
204 Registered Customer Service Representative (RCSR) from a
205 regionally accredited postsecondary institution in this state,
206 or the designation of Professional Customer Service
207 Representative (PCSR) from the Professional Career Institute,
208 whose curriculum has been approved by the department and which
209 ~~whose curriculum~~ includes comprehensive analysis of basic
210 property and casualty lines of insurance and testing at least
211 equal to that of standard department testing for the customer
212 representative license. The department shall adopt rules
213 establishing standards for the approval of curriculum.

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Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

214 (j)~~(k)~~ An applicant for license as a resident or
215 nonresident all-lines ~~an independent or company employee~~
216 adjuster who has the designation of Accredited Claims Adjuster
217 (ACA) from a regionally accredited postsecondary institution in
218 this state, Professional Claims Adjuster (PCA) from the
219 Professional Career Institute, Professional Property Insurance
220 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
221 Adjuster (CA) from ALL LINES Training, or Certified Claims
222 Adjuster (CCA) from the Association of Property and Casualty
223 Claims Professionals whose curriculum has been approved by the
224 department and which ~~whose curriculum~~ includes comprehensive
225 analysis of basic property and casualty lines of insurance and
226 testing at least equal to that of standard department testing
227 for the all-lines adjuster license. The department shall adopt
228 rules establishing standards for the approval of curriculum.

229 (k)~~(l)~~ An applicant qualifying for a license transfer
230 under s. 626.292, if the applicant:

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

235 2. Has received the designation of chartered property and
236 casualty underwriter (CPCU) from the American Institute for
237 Property and Liability Underwriters and ~~has~~ been engaged in the
238 insurance business within the past 4 years if applying to
239 transfer a general lines agent license; or

240 3. Has received the designation of chartered life
241 underwriter (CLU) from the American College of Life Underwriters

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

242 and ~~has~~ been engaged in the insurance business within the past 4
243 years, if applying to transfer a life or health agent license.

244 ~~(1)(m)~~ An applicant for a license as a nonresident agent
245 ~~license~~, if the applicant:

246 1. Has successfully completed prelicensing examination
247 requirements in the applicant's home state which are
248 substantially equivalent to the examination requirements in this
249 state, as determined by the department, as a requirement for
250 obtaining a resident license in his or her home state;

251 2. Held a general lines agent license, life agent license,
252 or health agent license before ~~prior to the time~~ a written
253 examination was required;

254 3. Has received the designation of chartered property and
255 casualty underwriter (CPCU) from the American Institute for
256 Property and Liability Underwriters and has been engaged in the
257 insurance business within the past 4 years, if an applicant for
258 a nonresident license as a general lines agent; or

259 4. Has received the designation of chartered life
260 underwriter (CLU) from the American College of Life Underwriters
261 and ~~has~~ been in the insurance business within the past 4 years,
262 if an applicant for a nonresident license as a life agent or
263 health agent.

264 Section 8. Subsection (2) of section 626.231, Florida
265 Statutes, is amended to read:

266 626.231 Eligibility; application for examination.-

267 (2) A person required to take an examination for a license
268 may ~~be permitted to~~ take an examination before ~~prior to~~
269 submitting an application for licensure pursuant to s. 626.171

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Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

270 by submitting an application for examination through the
271 department's Internet website or the website of a person
272 designated by the department to administer the examination. The
273 department may require ~~In the application,~~ the applicant to
274 provide the following information as part of the application
275 ~~shall set forth:~~

276 (a) His or her full name, date of birth ~~age~~, social
277 security number, e-mail address, residence address, business
278 address, and mailing address.

279 (b) The type of license which ~~that~~ the applicant intends
280 to apply for.

281 (c) The name of any required prelicensing course he or she
282 has completed or is in the process of completing.

283 (d) The method by which the applicant intends to qualify
284 for the type of license if other than by completing a
285 prelicensing course.

286 (e) The applicant's gender ~~(male or female)~~.

287 (f) The applicant's native language.

288 (g) The highest level of education achieved by the
289 applicant.

290 (h) The applicant's race or ethnicity ~~(African American,~~
291 ~~white, American Indian, Asian, Hispanic, or other)~~.

292
293 However, the application form must contain a statement that an
294 applicant is not required to disclose his or her race or
295 ethnicity, gender, or native language, that he or she will not
296 be penalized for not doing so, and that the department will use
297 this information exclusively for research and statistical

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Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

298 purposes and to improve the quality and fairness of the
299 examinations.

300 Section 9. Subsection (6) of section 626.241, Florida
301 Statutes, is amended to read:

302 626.241 Scope of examination.—

303 (6) In order to reflect the differences between adjusting
304 claims for an insurer and adjusting claims for an insured, the
305 department shall create an examination for applicants seeking
306 licensure as a public adjuster and a separate examination for
307 applicants seeking licensure as an all-lines ~~a company employee~~
308 ~~adjuster or independent~~ adjuster.

309 (a) Examinations ~~given applicants~~ for a license as an all-
310 lines adjuster must ~~shall~~ cover adjusting in all lines of
311 insurance, other than life and annuity; ~~or, in accordance with~~
312 ~~the application for the license, the examination may be limited~~
313 ~~to adjusting in:~~

314 ~~(a) Automobile physical damage insurance;~~

315 ~~(b) Property and casualty insurance;~~

316 ~~(c) Workers' compensation insurance; or~~

317 ~~(d) Health insurance.~~

318 (b) An ~~Ne~~ examination for workers' ~~on worker's~~
319 compensation insurance or health insurance is not ~~shall be~~
320 required for public adjusters.

321 Section 10. Subsection (1) of section 626.251, Florida
322 Statutes, is amended to read:

323 626.251 Time and place of examination; notice.—

324 (1) The department, or a person designated by the
325 department, shall provide ~~mail-written~~ notice of the time and

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Published On: 1/10/2012 6:50:06 PM

Amendment No.

326 place of the examination to each applicant for examination and
327 each applicant for license required to take an examination who
328 will be eligible to take the examination as of the examination
329 date. The notice shall be e-mailed ~~so mailed, postage prepaid,~~
330 ~~and addressed~~ to the applicant at the e-mail ~~his or her~~ address
331 shown on the application for license or examination ~~at such~~
332 ~~other address as requested by the applicant in writing filed~~
333 ~~with the department prior to the mailing of the notice.~~ Notice
334 is ~~shall be~~ deemed given when so mailed.

335 Section 11. Section 626.281, Florida Statutes, is amended
336 to read:

337 626.281 Reexamination.—

338 (1) An ~~Any~~ applicant for license or ~~applicant for~~
339 examination who has either:

340 (a) Taken an examination and failed to make a passing
341 grade, or

342 (b) Failed to appear for the examination or to take or
343 complete the examination at the time and place specified in the
344 notice of the department,

345
346 may take additional examinations, after filing with the
347 department or its designee an application for reexamination
348 together with applicable fees. The failure of an applicant to
349 pass an examination, ~~or the failure~~ to appear for the
350 examination, or to take or complete the examination does not
351 preclude the applicant from taking subsequent examinations.

352 (2) Applicants may not take an examination for a license
353 type more than five times in a 12-month period.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

354 ~~(3)~~(2) The department may require an ~~any~~ individual whose
355 license as an agent, customer representative, or adjuster has
356 expired or ~~has~~ been suspended to pass an examination before
357 ~~prior to~~ reinstating or relicensing the individual as to any
358 class of license. The examination fee must ~~shall~~ be paid for ~~as~~
359 ~~to~~ each examination.

360 Section 12. Section 626.2815, Florida Statutes, is amended
361 to read:

362 626.2815 Continuing education ~~required; application;~~
363 ~~exceptions; requirements; penalties.~~

364 (1) The purpose of this section is to establish
365 requirements and standards for continuing education courses for
366 individuals ~~persons~~ licensed to solicit, ~~or~~ sell, or adjust
367 insurance in the state.

368 (2) Except as otherwise provided in this section, ~~the~~
369 ~~provisions of this section~~ applies ~~apply~~ to individuals ~~persons~~
370 licensed to engage in the sale of insurance or adjustment of
371 insurance claims in this state for all lines of insurance for
372 which an examination is required for licensing and to each
373 insurer, employer, or appointing entity, including, but not
374 limited to, those created or existing pursuant to s. 627.351.
375 ~~The provisions of This section~~ does ~~shall~~ not apply to an ~~any~~
376 individual who holds ~~person holding~~ a license for the sale of
377 any line of insurance for which an examination is not required
378 by the laws of this state or who holds a, ~~nor shall the~~
379 ~~provisions of this section~~ apply to any limited license as a
380 crop or hail and multiple-peril crop insurance agent as the
381 department may exempt by rule. Licensees who are unable to

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

Amendment No.

382 comply with the continuing education requirements due to active
383 duty in the military may submit a written request for a waiver
384 to the department.

385 (3)(a) Each licensee ~~person~~ subject to the provisions of
386 this section must, except as set forth in paragraphs (b), (c),
387 ~~and (d), and (f),~~ complete a minimum of 24 hours of continuing
388 education courses every 2 years in basic or higher-level courses
389 prescribed by this section or in other courses approved by the
390 department.

391 (a) Each licensee ~~person~~ ~~subject to the provisions of this~~
392 ~~section~~ must complete, ~~as part of his or her required number of~~
393 ~~continuing education hours,~~ 3 hours of continuing education,
394 approved by the department, every 2 years on the subject matter
395 of ethics. Each licensed general lines agent and customer
396 representative ~~subject to this section~~ must complete, ~~as part of~~
397 ~~his or her required number of continuing education hours,~~ 1 hour
398 of continuing education, approved by the department, every 2
399 years on the subject matter of premium discounts available on
400 property insurance policies based on various hurricane
401 mitigation options and the means for obtaining the discounts.

402 (b) A licensee ~~person~~ who has been licensed for a ~~period~~
403 ~~of~~ 6 or more years must complete 20 hours of continuing
404 education every 2 years in intermediate or advanced-level
405 courses prescribed by this section or in other courses approved
406 by the department.

407 (c) A licensee who has been licensed for 25 years or more
408 and is a CLU or a CPCU or has a Bachelor of Science degree in
409 risk management or insurance with evidence of 18 or more

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

410 semester hours in upper-level insurance-related courses must
411 complete 10 hours of continuing education courses every 2 years
412 in courses prescribed by this section or in other courses
413 approved by the department.

414 (d) An individual ~~Any person~~ who holds a license as a
415 customer representative, limited customer representative, title
416 agent, motor vehicle physical damage and mechanical breakdown
417 insurance agent, ~~crop or hail and multiple peril crop insurance~~
418 ~~agent~~, or as an industrial fire insurance or burglary insurance
419 agent and who is not a licensed life or health ~~insurance~~ agent,
420 must ~~shall be required to~~ complete 10 hours of continuing
421 education courses every 2 years.

422 (e) An individual ~~Any person~~ who holds a license to
423 solicit or sell life or health insurance and a license to
424 solicit or sell property, casualty, surety, or surplus lines
425 insurance must complete ~~the continuing education requirements by~~
426 ~~completing~~ courses in life or health insurance for one-half of
427 the total hours required and courses in property, casualty,
428 surety, or surplus lines insurance for one-half of the total
429 hours required. However, a licensee who holds an industrial fire
430 or burglary insurance license and who is a licensed life or
431 health agent must ~~shall be required to~~ complete 4 hours of
432 continuing education courses every 2 years related to industrial
433 fire or burglary insurance and the remaining number of hours of
434 continuing education courses ~~required~~ related to life or health
435 insurance.

Amendment No.

436 (f) An individual subject to chapter 648 must complete a
437 minimum of 14 hours of continuing education courses every 2
438 years.

439 (g) Excess hours accumulated during any 2-year compliance
440 period may be carried forward to the next compliance period.

441 (h) An individual teaching an approved course of
442 instruction or lecturing at any approved seminar and attending
443 the entire course or seminar qualifies for the same number of
444 classroom hours as would be granted to a person taking and
445 successfully completing such course or seminar. Credit is
446 limited to the number of hours actually taught unless a person
447 attends the entire course or seminar. An individual who is an
448 official of or employed by a governmental entity in this state
449 and serves as a professor, instructor, or other position or
450 office, the duties and responsibilities of which are determined
451 by the department to require monitoring and review of insurance
452 laws or insurance regulations and practices, is exempt from this
453 section.

454 (4)(f)1. Except as provided in subparagraph 2., Compliance
455 with continuing education requirements is a condition precedent
456 to the issuance, continuation, reinstatement, or renewal of any
457 appointment subject to this section. However:

458 (a)2.a. An appointing entity, except one that appoints
459 individuals who are employees or exclusive independent
460 contractors of the appointing entity, may not require, directly
461 or indirectly, as a condition of such appointment or the
462 continuation of such appointment, the taking of an approved

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

463 course or program by any appointee or potential appointee which
464 ~~that~~ is not of the appointee's choosing.

465 ~~(b)~~ Any entity created or existing pursuant to s.
466 627.351 may require employees to take training of any type
467 relevant to their employment but may not require appointees who
468 are not employees to take any approved course or program unless
469 the course or program deals solely with the appointing entity's
470 internal procedures or products or with subjects substantially
471 unique to the appointing entity.

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

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

488 ~~(5)(i)~~ For good cause shown, the department may grant an
489 extension of time during which the requirements of ~~imposed by~~

Amendment No.

490 this section may be completed, but such extension ~~of time~~ may
491 not exceed 1 year.

492 ~~(6)(j)~~ A nonresident licensee who must complete continuing
493 education requirements in his or her home state may use the home
494 state requirements to also meet this state's continuing
495 education requirements ~~as well~~, if the licensee's ~~resident's~~
496 home state recognizes reciprocity with this state's continuing
497 education requirements. A nonresident licensee whose home state
498 does not have a continuing education requirement but is licensed
499 for the same class of business in another state that has ~~which~~
500 ~~does have~~ a continuing education requirement may comply with
501 this section by furnishing proof of compliance with the other
502 state's requirement if that state has a reciprocal agreement
503 with this state relative to continuing education. A nonresident
504 licensee whose home state does not have such continuing
505 education requirements, and who is not licensed as a nonresident
506 licensee agent in a state that has continuing education
507 requirements and reciprocates with this state, must meet the
508 continuing education requirements of this state.

509 ~~(7)(k)~~ Any person who holds a license to solicit or sell
510 life insurance in this state must complete a minimum of 3 hours
511 in continuing education, approved by the department, on the
512 subject of suitability in annuity and life insurance
513 transactions. This requirement does not apply to an agent who
514 does not have any active life insurance or annuity contracts. In
515 applying this exemption, the department may require the filing
516 of a certification attesting that the agent has not sold life
517 insurance or annuities during the continuing education

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

Amendment No.

518 compliance cycle in question and does not have any active life
519 insurance or annuity contracts. A licensee may use the hours
520 obtained under this paragraph to satisfy the requirement for
521 continuing education in ethics under paragraph (a).

522 ~~(8)-(4)~~ The following courses may be completed in order to
523 meet the elective continuing education course requirements:

524 (a) Any part of the Life Underwriter Training Council Life
525 Course Curriculum: 24 hours; Health Course: 12 hours.

526 (b) Any part of the American College "CLU" diploma
527 curriculum: 24 hours.

528 (c) Any part of the Insurance Institute of America's
529 program in general insurance: 12 hours.

530 (d) Any part of the American Institute for Property and
531 Liability Underwriters' Chartered Property Casualty Underwriter
532 (CPCU) professional designation program: 24 hours.

533 (e) Any part of the Certified Insurance Counselor program:
534 21 hours.

535 (f) Any part of the Accredited Advisor in Insurance: 21
536 hours.

537 (g) In the case of title agents, completion of the
538 Certified Land Closer (CLC) professional designation program and
539 receipt of the designation: 24 hours.

540 (h) In the case of title agents, completion of the
541 Certified Land Searcher (CLS) professional designation program
542 and receipt of the designation: 24 hours.

543 (i) Any insurance-related course that ~~which~~ is approved by
544 the department and taught by an accredited college or university
545 per credit hour granted: 12 hours.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

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

- 558 1. An independent study program of instruction presented
559 through interactive, online technology that the department
560 determines has sufficient internal testing to validate the
561 student's full comprehension of the materials presented; or
562 2. An independent study program of instruction presented
563 on paper or in printed material which ~~that~~ imposes a final
564 closed book examination that meets the requirements of the
565 department's rule for self-study courses. The examination may be
566 taken without a proctor if ~~provided~~ the student presents to the
567 provider a sworn affidavit certifying that the student did not
568 consult any written materials or receive outside assistance of
569 any kind or from any person, directly or indirectly, while
570 taking the examination. If the student is an employee of an
571 agency or corporate entity, the student's supervisor or a
572 manager or owner of the agency or corporate entity must also
573 sign the sworn affidavit. If the student is self-employed, a

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

574 sole proprietor, or a partner, or if the examination is
575 administered online, the sworn affidavit must also be signed by
576 a disinterested third party. The sworn affidavit must be
577 received by the approved provider before ~~prior to~~ reporting
578 continuing education credits to the department.

579 ~~(9)(k)~~ Each person or entity sponsoring a course for
580 continuing education credit must furnish, within 15 ~~30~~ days
581 after completion of the course, in a form satisfactory to the
582 department or its designee, a ~~written and certified~~ roster
583 showing the name and license number of all persons successfully
584 completing such course and requesting credit, ~~accompanied by the~~
585 ~~required fee.~~

586 ~~(10)(5)~~ The department may immediately terminate or shall
587 refuse to renew the appointment of an ~~any~~ agent or adjuster who
588 has been notified by the department that ~~who has not had~~ his or
589 her continuing education requirements ~~have not been~~ certified,
590 unless the agent or adjuster has been granted an extension or
591 waiver by the department. The department may not issue a new
592 appointment of the same or similar type, ~~with any insurer,~~ to a
593 licensee ~~an agent~~ who was denied a renewal appointment for
594 failing ~~failure~~ to complete continuing education as required
595 until the licensee ~~agent~~ completes his or her continuing
596 education requirement.

597 ~~(6)(a)~~ ~~There is created an 11 member continuing education~~
598 ~~advisory board to be appointed by the Chief Financial Officer.~~
599 ~~Appointments shall be for terms of 4 years. The purpose of the~~
600 ~~board is to advise the department in determining standards by~~
601 ~~which courses may be evaluated and categorized as basic,~~

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

602 ~~intermediate, or advanced. The board shall submit~~
603 ~~recommendations to the department of changes needed in such~~
604 ~~criteria not less frequently than every 2 years. The department~~
605 ~~shall require all approved course providers to submit courses~~
606 ~~for approval to the department using the criteria. All~~
607 ~~materials, brochures, and advertisements related to the approved~~
608 ~~courses must specify the level assigned to the course.~~

609 ~~(b) The board members shall be appointed as follows:~~

610 ~~1. Seven members representing agents of which at least one~~
611 ~~must be a representative from each of the following~~
612 ~~organizations: the Florida Association of Insurance Agents; the~~
613 ~~Florida Association of Insurance and Financial Advisors; the~~
614 ~~Professional Insurance Agents of Florida, Inc.; the Florida~~
615 ~~Association of Health Underwriters; the Specialty Agents'~~
616 ~~Association; the Latin American Agents' Association; and the~~
617 ~~National Association of Insurance Women. Such board members must~~
618 ~~possess at least a bachelor's degree or higher from an~~
619 ~~accredited college or university with major coursework in~~
620 ~~insurance, risk management, or education or possess the~~
621 ~~designation of CLU, CPCU, ChFC, CFP, AAI, or CIC. In addition,~~
622 ~~each member must possess 5 years of classroom instruction~~
623 ~~experience or 5 years of experience in the development or design~~
624 ~~of educational programs or 10 years of experience as a licensed~~
625 ~~resident agent. Each organization may submit to the department a~~
626 ~~list of recommendations for appointment. If one organization~~
627 ~~does not submit a list of recommendations, the Chief Financial~~
628 ~~Officer may select more than one recommended person from a list~~
629 ~~submitted by other eligible organizations.~~

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

630 ~~2. Two members representing insurance companies at least~~
631 ~~one of whom must represent a Florida Domestic Company and one of~~
632 ~~whom must represent the Florida Insurance Council. Such board~~
633 ~~members must be employed within the training department of the~~
634 ~~insurance company. At least one such member must be a member of~~
635 ~~the Society of Insurance Trainers and Educators.~~

636 ~~3. One member representing the general public who is not~~
637 ~~directly employed in the insurance industry. Such board member~~
638 ~~must possess a minimum of a bachelor's degree or higher from an~~
639 ~~accredited college or university with major coursework in~~
640 ~~insurance, risk management, training, or education.~~

641 ~~4. One member, appointed by the Chief Financial Officer,~~
642 ~~who represents the department.~~

643 ~~(c) The members of the board shall serve at the pleasure~~
644 ~~of the Chief Financial Officer. Each board member shall be~~
645 ~~entitled to reimbursement for expenses pursuant to s. 112.061.~~
646 ~~The board shall designate one member as chair. The board shall~~
647 ~~meet at the call of the chair or the Chief Financial Officer.~~

648 ~~(11)-(7)~~ The department may contract services relative to
649 the administration of the continuing education program to a
650 private entity. The contract shall be procured as a ~~contract for~~
651 ~~a contractual service pursuant to s. 287.057.~~

652 Section 13. Effective October 1, 2014, subsections (3) and
653 (7) of section 626.2815, Florida Statutes, as amended by this
654 act, is amended to read:

655 626.2815 Continuing education requirements.-

656 (3) Each licensee ~~subject to this section must, except as~~
657 ~~set forth in paragraphs (b), (c), (d), and (f),~~ complete a 7-hour

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

Amendment No.

658 update course every 2 years which is specific to the license
659 held by the licensee. The course must be developed and offered
660 by providers and approved by the department. The content of the
661 course must address all lines of insurance for which examination
662 and license is required and include the following subject areas:
663 insurance law updates, ethics for insurance professionals,
664 disciplinary trends and case studies, industry trends, premium
665 discounts, determining suitability of products and services, and
666 other similar insurance-related topics the department determines
667 are relevant to legally and ethically carrying out the
668 responsibilities of the license granted. A licensee who holds
669 multiple insurance licenses must complete an update course that
670 is specific to at least one of the licenses held. Except as
671 otherwise specified, any remaining required hours of continuing
672 education are elective and may consist of any continuing
673 education course approved by the department or under this
674 section minimum of 24 hours of continuing education courses
675 every 2 years in basic or higher level courses prescribed by
676 this section or in other courses approved by the department.

677 (a) Except as provided in paragraphs (b), (c), (d), and
678 (e), each licensee must also complete 17 3 hours of elective
679 continuing education courses, approved by the department, every
680 2 years on the subject matter of ethics. Each licensed general
681 lines agent and customer representative must complete 1 hour of
682 continuing education, approved by the department, every 2 years
683 on the subject matter of premium discounts available on property
684 insurance policies based on various hurricane mitigation options
685 and the means for obtaining the discounts.

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

686 (b) A licensee who has been licensed for 6 or more years
687 must also complete a minimum of 13 ~~20~~ hours of elective
688 continuing education every 2 years ~~in intermediate or advanced-~~
689 ~~level courses prescribed by this section or in other courses~~
690 ~~approved by the department.~~

691 (c) A licensee who has been licensed for 25 years or more
692 and is a CLU or a CPCU or has a Bachelor of Science degree in
693 risk management or insurance with evidence of 18 or more
694 semester hours in ~~upper-level~~ insurance-related courses must
695 also complete a minimum of 3 ~~10~~ hours of elective continuing
696 education courses every 2 years ~~in courses prescribed by this~~
697 ~~section or in other courses approved by the department.~~

698 (d) An individual who holds a license as a customer
699 representative, limited customer representative, title agent,
700 motor vehicle physical damage and mechanical breakdown insurance
701 agent, ~~crop or hail and multiple peril crop insurance agent,~~ or
702 an industrial fire insurance or burglary insurance agent and who
703 is not a licensed life or health agent, must also complete a
704 minimum of 3 ~~10~~ hours of continuing education courses every two
705 years.

706 ~~(e) An individual who holds a license to solicit or sell~~
707 ~~life or health insurance and a license to solicit or sell~~
708 ~~property, casualty, surety, or surplus lines insurance must~~
709 ~~complete courses in life or health insurance for one half of the~~
710 ~~total hours required and courses in property, casualty, surety,~~
711 ~~or surplus lines insurance for one half of the total hours~~
712 ~~required. However, a licensee who holds an industrial fire or~~
713 ~~burglary insurance license and who is a licensed life or health~~

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

Amendment No.

714 ~~agent must complete 4 hours of continuing education courses~~
715 ~~every 2 years related to industrial fire or burglary insurance~~
716 ~~and the remaining number of hours of continuing education~~
717 ~~courses related to life or health insurance.~~

718 (e) An individual subject to chapter 648 must complete the
719 7-hour update course and a minimum of 7 hours of elective
720 continuing education courses every 2 years.

721 (f) Elective continuing education courses for public
722 adjusters must be specifically designed for public adjusters and
723 approved by the department. Notwithstanding this subsection,
724 public adjusters for workers' compensation insurance or health
725 insurance are not required to take continuing education courses
726 pursuant to this section.

727 ~~(f) An individual subject to chapter 648 must complete a~~
728 ~~minimum of 14 hours of continuing education courses every 2~~
729 ~~years.~~

730 (g) Excess hours accumulated during any 2-year compliance
731 period may be carried forward to the next compliance period.

732 (h) An individual teaching an approved course of
733 instruction or lecturing at any approved seminar and attending
734 the entire course or seminar qualifies for the same number of
735 classroom hours as would be granted to a person taking and
736 successfully completing such course or seminar. Credit is
737 limited to the number of hours actually taught unless a person
738 attends the entire course or seminar. An individual who is an
739 official of or employed by a governmental entity in this state
740 and serves as a professor, instructor, or other position or
741 office, the duties and responsibilities of which are determined

Amendment No.

742 by the department to require monitoring and review of insurance
743 laws or insurance regulations and practices, is exempt from this
744 section.

745 ~~(7) Any person who holds a license to solicit or sell life~~
746 ~~insurance in this state must complete a minimum of 3 hours in~~
747 ~~continuing education, approved by the department, on the subject~~
748 ~~of suitability in annuity and life insurance transactions. This~~
749 ~~requirement does not apply to an agent who does not have any~~
750 ~~active life insurance or annuity contracts. In applying this~~
751 ~~exemption, the department may require the filing of a~~
752 ~~certification attesting that the agent has not sold life~~
753 ~~insurance or annuities during the continuing education~~
754 ~~compliance cycle in question and does not have any active life~~
755 ~~insurance or annuity contracts. A licensee may use the hours~~
756 ~~obtained under this paragraph to satisfy the requirement for~~
757 ~~continuing education in ethics under paragraph (a).~~

758 Section 14. Subsections (1) and (2) of section 626.292,
759 Florida Statutes, are amended to read:

760 626.292 Transfer of license from another state.—

761 (1) An ~~Any~~ individual licensed in good standing in another
762 state may apply to the department to have the license
763 transferred to this state to obtain a ~~Florida~~ resident agent or
764 all-lines adjuster license for the same lines of authority
765 covered by the license in the other state.

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

768 (a) The individual must ~~shall~~ become a resident of this
769 state.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

770 (b) The individual must ~~shall~~ have been licensed in
771 another state for a minimum of 1 year immediately preceding the
772 date the individual became a resident of this state.

773 (c) The individual must ~~shall~~ submit a completed
774 application for this state which is received by the department
775 within 90 days after the date the individual became a resident
776 of this state, along with payment of the applicable fees set
777 forth in s. 624.501 and submission of the following documents:

778 1. A certification issued by the appropriate official of
779 the applicant's home state identifying the type of license and
780 lines of authority under the license and stating that, at the
781 time the license from the home state was canceled, the applicant
782 was in good standing in that state or that the state's Producer
783 Database records, maintained by the National Association of
784 Insurance Commissioners, its affiliates, or subsidiaries,
785 indicate that the agent or all-lines adjuster is or was licensed
786 in good standing for the line of authority requested.

787 2. A set of the ~~individual~~ applicant's fingerprints in
788 accordance with s. 626.171(4).

789 (d) The individual must ~~shall~~ satisfy prelicensing
790 education requirements in this state, unless the completion of
791 prelicensing education requirements was a prerequisite for
792 licensure in the other state and the prelicensing education
793 requirements in the other state are substantially equivalent to
794 the prelicensing requirements of this state as determined by the
795 department. This paragraph does not apply to all-lines
796 adjusters.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

797 (e) The individual must ~~shall~~ satisfy the examination
798 requirement under s. 626.221, unless exempted ~~exempt~~ thereunder.

799 Section 15. Subsections (2) and (3) of section 626.311,
800 Florida Statutes, are amended to read:

801 626.311 Scope of license.-

802 (2) Except with respect ~~as~~ to a limited license as a
803 credit ~~life or disability~~ insurance agent, the license of a life
804 agent covers ~~shall cover~~ all classes of life insurance business.

805 (3) Except with respect ~~as~~ to a limited license as a
806 travel personal accident insurance agent, the license of a
807 health agent covers ~~shall cover~~ all kinds of health insurance,
808 and such ~~no~~ license may not ~~shall~~ be issued limited to a
809 particular class of health insurance.

810 Section 16. Subsections (1) and (4) of section 626.321,
811 Florida Statutes, are amended to read:

812 626.321 Limited licenses.-

813 (1) The department shall issue to a qualified applicant
814 ~~individual, or a qualified individual or entity under paragraphs~~
815 ~~(c), (d), (e), and (i),~~ a license as agent authorized to
816 transact a limited class of business in any of the following
817 categories of limited lines insurance:

818 (a) *Motor vehicle physical damage and mechanical breakdown*
819 *insurance.*-License covering insurance against only the loss of
820 or damage to a any motor vehicle that ~~which~~ is designed for use
821 upon a highway, including trailers and semitrailers designed for
822 use with such vehicles. Such license also covers insurance
823 against the failure of an original or replacement part to
824 perform any function for which it was designed. ~~The applicant~~

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

825 ~~for such a license shall pass a written examination covering~~
826 ~~motor vehicle physical damage insurance and mechanical breakdown~~
827 ~~insurance.~~ A licensee under this paragraph may not ~~No individual~~
828 ~~while so licensed shall~~ hold a license as an agent for ~~as to~~ any
829 other or additional kind or class of insurance coverage except
830 ~~as to~~ a limited license for credit insurance ~~life and disability~~
831 ~~insurances~~ as provided in paragraph (e). Effective October 1,
832 2012, all licensees holding such limited license and appointment
833 may renew the license and appointment, but no new or additional
834 licenses may be issued pursuant to this paragraph, and a
835 licensee whose limited license under this paragraph has been
836 terminated, suspended, or revoked may not have such license
837 reinstated.

838 (b) *Industrial fire insurance or burglary insurance.*—
839 License covering only industrial fire insurance or burglary
840 insurance. The applicant for such a license must ~~shall~~ pass a
841 written examination covering such insurance. A licensee under
842 this paragraph may not ~~No individual while so licensed shall~~
843 hold a license as an agent for ~~as to~~ any other or additional
844 kind or class of insurance coverage except for ~~as to~~ life
845 insurance and health insurance ~~insurances~~.

846 (c) *Travel insurance.*—License covering only policies and
847 certificates of travel insurance, which are subject to review by
848 the office under s. 624.605(1)(q). Policies and certificates of
849 travel insurance may provide coverage for risks incidental to
850 travel, planned travel, or accommodations while traveling,
851 including, but not limited to, accidental death and
852 dismemberment of a traveler; trip cancellation, interruption, or

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

Amendment No.

853 delay; loss of or damage to personal effects or travel
854 documents; baggage delay; emergency medical travel or evacuation
855 of a traveler; or medical, surgical, and hospital expenses
856 related to an illness or emergency of a traveler. ~~Any~~ Such
857 policy or certificate may be issued for terms longer than 60
858 days, but ~~each policy or certificate~~, other than a policy or
859 certificate providing coverage for air ambulatory services only,
860 each policy or certificate must be limited to coverage for
861 travel or use of accommodations of no longer than 60 days. The
862 license may be issued only:

863 1. To a full-time salaried employee of a common carrier or
864 a full-time salaried employee or owner of a transportation
865 ticket agency and may authorize the sale of such ticket policies
866 only in connection with the sale of transportation tickets, or
867 to the full-time salaried employee of such an agent. ~~No~~ Such
868 policy may not shall be for a ~~duration of~~ more than 48 hours or
869 more than for the duration of a specified one-way trip or round
870 trip.

871 2. To an entity or individual that is:

872 a. The developer of a timeshare plan that is the subject
873 of an approved public offering statement under chapter 721;

874 b. An exchange company operating an exchange program
875 approved under chapter 721;

876 c. A managing entity operating a timeshare plan approved
877 under chapter 721;

878 d. A seller of travel as defined in chapter 559; or

879 e. A subsidiary or affiliate of any of the entities
880 described in sub-subparagraphs a.-d.

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

Amendment No.

881

882 A licensee shall require each employee who offers policies or
883 certificates under this subparagraph to receive initial training
884 from a general lines agent or an insurer authorized under
885 chapter 624 to transact insurance within this state. For an
886 entity applying for a license as a travel insurance agent, the
887 fingerprinting requirement of this section applies only to the
888 president, secretary, and treasurer and to any other officer or
889 person who directs or controls the travel insurance operations
890 of the entity.

891 (d) *Motor vehicle rental insurance.*—

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

898 a. Excess motor vehicle liability insurance providing
899 coverage in excess of the standard liability limits provided by
900 the lessor in the lessor's lease to a person renting or leasing
901 a motor vehicle from the licensee's employer for liability
902 arising in connection with the negligent operation of the leased
903 or rented motor vehicle.

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

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

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

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

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

925 3. The license may be issued only to the full-time
926 salaried employee of a licensed general lines agent or to a
927 business entity that offers motor vehicles for rent or lease if
928 insurance sales activities authorized by the license are in
929 connection with and incidental to the rental or lease of a motor
930 vehicle.

931 a. A license issued to a business entity that offers motor
932 vehicles for rent or lease encompasses ~~shall encompass~~ each
933 office, branch office, or place of business making use of the
934 entity's business name in order to offer, solicit, and sell
935 insurance pursuant to this paragraph.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

936 b. The application for licensure must list the name,
937 address, and phone number for each office, branch office, or
938 place of business that is to be covered by the license. The
939 licensee shall notify the department of the name, address, and
940 phone number of any new location that is to be covered by the
941 license before the new office, branch office, or place of
942 business engages in the sale of insurance pursuant to this
943 paragraph. The licensee must ~~shall~~ notify the department within
944 30 days after closing or terminating an office, branch office,
945 or place of business. Upon receipt of the notice, the department
946 shall delete the office, branch office, or place of business
947 from the license.

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

950 (e) ~~Credit life or disability insurance.~~ License covering
951 only credit life, credit or disability insurance, credit
952 property, credit unemployment, involuntary unemployment,
953 mortgage life, mortgage guaranty, mortgage disability,
954 guaranteed automobile protection (GAP) insurance, and any other
955 form of insurance offered in connection with an extension of
956 credit which is limited to partially or wholly extinguishing a
957 credit obligation that the department determines should be
958 designated a form of limited line credit insurance. Effective
959 October 1, 2012, all valid licenses held by persons for any of
960 the lines of insurance listed in this paragraph shall be
961 converted to a credit insurance license. Licensees who wish to
962 obtain a new license reflecting such change must request a
963 duplicate license and pay a \$5 fee as specified in s.

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

964 624.501(15). The license may be issued only to an individual
965 employed by a life or health insurer as an officer or other
966 salaried or commissioned representative, to an individual
967 employed by or associated with a lending or financial
968 institution or creditor, or to a lending or financial
969 institution or creditor, and may authorize the sale of such
970 insurance only with respect to borrowers or debtors of such
971 lending or financing institution or creditor. However, only the
972 individual or entity whose tax identification number is used in
973 receiving or is credited with receiving the commission from the
974 sale of such insurance shall be the licensed agent of the
975 insurer. No individual while so licensed shall hold a license as
976 an agent as to any other or additional kind or class of life or
977 health insurance coverage. ~~An entity holding a limited license~~
978 ~~under this paragraph is also authorized to sell credit insurance~~
979 ~~and credit property insurance.~~

980 ~~(f) Credit insurance. License covering only credit~~
981 ~~insurance, as such insurance is defined in s. 624.605(1)(i), and~~
982 ~~no individual or entity so licensed shall, during the same~~
983 ~~period, hold a license as an agent as to any other or additional~~
984 ~~kind of life or health insurance with the exception of credit~~
985 ~~life or disability insurance as defined in paragraph (e). The~~
986 ~~same licensing provisions as outlined in paragraph (e) apply to~~
987 ~~entities licensed as credit insurance agents under this~~
988 ~~paragraph.~~

989 ~~(g) Credit property insurance. A license covering only~~
990 ~~credit property insurance may be issued to any individual except~~
991 ~~an individual employed by or associated with a financial~~

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

992 ~~institution as defined in s. 655.005 and authorized to sell such~~
993 ~~insurance only with respect to a borrower or debtor, not to~~
994 ~~exceed the amount of the loan.~~

995 (f)(h) Crop hail and multiple-peril crop insurance.-

996 License for insurance covering crops subject to unfavorable
997 weather conditions, fire or lightening, flood, hail, insect
998 infestation, disease, or other yield-reducing conditions or
999 perils which is provided by the private insurance market, or
1000 which is subsidized by the Federal Group Insurance Corporation
1001 including multi-peril crop insurance only crop hail and
1002 ~~multiple peril crop insurance.~~ Notwithstanding any other
1003 provision of law, the limited license may be issued to a bona
1004 fide salaried employee of an association chartered under the
1005 Farm Credit Act of 1971, 12 U.S.C. ss. 2001 et seq., who
1006 satisfactorily completes the examination prescribed by the
1007 department pursuant to s. 626.241(5). The ~~limited~~ agent must be
1008 appointed by, and his or her limited license requested by, a
1009 licensed general lines agent. All business transacted by the
1010 ~~limited~~ agent must be on ~~shall be in~~ behalf of, in the name of,
1011 and countersigned by the agent by whom he or she is appointed.
1012 Sections 626.561 and 626.748, relating to records, apply to all
1013 business written pursuant to this section. The ~~limited~~ licensee
1014 may be appointed by and licensed for only one general lines
1015 agent or agency.

1016 (g)(i) In-transit and storage personal property insurance,

1017 ~~communications equipment property insurance, communications~~
1018 ~~equipment inland marine insurance, and communications equipment~~
1019 ~~service warranty agreement sales.-~~

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1020 1. ~~A License for insurance covering only ~~the insurance of~~~~
1021 ~~personal property not held for resale, covering the risks of~~
1022 ~~transportation or storage in rented or leased motor vehicles,~~
1023 ~~trailers, or self-service storage facilities, as the latter are~~
1024 ~~defined in s. 83.803. Such license, may be issued, without~~
1025 ~~examination, only to employees or authorized representatives of~~
1026 ~~lessors who rent or lease motor vehicles, trailers, or self-~~
1027 ~~service storage facilities and who are authorized by an insurer~~
1028 ~~to issue certificates or other evidences of insurance to lessees~~
1029 ~~of such motor vehicles, trailers, or self-service storage~~
1030 ~~facilities under an insurance policy issued to the lessor. A~~
1031 ~~person licensed under this paragraph must ~~shall~~ give a~~
1032 ~~prospective purchaser of in-transit or storage personal property~~
1033 ~~insurance written notice that his or her homeowner's policy may~~
1034 ~~provide coverage for the loss of personal property and that the~~
1035 ~~purchase of such insurance is not required under the lease~~
1036 ~~terms.~~

1037 2. ~~A license covering only communications equipment, for~~
1038 ~~the loss, theft, mechanical failure, malfunction of or damage~~
1039 ~~to, communications equipment. The license may be issued only to:~~

1040 a. ~~Employees or authorized representatives of a licensed~~
1041 ~~general lines agent;~~

1042 b. ~~The lead business location of a retail vendor of~~
1043 ~~communications equipment and its branch locations; or~~

1044 c. ~~Employees, agents, or authorized representatives of a~~
1045 ~~retail vendor of communications equipment.~~

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1047 ~~The license authorizes the sale of such policies, or~~
1048 ~~certificates under a group master policy, only with respect to~~
1049 ~~the sale of, or provision of communications service for,~~
1050 ~~communications equipment. A general lines agent is not required~~
1051 ~~to obtain a license under this subparagraph to offer or sell~~
1052 ~~communications equipment property insurance or communication~~
1053 ~~equipment inland marine insurance. The license also authorizes~~
1054 ~~sales of service warranty agreements covering only~~
1055 ~~communications equipment to the same extent as if licensed under~~
1056 ~~s. 634.419 or s. 634.420. The provisions of this chapter~~
1057 ~~requiring submission of fingerprints do not apply to~~
1058 ~~communications equipment licenses issued to qualified entities~~
1059 ~~under this subparagraph. Licensees offering policies under this~~
1060 ~~subparagraph must receive initial training from, and have a~~
1061 ~~contractual relationship with, a general lines agent. For the~~
1062 ~~purposes of this subparagraph, the term "communications~~
1063 ~~equipment" means handsets, pagers, personal digital assistants,~~
1064 ~~portable computers, automatic answering devices, and other~~
1065 ~~devices or accessories used to originate or receive~~
1066 ~~communications signals or service, and includes services related~~
1067 ~~to the use of such devices, such as consumer access to a~~
1068 ~~wireless network; however, the term does not include~~
1069 ~~telecommunications switching equipment, transmission wires, cell~~
1070 ~~site transceiver equipment, or other equipment and systems used~~
1071 ~~by telecommunications companies to provide telecommunications~~
1072 ~~service to consumers. A branch location of a retail vendor of~~
1073 ~~communications equipment licensed pursuant to paragraph (2)(b)~~
1074 ~~may, in lieu of obtaining an appointment from an insurer or~~

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1075 ~~warranty association as provided in paragraph (2)(c), obtain a~~
1076 ~~single appointment from the associated lead business location~~
1077 ~~licensee licensed under paragraph (2)(a) and pay the prescribed~~
1078 ~~appointment fee under s. 624.501 provided the lead business~~
1079 ~~location has a single appointment from each insurer or warranty~~
1080 ~~association represented and such appointment provides that it~~
1081 ~~applies to the lead business location and all of its branch~~
1082 ~~locations. Any branch location individually appointed by an~~
1083 ~~insurer under paragraph (2)(c) prior to January 1, 2006, may~~
1084 ~~replace its appointments with an appointment from its lead~~
1085 ~~location at no charge. Branch location appointments shall be~~
1086 ~~renewed on the first annual anniversary of licensure of the lead~~
1087 ~~business location occurring more than 24 months after the~~
1088 ~~initial appointment date and every 24 months thereafter.~~
1089 ~~Notwithstanding s. 624.501, after July 1, 2006, the renewal fee~~
1090 ~~applicable to such branch location appointments shall be \$30 per~~
1091 ~~appointment.~~

1092 (h) Portable electronics insurance.—License for property
1093 insurance or inland marine insurance that covers only loss,
1094 theft, mechanical failure, malfunction, or damage for portable
1095 electronics.

1096 1. The license may be issued only to:

1097 a. Employees or authorized representatives of a licensed
1098 general lines agent; or

1099 b. The lead business location of a retail vendor that
1100 sells portable electronics insurance. The lead business location
1101 must have a contractual relationship with a general lines agent.

Amendment No.

1102 2. Employees or authorized representatives of a licensee
1103 under subparagraph 1. may sell or offer for sale portable
1104 electronics coverage without being subject to licensure as an
1105 insurance agent if:

1106 a. Such insurance is sold or offered for sale at a
1107 licensed location or at one of the licensee's branch locations
1108 if the branch location is appointed by the licensed lead
1109 business location or its appointing insurers;

1110 b. The insurer issuing the insurance directly supervises
1111 or appoints a general lines agent to supervise the sale of such
1112 insurance, including the development of a training program for
1113 the employees and authorized representatives of vendors that are
1114 directly engaged in the activity of selling or offering the
1115 insurance; and

1116 c. At each location where the insurance is offered,
1117 brochures or other written materials that provide the
1118 information required by this subparagraph are made available to
1119 all prospective customers. The brochures or written materials
1120 may include information regarding portable electronics
1121 insurance, service warranty agreements, or other incidental
1122 services or benefits offered by a licensee.

1123 3. Individuals not licensed to sell portable electronics
1124 insurance may not be paid commissions based on the sale of such
1125 coverage. However, a licensee who uses a compensation plan for
1126 employees and authorized representatives which includes
1127 supplemental compensation for the sale of noninsurance products,
1128 in addition to a regular salary or hourly wages, may include

Amendment No.

1129 incidental compensation for the sale of portable electronics
1130 insurance as a component of the overall compensation plan.

1131 4. Brochures or other written materials related to
1132 portable electronics insurance must:

1133 a. Disclose that such insurance may duplicate coverage
1134 already provided by a customer's homeowners' insurance policy,
1135 renters' insurance policy, or other source of coverage;

1136 b. State that enrollment in insurance coverage is not
1137 required in order to purchase or lease portable electronics or
1138 services;

1139 c. Summarize the material terms of the insurance coverage,
1140 including the identity of the insurer, the identity of the
1141 supervising entity, the amount of any applicable deductible and
1142 how it is to be paid, the benefits of coverage, and key terms
1143 and conditions of coverage, such as whether portable electronics
1144 may be repaired or replaced with similar make and model
1145 reconditioned or nonoriginal manufacturer parts or equipment;

1146 d. Summarize the process for filing a claim, including a
1147 description of how to return portable electronics and the
1148 maximum fee applicable if the customer fails to comply with
1149 equipment return requirements; and

1150 e. State that an enrolled customer may cancel coverage at
1151 any time and that the person paying the premium will receive a
1152 refund of any unearned premium.

1153 5. A licensed and appointed general lines agent is not
1154 required to obtain a portable electronics insurance license to
1155 offer or sell portable electronics insurance at locations
1156 already licensed as an insurance agency, but may apply for a

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1157 portable electronics insurance license for branch locations not
1158 otherwise licensed to sell insurance.

1159 6. A portable electronics license authorizes the sale of
1160 individual policies or certificates under a group or master
1161 insurance policy. The license also authorizes the sale of
1162 service warranty agreements covering only portable electronics
1163 to the same extent as if licensed under s. 634.419 or s.
1164 634.420.

1165 7. A licensee may bill and collect the premium for the
1166 purchase of portable electronics insurance provided that:

1167 a. If the insurance is included with the purchase or lease
1168 of portable electronics or related services, the licensee
1169 clearly and conspicuously discloses that insurance coverage is
1170 included with the purchase. Disclosure of the dollar amount of
1171 the premium for the insurance must be made on the customer's
1172 bill and in any marketing materials made available at the point
1173 of sale. If the insurance is not included, the charge to the
1174 customer for the insurance must be separately itemized on the
1175 customer's bill.

1176 b. Premiums are incidental to other fees collected, are
1177 maintained in a manner that is readily identifiable, and are
1178 accounted for and remitted to the insurer or supervising entity
1179 within 60 days of receipt. Licensees are not required to
1180 maintain such funds in a segregated account.

1181 c. All funds received by a licensee from an enrolled
1182 customer for the sale of the insurance are considered funds held
1183 in trust by the licensee in a fiduciary capacity for the benefit

Amendment No.

1184 of the insurer. Licensees may receive compensation for billing
1185 and collection services.

1186 8. Notwithstanding any other provision of law, the terms
1187 for the termination or modification of coverage under a policy
1188 of portable electronics insurance are those set forth in the
1189 policy.

1190 9. Notice or correspondence required by the policy, or
1191 otherwise required by law, may be provided by electronic means
1192 if the insurer or licensee maintains proof that the notice or
1193 correspondence was sent. Such notice or correspondence may be
1194 sent on behalf of the insurer or licensee by the general lines
1195 agent appointed by the insurer to supervise the administration
1196 of the program. For purposes of this subparagraph, an enrolled
1197 customer's provision of an electronic mail address to the
1198 insurer or licensee is deemed to be consent to receive notices
1199 and correspondence by electronic means if a conspicuously
1200 located disclosure is provided to the customer indicating the
1201 same.

1202 10. The provisions of this chapter requiring submission of
1203 fingerprints do not apply to licenses issued to qualified
1204 entities under this paragraph.

1205 11. A branch location that sells portable electronics
1206 insurance may, in lieu of obtaining an appointment from an
1207 insurer or warranty association, obtain a single appointment
1208 from the associated lead business location licensee and pay the
1209 prescribed appointment fee under s. 624.501 if the lead business
1210 location has a single appointment from each insurer or warranty
1211 association represented and such appointment applies to the lead

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1212 business location and all of its branch locations. Branch
1213 location appointments shall be renewed 24 months from the date
1214 of the lead business location initial appointment date and every
1215 24 months thereafter. Notwithstanding s. 624.501, the renewal
1216 fee applicable to such branch location appointments is \$30 per
1217 appointment.

1218 12. For purposes of this paragraph:

1219 a. "Branch location" means any physical location in this
1220 state at which a licensee offers its products or services for
1221 sale.

1222 b. "Portable electronics" means personal, self-contained,
1223 easily carried by an individual, battery-operated electronic
1224 communication, viewing, listening, recording, gaming, computing
1225 or global positioning devices, including cell or satellite
1226 phones, pagers, personal global positioning satellite units,
1227 portable computers, portable audio listening, video viewing or
1228 recording devices, digital cameras, video camcorders, portable
1229 gaming systems, docking stations, automatic answering devices,
1230 and other similar devices and their accessories, and service
1231 related to the use of such devices.

1232 c. "Portable electronics transaction" means the sale or
1233 lease of portable electronics or a related service, including
1234 portable electronics insurance.

1235 (4) Except as otherwise expressly provided, a person
1236 applying for or holding a limited license is ~~shall be~~ subject to
1237 the same applicable requirements and responsibilities that as
1238 apply to general lines agents in general, if licensed as to
1239 motor vehicle physical damage and mechanical breakdown

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1240 insurance, ~~credit property insurance~~, industrial fire insurance
1241 or burglary insurance, motor vehicle rental insurance, credit
1242 insurance, crop hail and multiple-peril crop insurance, in-
1243 transit and storage personal property insurance, or portable
1244 electronics insurance ~~communications equipment property~~
1245 ~~insurance or communications equipment inland marine insurance,~~
1246 ~~baggage and motor vehicle excess liability insurance, or credit~~
1247 ~~insurance;~~ or as apply to life agents or health agents in
1248 general, as applicable ~~the case may be~~, if licensed as to travel
1249 ~~personal accident insurance or credit life or credit disability~~
1250 insurance.

1251 Section 17. Section 626.342, Florida Statutes, is amended
1252 to read:

1253 626.342 Furnishing supplies to unlicensed ~~life, health, or~~
1254 ~~general lines~~ agent prohibited; civil liability.-

1255 (1) An insurer, a managing general agent, an insurance
1256 agency, or an agent, directly or through a ~~any~~ representative,
1257 may not furnish to an ~~any~~ agent any blank forms, applications,
1258 stationery, or other supplies to be used in soliciting,
1259 negotiating, or effecting contracts of insurance on its behalf
1260 unless such blank forms, applications, stationery, or other
1261 supplies relate to a class of business for ~~with respect to~~ which
1262 the agent is licensed and appointed, whether for that insurer or
1263 another insurer.

1264 (2) An ~~Any~~ insurer, general agent, insurance agency, or
1265 agent who furnishes any of the supplies specified in subsection
1266 (1) to an ~~any~~ agent or prospective agent not appointed to
1267 represent the insurer and who accepts from or writes any

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1268 insurance business for such agent or agency is subject to civil
1269 liability to an ~~any~~ insured of such insurer to the same extent
1270 and ~~in the same~~ manner as if such agent or prospective agent had
1271 been appointed or authorized by the insurer or such agent to act
1272 on ~~in~~ its or his or her behalf. The provisions of this
1273 subsection do not apply to insurance risk apportionment plans
1274 under s. 627.351.

1275 (3) This section does not apply to the placing of surplus
1276 lines business under the provisions of ss. 626.913-626.937.

1277 Section 18. Subsection (1) of section 626.381, Florida
1278 Statutes, is amended to read:

1279 626.381 Renewal, continuation, reinstatement, or
1280 termination of appointment.-

1281 (1) The appointment of an appointee continues ~~shall~~
1282 ~~continue~~ in force until suspended, revoked, or otherwise
1283 terminated, but is subject to a renewal request filed by the
1284 appointing entity in the appointee's birth month as to natural
1285 persons or the month the original appointment was issued ~~license~~
1286 ~~date~~ as to entities and every 24 months thereafter, accompanied
1287 by payment of the renewal appointment fee and taxes as
1288 prescribed in s. 624.501.

1289 Section 19. Section 626.536, Florida Statutes, is amended
1290 to read:

1291 626.536 Reporting of administrative actions. ~~Each agent~~
1292 ~~and insurance agency shall submit to the department,~~ Within 30
1293 days after the final disposition of an ~~any~~ administrative action
1294 taken against a licensee ~~the agent~~ or insurance agency by a
1295 governmental agency or other regulatory agency in this or any

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1296 other state or jurisdiction relating to the business of
1297 insurance, the sale of securities, or activity involving fraud,
1298 dishonesty, trustworthiness, or breach of a fiduciary duty, the
1299 licensee or insurance agency must submit a copy of the order,
1300 consent to order, or other relevant legal documents to the
1301 department. The department may adopt rules to administer
1302 ~~implementing the provisions of~~ this section.

1303 Section 20. Section 626.551, Florida Statutes, is amended
1304 to read:

1305 626.551 Notice of change of address, name.—A Every
1306 licensee must shall notify the department, in writing, within 30
1307 ~~60~~ days after a change of name, residence address, principal
1308 business street address, mailing address, contact telephone
1309 numbers, including a business telephone number, or e-mail
1310 address. A licensee licensed agent who has moved his or her
1311 residence from this state shall have his or her license and all
1312 appointments immediately terminated by the department. Failure
1313 to notify the department within the required time ~~period~~ shall
1314 result in a fine not to exceed \$250 for the first offense and,
1315 ~~for subsequent offenses,~~ a fine of at least \$500 or suspension
1316 or revocation of the license pursuant to s. 626.611, s.
1317 626.6115, or s. 626.621, or s. 626.6215 for a subsequent
1318 offense. The department may adopt rules to administer and
1319 enforce this section.

1320 Section 21. Subsection (14) is added to section 626.621,
1321 Florida Statutes, to read:

1322 626.621 Grounds for discretionary refusal, suspension, or
1323 revocation of agent's, adjuster's, customer representative's,

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1324 service representative's, or managing general agent's license or
1325 appointment.—The department may, in its discretion, deny an
1326 application for, suspend, revoke, or refuse to renew or continue
1327 the license or appointment of any applicant, agent, adjuster,
1328 customer representative, service representative, or managing
1329 general agent, and it may suspend or revoke the eligibility to
1330 hold a license or appointment of any such person, if it finds
1331 that as to the applicant, licensee, or appointee any one or more
1332 of the following applicable grounds exist under circumstances
1333 for which such denial, suspension, revocation, or refusal is not
1334 mandatory under s. 626.611:

1335 (14) Failure to comply with any civil, criminal, or
1336 administrative action taken by the child support enforcement
1337 program under Title IV-D of the Social Security Act, 42 U.S.C.
1338 ss. 651 et seq., to determine paternity or to establish, modify,
1339 enforce, or collect support.

1340 Section 22. Subsection (4) of section 626.641, Florida
1341 Statutes, is amended to read:

1342 626.641 Duration of suspension or revocation.—

1343 (4) During the period of suspension or revocation of a the
1344 license or appointment, and until the license is reinstated or,
1345 if revoked, a new license issued, the former licensee or
1346 appointee may shall not engage in or attempt or profess to
1347 engage in any transaction or business for which a license or
1348 appointment is required under this code or directly or
1349 indirectly own, control, or be employed in any manner by an any
1350 insurance agent, or agency, or adjuster, or adjusting firm.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1351 Section 23. Subsection (1) of section 626.651, Florida
1352 Statutes, is amended to read:

1353 626.651 Effect of suspension, revocation upon associated
1354 licenses and appointments and licensees and appointees.—

1355 (1) Upon suspension, revocation, or refusal to renew or
1356 continue any one license of a ~~an~~ licensee agent or customer
1357 ~~representative~~, or upon suspension or revocation of eligibility
1358 to hold a license or appointment, the department shall at the
1359 same time likewise suspend or revoke all other licenses,
1360 appointments, or status of eligibility held by the licensee or
1361 appointee under this code.

1362 Section 24. Subsection (4) of section 626.730, Florida
1363 Statutes, is amended to read:

1364 626.730 Purpose of license.—

1365 (4) This section does not prohibit ~~the licensing under a~~
1366 licensee holding a limited license for credit insurance or as to
1367 motor vehicle physical damage and mechanical breakdown insurance
1368 ~~or credit property insurance of any person~~ employed by or
1369 associated with a motor vehicle sales or financing agency, a
1370 retail sales establishment, or a consumer loan office, for the
1371 purpose of insuring other than a consumer loan office owned by
1372 ~~or affiliated with a financial institution as defined in s.~~
1373 ~~655.005, with respect to insurance of the interest of such~~
1374 entity agency in a motor vehicle sold or financed by it or in
1375 personal property if used as collateral for a loan.

1376 (5) This section does not apply ~~with respect~~ to the
1377 interest of a real estate mortgage in or as to insurance

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1378 covering such interest or in the real estate subject to such
1379 mortgage.

1380 Section 25. Section 626.732, Florida Statutes, is amended
1381 to read:

1382 626.732 Requirement as to knowledge, experience, or
1383 instruction.-

1384 (1) Except as provided in subsection (4) ~~(3)~~, an ~~no~~
1385 applicant for a license as a general lines agent ~~or personal~~
1386 ~~lines agent~~, except for a chartered property and casualty
1387 underwriter (CPCU), may not ~~other than as to a limited license~~
1388 ~~as to baggage and motor vehicle excess liability insurance,~~
1389 ~~credit property insurance, credit insurance, in transit and~~
1390 ~~storage personal property insurance, or communications equipment~~
1391 ~~property insurance or communication equipment inland marine~~
1392 ~~insurance, shall~~ be qualified or licensed unless, within the 4
1393 years immediately preceding the date the application for license
1394 is filed with the department, the applicant has:

1395 (a) Taught or successfully completed classroom courses in
1396 insurance, 3 hours of which must ~~shall~~ be on the subject matter
1397 of ethics, ~~satisfactory to the department~~ at a school, college,
1398 or extension division thereof, approved by the department. ~~To~~
1399 ~~qualify for licensure as a personal lines agent, the applicant~~
1400 ~~must complete a total of 52 hours of classroom courses in~~
1401 ~~insurance;~~

1402 (b) Completed a correspondence course in insurance, 3
1403 hours of which must ~~shall~~ be on the subject matter of ethics,
1404 satisfactory to the department and regularly offered by
1405 accredited institutions of higher learning in this state, and

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1406 ~~have, except if he or she is applying for a limited license~~
1407 ~~under s. 626.321, for licensure as a general lines agent, has~~
1408 ~~had at least 6 months of responsible insurance duties as a~~
1409 ~~substantially full-time bona fide employee in all lines of~~
1410 ~~property and casualty insurance set forth in the definition of~~
1411 ~~general lines agent under s. 626.015 or, for licensure as a~~
1412 ~~personal lines agent, has completed at least 3 months in~~
1413 ~~responsible insurance duties as a substantially full time~~
1414 ~~employee in property and casualty insurance sold to individuals~~
1415 ~~and families for noncommercial purposes;~~

1416 (c) ~~For licensure as a general lines agent, Completed at~~
1417 ~~least 1 year in responsible insurance duties as a substantially~~
1418 ~~full-time bona fide employee in all lines of property and~~
1419 ~~casualty insurance, exclusive of aviation and wet marine and~~
1420 ~~transportation insurances but not exclusive of boats of less~~
1421 ~~than 36 feet in length or aircraft not held out for hire, as set~~
1422 ~~forth in the definition of a general lines agent under s.~~
1423 ~~626.015, but without the education requirement described~~
1424 ~~mentioned in paragraph (a) or paragraph (b) or, for licensure as~~
1425 ~~a personal lines agent, has completed at least 6 months in~~
1426 ~~responsible insurance duties as a substantially full time~~
1427 ~~employee in property and casualty insurance sold to individuals~~
1428 ~~and families for noncommercial purposes without the education~~
1429 ~~requirement in paragraph (a) or paragraph (b);~~

1430 (d)1. ~~For licensure as a general lines agent, Completed at~~
1431 ~~least 1 year of responsible insurance duties as a licensed and~~
1432 ~~appointed customer representative or limited customer~~
1433 ~~representative in commercial or personal lines of property and~~

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1434 casualty insurance and 40 hours of classroom courses approved by
1435 the department covering the areas of property, casualty, surety,
1436 health, and marine insurance; or

1437 ~~2. For licensure as a personal lines agent, completed at~~
1438 ~~least 6 months of responsible duties as a licensed and appointed~~
1439 ~~customer representative or limited customer representative in~~
1440 ~~property and casualty insurance sold to individuals and families~~
1441 ~~for noncommercial purposes and 20 hours of classroom courses~~
1442 ~~approved by the department which are related to property and~~
1443 ~~casualty insurance sold to individuals and families for~~
1444 ~~noncommercial purposes;~~

1445 ~~(e)1. For licensure as a general lines agent, Completed at~~
1446 ~~least 1 year of responsible insurance duties as a licensed and~~
1447 ~~appointed service representative in either commercial or~~
1448 ~~personal lines of property and casualty insurance and 80 hours~~
1449 ~~of classroom courses approved by the department covering the~~
1450 ~~areas of property, casualty, surety, health, and marine~~
1451 ~~insurance.; or~~

1452 ~~2. For licensure as a personal lines agent, completed at~~
1453 ~~least 6 months of responsible insurance duties as a licensed and~~
1454 ~~appointed service representative in property and casualty~~
1455 ~~insurance sold to individuals and families for noncommercial~~
1456 ~~purposes and 40 hours of classroom courses approved by the~~
1457 ~~department related to property and casualty insurance sold to~~
1458 ~~individuals and families for noncommercial purposes; or~~

1459 (2) Except as provided under subsection (4), an applicant
1460 for a license as a personal lines agent, except for a chartered
1461 property and casualty underwriter (CPCU), may not be qualified

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

Amendment No.

1462 or licensed unless, within the 4 years immediately preceding the
1463 date the application for license is filed with the department,
1464 the applicant has:

1465 (a) Taught or successfully completed classroom courses in
1466 insurance, 3 hours of which must be on the subject matter of
1467 ethics, at a school, college, or extension division thereof,
1468 approved by the department. To qualify for licensure, the
1469 applicant must complete a total of 52 hours of classroom courses
1470 in insurance;

1471 (b) Completed a correspondence course in insurance, 3
1472 hours of which must be on the subject matter of ethics,
1473 satisfactory to the department and regularly offered by
1474 accredited institutions of higher learning in this state, and
1475 completed at least 3 months of responsible insurance duties as a
1476 substantially full-time employee in the area of property and
1477 casualty insurance sold to individuals and families for
1478 noncommercial purposes;

1479 (c) Completed at least 6 months of responsible insurance
1480 duties as a substantially full-time employee in the area of
1481 property and casualty insurance sold to individuals and families
1482 for noncommercial purposes, but without the education
1483 requirement described in paragraph (a) or paragraph (b);

1484 (d) Completed at least 6 months of responsible duties as a
1485 licensed and appointed customer representative or limited
1486 customer representative in property and casualty insurance sold
1487 to individuals and families for noncommercial purposes and 20
1488 hours of classroom courses approved by the department which are

Amendment No.

1489 related to property and casualty insurance sold to individuals
1490 and families for noncommercial purposes;

1491 (e) Completed at least 6 months of responsible insurance
1492 duties as a licensed and appointed service representative in
1493 property and casualty insurance sold to individuals and families
1494 for noncommercial purposes and 40 hours of classroom courses
1495 approved by the department related to property and casualty
1496 insurance sold to individuals and families for noncommercial
1497 purposes; or

1498 ~~(f) For licensure as a personal lines agent,~~ Completed at
1499 least 3 years of responsible duties as a licensed and appointed
1500 customer representative in property and casualty insurance sold
1501 to individuals and families for noncommercial purposes.

1502 ~~(3)(2) If where~~ an applicant's qualifications as required
1503 under subsection (1) or subsection (2) in paragraph (1)(b) or
1504 ~~paragraph (1)(c)~~ are based in part upon the periods of
1505 employment in at responsible insurance duties ~~prescribed~~
1506 ~~therein~~, the applicant shall submit with the license application
1507 ~~for license~~, on a form prescribed by the department, an the
1508 affidavit of his or her employer setting forth the period of
1509 such employment, that the employment same was substantially
1510 full-time, and giving a brief abstract of the nature of the
1511 duties performed by the applicant.

1512 ~~(4)(3)~~ An individual who was or became qualified to sit
1513 for an agent's, customer representative's, or adjuster's
1514 examination at or during the time he or she was employed by the
1515 department or office and who, while so employed, was employed in
1516 responsible insurance duties as a full-time bona fide employee

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1517 ~~may shall be permitted to~~ take an examination if application for
1518 such examination is made within 90 days after the date of
1519 termination of ~~his or her~~ employment with the department or
1520 office.

1521 (5)-(4) Classroom and correspondence courses under
1522 subsections (1) and (2) ~~subsection (1)~~ must include instruction
1523 on the subject matter of unauthorized entities engaging in the
1524 business of insurance. The scope of the topic of unauthorized
1525 entities must ~~shall~~ include the Florida Nonprofit Multiple-
1526 Employer Welfare Arrangement Act and the Employee Retirement
1527 Income Security Act, 29 U.S.C. ss. 1001 et seq., as it relates
1528 to the provision of health insurance by employers and the
1529 regulation thereof.

1530 (6) This section does not apply to an individual holding
1531 only a limited license for travel insurance, motor vehicle
1532 rental insurance, credit insurance, in-transit and storage
1533 personal property insurance, or portable electronics insurance.

1534 Section 26. Section 626.8411, Florida Statutes, is amended
1535 to read:

1536 626.8411 Application of Florida Insurance Code provisions
1537 to title insurance agents or agencies.—

1538 (1) The following provisions of part II, ~~as~~ applicable to
1539 general lines agents or agencies, ~~also~~ apply to title insurance
1540 agents or agencies:

1541 (a) Section 626.734, relating to liability of certain
1542 agents.

1543 ~~(b) Section 626.175, relating to temporary licenses.~~

1544 (b)-(e) Section 626.747, relating to branch agencies.

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1545 (c) Section 626.749, relating to place of business in
1546 residence.

1547 (d) Section 626.753, relating to sharing of commissions.

1548 (e) Section 626.754, relating to rights of agent following
1549 termination of appointment.

1550 (2) The following provisions of part I do not apply to
1551 title insurance agents or title insurance agencies:

1552 (a) Section 626.112(7), relating to licensing of insurance
1553 agencies.

1554 (b) Section 626.231, relating to eligibility for
1555 examination.

1556 (c) Section 626.572, relating to rebating, when allowed.

1557 (d) Section 626.172, relating to agent in full-time
1558 charge.

1559 Section 27. Section 626.8548, Florida Statutes, is created
1560 to read:

1561 626.8548 "All-lines adjuster" defined.—An "all-lines
1562 adjuster" is a person who is self-employed or employed by an
1563 insurer, a wholly owned subsidiary of an insurer, or an
1564 independent adjusting firm or other independent adjuster, and
1565 who undertakes on behalf of an insurer or other insurers under
1566 common control or ownership to ascertain and determine the
1567 amount of any claim, loss, or damage payable under an insurance
1568 contract or undertakes to effect settlement of such claim, loss,
1569 or damage. The term does not apply to life insurance or annuity
1570 contracts.

1571 Section 28. Section 626.855, Florida Statutes, is amended
1572 to read:

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1573 626.855 "Independent adjuster" defined.—An "independent
1574 adjuster" means a ~~is any~~ person licensed as an all-lines
1575 adjuster who is self-appointed ~~self-employed~~ or appointed and ~~is~~
1576 ~~associated with or~~ employed by an independent adjusting firm or
1577 other independent adjuster, and who undertakes on behalf of an
1578 insurer to ascertain and determine the amount of any claim,
1579 loss, or damage payable under an insurance contract or
1580 undertakes to effect settlement of such claim, loss, or damage.

1581 Section 29. Section 626.856, Florida Statutes, is amended
1582 to read:

1583 626.856 "Company employee adjuster" defined.—A "company
1584 employee adjuster" means ~~is~~ a person licensed as an all-lines
1585 adjuster who is appointed and employed on an insurer's staff of
1586 adjusters or a wholly owned subsidiary of the insurer, and who
1587 undertakes on behalf of such insurer or other insurers under
1588 common control or ownership to ascertain and determine the
1589 amount of any claim, loss, or damage payable under a contract of
1590 insurance, or undertakes to effect settlement of such claim,
1591 loss, or damage.

1592 Section 30. Section 626.858, Florida Statutes, is
1593 repealed.

1594 Section 31. Section 626.8584, Florida Statutes, is amended
1595 to read:

1596 626.8584 "Nonresident all-lines independent adjuster"
1597 defined.—A "nonresident all-lines independent adjuster" means ~~is~~
1598 a person who:

1599 (1) Is not a resident of this state;

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1600 (2) Is a currently licensed as an independent adjuster in
1601 his or her state of residence for all lines of insurance except
1602 life and annuities ~~the type or kinds of insurance for which the~~
1603 ~~licensee intends to adjust claims in this state~~ or, if a
1604 resident of a state that does not license such independent
1605 adjusters, meets the qualifications ~~has passed the department's~~
1606 ~~adjuster examination as prescribed in s. 626.8734(1)(b); and~~

1607 (3) Is licensed as an all-lines adjuster and self-
1608 appointed or appointed and a self-employed independent adjuster
1609 ~~or associated with or~~ employed by an independent adjusting firm
1610 or other independent adjuster, by an insurer admitted to do
1611 business in this state or a wholly-owned subsidiary of an
1612 insurer admitted to do business in this state, or by other
1613 insurers under the common control or ownership of such insurer.

1614 Section 32. Section 626.863, Florida Statutes, is amended
1615 to read:

1616 626.863 Claims referrals to Licensed independent adjusters
1617 ~~required; insurers' responsibility.-~~

1618 (1) An insurer may ~~shall~~ not knowingly refer any claim or
1619 loss for adjustment in this state to any person purporting to be
1620 or acting as an independent adjuster unless the person is
1621 currently licensed as an all-lines adjuster and appointed as an
1622 independent adjuster under this code.

1623 (2) Before referring any claim or loss, the insurer shall
1624 ascertain from the department whether the proposed independent
1625 adjuster is currently licensed as an all-lines adjuster and
1626 appointed as an independent adjuster ~~such~~. Having ~~once~~
1627 ascertained that a particular person is so licensed and

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

Amendment No.

1628 appointed, the insurer may assume that he or she will continue
1629 to be so licensed and appointed until the insurer has knowledge,
1630 or receives information from the department, to the contrary.

1631 (3) This section does not apply to catastrophe or
1632 emergency adjusters as provided ~~for~~ in this part.

1633 Section 33. Section 626.864, Florida Statutes, is amended
1634 to read:

1635 626.864 Adjuster license types.—

1636 (1) A qualified individual may be licensed ~~and appointed~~
1637 as ~~either~~:

1638 (a) A public adjuster; or

1639 (b) An all-lines independent adjuster; ~~or~~

1640 ~~(c) A company employee adjuster.~~

1641 (2) The same individual may ~~shall~~ not be concurrently
1642 licensed appointed as a public adjuster and an all-lines
1643 adjuster to more than one of the adjuster types referred to in
1644 subsection (1).

1645 (3) An all-lines adjuster may be appointed as an
1646 independent adjuster or company employee adjuster, but not both
1647 concurrently.

1648 Section 34. Paragraph (e) is added to subsection (1) of
1649 section 626.865, Florida Statutes, to read:

1650 626.865 Public adjuster's qualifications, bond.—

1651 (1) The department shall issue a license to an applicant
1652 for a public adjuster's license upon determining that the
1653 applicant has paid the applicable fees specified in s. 624.501
1654 and possesses the following qualifications:

Amendment No.

1655 (e) Is licensed as a public adjuster apprentice under s.
1656 626.8651 and complies with the requirements of that license
1657 throughout the licensure period.

1658 Section 35. Section 626.866, Florida Statutes, is amended
1659 to read:

1660 626.866 All-lines adjuster ~~Independent adjuster's~~
1661 qualifications.—The department shall issue ~~a license to an~~
1662 ~~applicant for an~~ all-lines adjuster ~~independent adjuster's~~
1663 license to an applicant upon determining that the applicable
1664 license fee specified in s. 624.501 has been paid and that the
1665 applicant possesses the following qualifications:

1666 (1) Is a natural person at least 18 years of age.

1667 (2) Is a United States citizen or legal alien who
1668 possesses work authorization from the United States Bureau of
1669 Citizenship and Immigration Services and a bona fide resident of
1670 this state.

1671 (3) Is trustworthy and has such business reputation as
1672 would reasonably assure that the applicant will conduct his or
1673 her business as insurance adjuster fairly and in good faith and
1674 without detriment to the public.

1675 (4) Has had sufficient experience, training, or
1676 instruction concerning the adjusting of damage or loss under
1677 insurance contracts, other than life and annuity contracts, is
1678 sufficiently informed as to the terms and the effects of the
1679 provisions of such types of contracts, and possesses adequate
1680 knowledge of the insurance laws of this state relating to such
1681 contracts as to enable and qualify him or her to engage in the
1682 business of insurance adjuster fairly and without injury to the

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1683 public or any member thereof with whom he or she may have
1684 relations as an insurance adjuster and to adjust all claims in
1685 accordance with the policy or contract and the insurance laws of
1686 this state.

1687 (5) Has passed any required written examination or has met
1688 one of the exemptions prescribed under s. 626.221.

1689 Section 36. Section 626.867, Florida Statutes, is
1690 repealed.

1691 Section 37. Section 626.869, Florida Statutes, is amended
1692 to read:

1693 626.869 License, adjusters; continuing education.—

1694 (1) Having An applicant for a license as an all-lines
1695 adjuster qualifies the licensee to adjust may qualify and his or
1696 her license when issued may cover adjusting in any one of the
1697 following classes of insurance:

1698 (a) all lines of insurance except life and annuities.

1699 (b) ~~Motor vehicle physical damage insurance.~~

1700 (c) ~~Property and casualty insurance.~~

1701 (d) ~~Workers' compensation insurance.~~

1702 (e) ~~Health insurance.~~

1703
1704 ~~No examination on workers' compensation insurance or health~~
1705 ~~insurance shall be required for public adjusters.~~

1706 (2) All individuals who on October 1, 1990, hold an
1707 adjuster's license and appointment limited to fire and allied
1708 lines, including marine or casualty or boiler and machinery, may
1709 remain licensed and appointed under the limited license and may
1710 renew their appointment, but a ~~no~~ license or appointment that

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

17111 ~~which~~ has been terminated, not renewed, suspended, or revoked
17112 ~~may not shall~~ be reinstated, and ~~no~~ new or additional licenses
17113 or appointments ~~may not shall~~ be issued.

17114 (3) All individuals who on October 1, 2012, hold an
17115 adjuster's license and appointment limited to motor vehicle
17116 physical damage and mechanical breakdown, property and casualty,
17117 workers' compensation, or health insurance may remain licensed
17118 and appointed under such limited license and may renew their
17119 appointment, but a license that has been terminated, suspended,
17120 or revoked may not be reinstated, and new or additional licenses
17121 may not be issued. The applicant's application for license shall
17122 specify which of the foregoing classes of business the
17123 application for license is to cover.

17124 (4)(a) An Any individual holding a license as a public
17125 adjuster or an all-lines a company employee adjuster must
17126 complete all continuing education requirements as specified in
17127 s. 626.2815. or independent adjuster for 24 consecutive months
17128 or longer must, beginning in his or her birth month and every 2
17129 years thereafter, have completed 24 hours of courses, 2 hours of
17130 which relate to ethics, in subjects designed to inform the
17131 licensee regarding the current insurance laws of this state, so
17132 as to enable him or her to engage in business as an insurance
17133 adjuster fairly and without injury to the public and to adjust
17134 all claims in accordance with the policy or contract and the
17135 laws of this state.

17136 (b) ~~Any individual holding a license as a public adjuster~~
17137 ~~for 24 consecutive months or longer, beginning in his or her~~
17138 ~~birth month and every 2 years thereafter, must have completed 24~~

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1739 ~~hours of courses, 2 hours of which relate to ethics, in subjects~~
1740 ~~designed to inform the licensee regarding the current laws of~~
1741 ~~this state pertaining to all lines of insurance other than life~~
1742 ~~and annuities, the current laws of this state pertaining to the~~
1743 ~~duties and responsibilities of public adjusters as set forth in~~
1744 ~~this part, and the current rules of the department applicable to~~
1745 ~~public adjusters and standard or representative policy forms~~
1746 ~~used by insurers, other than forms for life insurance and~~
1747 ~~annuities, so as to enable him or her to engage in business as~~
1748 ~~an adjuster fairly and without injury to the public and to~~
1749 ~~adjust all claims in accordance with the policy or contract and~~
1750 ~~laws of this state. In order to receive credit for continuing~~
1751 ~~education courses, public adjusters must take courses that are~~
1752 ~~specifically designed for public adjusters and approved by the~~
1753 ~~department, provided, however, no continuing education course~~
1754 ~~shall be required for public adjusters for workers' compensation~~
1755 ~~insurance or health insurance.~~

1756 ~~(c) The department shall adopt rules necessary to~~
1757 ~~implement and administer the continuing education requirements~~
1758 ~~of this subsection. For good cause shown, the department may~~
1759 ~~grant an extension of time during which the requirements imposed~~
1760 ~~by this section may be completed, but such extension of time may~~
1761 ~~not exceed 1 year.~~

1762 ~~(d) A nonresident public adjuster must complete the~~
1763 ~~continuing education requirements provided by this section;~~
1764 ~~provided, a nonresident public adjuster may meet the~~
1765 ~~requirements of this section if the continuing education~~
1766 ~~requirements of the nonresident public adjuster's home state are~~

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1767 ~~determined to be substantially comparable to the requirements of~~
1768 ~~this state's continuing education requirements and if the~~
1769 ~~resident's state recognizes reciprocity with this state's~~
1770 ~~continuing education requirements. A nonresident public adjuster~~
1771 ~~whose home state does not have such continuing education~~
1772 ~~requirements for adjusters, and who is not licensed as a~~
1773 ~~nonresident adjuster in a state that has continuing education~~
1774 ~~requirements and reciprocates with this state, must meet the~~
1775 ~~continuing education requirements of this section.~~

1776 (5) The regulation of continuing education for licensees,
1777 course providers, instructors, school officials, and monitor
1778 groups shall be as provided ~~for~~ in s. 626.2816.

1779 Section 38. Paragraph (c) of subsection (2) of section
1780 626.8697, Florida Statutes, is amended to read:

1781 626.8697 Grounds for refusal, suspension, or revocation of
1782 adjusting firm license.—

1783 (2) The department may, in its discretion, deny, suspend,
1784 revoke, or refuse to continue the license of any adjusting firm
1785 if it finds that any of the following applicable grounds exist
1786 with respect to the firm or any owner, partner, manager,
1787 director, officer, or other person who is otherwise involved in
1788 the operation of the firm:

1789 (c) Violation of an any order or rule of the department,
1790 office, or commission.

1791 Section 39. Subsections (1) and (5) of section 626.872,
1792 Florida Statutes, are amended to read:

1793 626.872 Temporary license.—

Amendment No.

1794 (1) The department may, ~~in its discretion,~~ issue a
1795 temporary license as an all-lines independent adjuster ~~or as a~~
1796 ~~company employee adjuster,~~ subject to the following conditions:

1797 (a) The applicant must be an employee of an adjuster
1798 currently licensed by the department, ~~an employee of an~~
1799 authorized insurer, or ~~an employee of an~~ established adjusting
1800 firm or corporation who ~~which~~ is supervised by a currently
1801 licensed all-lines independent adjuster.

1802 ~~(b) The application must be accompanied by a certificate~~
1803 ~~of employment and a report as to the applicant's integrity and~~
1804 ~~moral character on a form prescribed by the department and~~
1805 ~~executed by the employer.~~

1806 ~~(b)(e)~~ The applicant must be a natural person of at least
1807 18 years of age, ~~must be~~ a bona fide resident of this state,
1808 ~~must be~~ trustworthy, and ~~must~~ have a such business reputation
1809 that ~~as~~ would reasonably ensure ~~assure~~ that the applicant will
1810 conduct his or her business as an adjuster fairly and in good
1811 faith and without detriment to the public.

1812 ~~(c)(d)~~ The applicant's employer is responsible for the
1813 adjustment acts of the temporary ~~any~~ licensee ~~under this~~
1814 ~~section.~~

1815 ~~(d)(e)~~ The applicable license fee ~~specified~~ must be paid
1816 before issuance of the temporary license.

1817 ~~(e)(f)~~ The temporary license is ~~shall be~~ effective for a
1818 ~~period of~~ 1 year, but is subject to earlier termination at the
1819 request of the employer, ~~or~~ if the licensee fails to take an
1820 examination as an all-lines independent adjuster ~~or company~~
1821 ~~employee adjuster~~ within 6 months after issuance of the

Amendment No.

1822 temporary license, or if the temporary license is suspended or
1823 revoked by the department.

1824 (5) The department may ~~shall~~ not issue a temporary license
1825 as an all-lines independent adjuster ~~or as a company employee~~
1826 ~~adjuster~~ to an ~~any~~ individual who has ~~ever~~ held such a license
1827 in this state.

1828 Section 40. Section 626.873, Florida Statutes, is
1829 repealed.

1830 Section 41. Section 626.8734, Florida Statutes, is amended
1831 to read:

1832 626.8734 Nonresident all-lines adjuster license
1833 ~~independent adjuster's~~ qualifications.-

1834 (1) The department shall, ~~upon application therefor,~~ issue
1835 a license to an applicant for a nonresident all-lines adjuster
1836 ~~independent adjuster's~~ license upon determining that the
1837 applicant has paid the applicable license fees required under s.
1838 624.501 and:

1839 (a) Is a natural person at least 18 years of age.

1840 (b) Has passed to the satisfaction of the department a
1841 written Florida all-lines adjuster ~~independent adjuster's~~
1842 examination of the scope prescribed in s. 626.241(6); however,
1843 the requirement for the examination does not apply to ~~any of the~~
1844 ~~following:~~

1845 1. An applicant who is licensed as an all-lines ~~a resident~~
1846 ~~independent~~ adjuster in his or her home state ~~if of residence~~
1847 ~~when~~ that state has entered into ~~requires the passing of a~~
1848 ~~written examination in order to obtain the license and a~~

Amendment No.

1849 reciprocal agreement with the ~~appropriate official of that state~~
1850 ~~has been entered into by the~~ department; or

1851 2. An applicant who is licensed as a nonresident all-lines
1852 independent adjuster in a state other than his or her home state
1853 ~~of residence when the state of licensure requires the passing of~~
1854 ~~a written examination in order to obtain the license and a~~
1855 reciprocal agreement with the appropriate official of the state
1856 of licensure has been entered into with ~~by~~ the department.

1857 (c) Is licensed as an all-lines adjuster and is self-
1858 appointed or appointed and employed by an independent adjusting
1859 firm or other independent adjuster, or is an employee of an
1860 insurer admitted to do business in this state, a wholly-owned
1861 subsidiary of an insurer admitted to do business in this state,
1862 or other insurers under the common control or ownership of such
1863 insurer ~~self-employed or associated with or employed by an~~
1864 ~~independent adjusting firm or other independent adjuster.~~
1865 Applicants licensed as nonresident all-lines independent
1866 adjusters under this section must be appointed as an independent
1867 adjuster or company employee adjuster ~~such~~ in accordance with
1868 ~~the provisions of~~ ss. 626.112 and 626.451. Appointment fees as
1869 ~~in the amount~~ specified in s. 624.501 must be paid to the
1870 department in advance. The appointment of a nonresident
1871 independent adjuster continues ~~shall continue~~ in force until
1872 suspended, revoked, or otherwise terminated, but is subject to
1873 biennial renewal or continuation by the licensee in accordance
1874 with ~~procedures prescribed in~~ s. 626.381 for licensees in
1875 general.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1876 (d) Is trustworthy and has such business reputation as
1877 would reasonably ensure ~~assure~~ that he or she will conduct his
1878 or her business as a nonresident all-lines independent adjuster
1879 fairly and in good faith and without detriment to the public.

1880 (e) Has had sufficient experience, training, or
1881 instruction concerning the adjusting of damages or losses under
1882 insurance contracts, other than life and annuity contracts; is
1883 sufficiently informed as to the terms and effects of ~~the~~
1884 ~~provisions of~~ those types of insurance contracts; and possesses
1885 adequate knowledge of the laws of this state relating to such
1886 contracts as to enable and qualify him or her to engage in the
1887 business of insurance adjuster fairly and without injury to the
1888 public or any member thereof with whom he or she may have
1889 business as an all-lines independent adjuster.

1890 (2) The applicant must ~~shall~~ furnish the following with
1891 his or her application:

1892 (a) A complete set of his or her fingerprints. The
1893 applicant's fingerprints must be certified by an authorized law
1894 enforcement officer.

1895 (b) If currently licensed as an all-lines ~~a resident~~
1896 ~~independent~~ adjuster in the applicant's home state of residence,
1897 a certificate or letter of authorization from the licensing
1898 authority of the applicant's home state of residence, stating
1899 that the applicant holds a current license to act as an all-
1900 lines independent adjuster. ~~The~~ ~~Such~~ certificate or letter of
1901 authorization must be signed by the insurance commissioner, or
1902 his or her deputy or the appropriate licensing official, and
1903 must disclose whether the adjuster has ever had a any license or

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1904 eligibility to hold any license declined, denied, suspended,
1905 revoked, or placed on probation or whether an administrative
1906 fine or penalty has been levied against the adjuster and, if so,
1907 the reason for the action. Such certificate or letter is not
1908 required if the nonresident applicant's licensing status can be
1909 verified through the Producer Database maintained by the
1910 National Association of Insurance Commissioners, its affiliates,
1911 or subsidiaries.

1912 (c) If the applicant's home state ~~of residence~~ does not
1913 require licensure as an all-lines independent adjuster and the
1914 applicant has been licensed as a resident insurance adjuster,
1915 agent, broker, or other insurance representative in his or her
1916 home state of residence or any other state within the past 3
1917 years, a certificate or letter of authorization from the
1918 licensing authority stating that the applicant holds or has held
1919 a license to act as an insurance adjuster, agent, or other
1920 insurance representative. The certificate or letter of
1921 authorization must be signed by the insurance commissioner, or
1922 his or her deputy or the appropriate licensing official, and
1923 must disclose whether the adjuster, agent, or other insurance
1924 representative has ever had a any license or eligibility to hold
1925 any license declined, denied, suspended, revoked, or placed on
1926 probation or whether an administrative fine or penalty has been
1927 levied against the adjuster and, if so, the reason for the
1928 action. Such certificate or letter is not required if the
1929 nonresident applicant's licensing status can be verified through
1930 the Producer Database maintained by the National Association of
1931 Insurance Commissioners, its affiliates, or subsidiaries.

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

Page 70 of 86

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1932 (3) The usual and customary records pertaining to
1933 transactions under the license of a nonresident all-lines
1934 ~~independent~~ adjuster must be retained for at least 3 years after
1935 completion of the adjustment and ~~must~~ be made available in this
1936 state to the department upon request. The failure of a
1937 nonresident all-lines ~~independent~~ adjuster to properly maintain
1938 records and make them available to the department upon request
1939 constitutes grounds for the immediate suspension of the license
1940 issued under this section.

1941 (4) ~~After licensure as a nonresident independent adjuster,~~
1942 As a condition of doing business in this state as a nonresident
1943 independent adjuster, the appointee must ~~licensee must annually~~
1944 ~~on or before January 1, on a form prescribed by the department,~~
1945 submit an affidavit to the department certifying that the
1946 licensee is familiar with and understands the insurance laws and
1947 administrative rules of this state and the provisions of the
1948 contracts negotiated or to be negotiated. Compliance with this
1949 filing requirement is a condition precedent to the issuance,
1950 continuation, reinstatement, or renewal of a nonresident
1951 independent adjuster's appointment.

1952 Section 42. Section 626.8736, Florida Statutes, is amended
1953 to read:

1954 626.8736 Nonresident independent or public adjusters;
1955 service of process.—

1956 (1) Each licensed nonresident ~~independent or public~~
1957 adjuster or all-lines adjuster appointed as an independent
1958 adjuster shall appoint the Chief Financial Officer and his or
1959 her successors in office as his or her attorney to receive

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Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1960 service of legal process issued against such ~~the nonresident~~
1961 ~~independent or public~~ adjuster in this state, upon causes of
1962 action arising within this state out of transactions under his
1963 license and appointment. Service upon the Chief Financial
1964 Officer as attorney constitutes ~~shall constitute~~ effective legal
1965 service upon the nonresident independent or public adjuster.

1966 (2) The appointment of the Chief Financial Officer for
1967 service of process is ~~shall be~~ irrevocable ~~for~~ as long as there
1968 could be any cause of action against the nonresident ~~independent~~
1969 ~~or public~~ adjuster or all-lines adjuster appointed as an
1970 independent adjuster arising out of his or her insurance
1971 transactions in this state.

1972 (3) Duplicate copies of legal process against the
1973 nonresident ~~independent or public~~ adjuster or all-lines adjuster
1974 appointed as an independent adjuster shall be served upon the
1975 Chief Financial Officer by a person competent to serve a
1976 summons.

1977 (4) Upon receiving the service, the Chief Financial
1978 Officer shall ~~forthwith~~ send one of the copies of the process,
1979 by registered mail with return receipt requested, to the
1980 defendant nonresident ~~independent or public~~ adjuster or all-
1981 lines adjuster appointed as an independent adjuster at his or
1982 her last address of record with the department.

1983 (5) The Chief Financial Officer shall keep a record of the
1984 day and hour of service upon him or her of all legal process
1985 received under this section.

1986 Section 43. Subsection (1) of section 626.874, Florida
1987 Statutes, is amended to read:

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Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

1988 626.874 Catastrophe or emergency adjusters.—

1989 (1) In the event of a catastrophe or emergency, the
1990 department may issue a license, for the purposes and under the
1991 conditions ~~which it shall fix~~ and for the period of emergency as
1992 it shall determine, to persons who are residents or nonresidents
1993 of this state, who are at least 18 years of age, who are United
1994 States citizens or legal aliens who possess work authorization
1995 from the United States Bureau of Citizenship and Immigration
1996 Services, and who are not licensed adjusters under this part but
1997 who have been designated and certified to it as qualified to act
1998 as adjusters by all-lines independent resident adjusters, ~~or~~ by
1999 an authorized insurer, or by a licensed general lines agent to
2000 adjust claims, losses, or damages under policies or contracts of
2001 insurance issued by such insurers. The fee for the license is
2002 ~~shall be~~ as provided in s. 624.501(12)(c).

2003 Section 44. Subsection (1) of section 626.875, Florida
2004 Statutes, is amended to read:

2005 626.875 Office and records.—

2006 (1) Each appointed ~~Every licensed~~ independent adjuster and
2007 ~~every licensed public adjuster~~ must ~~shall have and~~ maintain ~~in~~
2008 ~~this state~~ a place of business in this state which is accessible
2009 to the public and keep therein the usual and customary records
2010 pertaining to transactions under the license. This provision
2011 does ~~shall~~ not be deemed to prohibit maintenance of such an
2012 office in the home of the licensee.

2013 Section 45. Section 626.876, Florida Statutes, is amended
2014 to read:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

2015 626.876 Exclusive employment; public adjusters,
2016 independent adjusters.-

2017 (1) An ~~No~~ individual licensed and appointed as a public
2018 adjuster may not ~~shall~~ be ~~se~~ employed during the same period by
2019 more than one public adjuster or public adjuster firm or
2020 corporation.

2021 (2) An ~~No~~ individual licensed as an all-lines adjuster and
2022 appointed as an independent adjuster may not ~~shall~~ be ~~se~~
2023 employed during the same period by more than one independent
2024 adjuster or independent adjuster firm or corporation.

2025 Section 46. Subsections (5), (6), and (7) of section
2026 626.927, Florida Statutes, are amended to read:

2027 626.927 Licensing of surplus lines agent.-

2028 ~~(5) The applicant must file and thereafter maintain the~~
2029 ~~bond as required under s. 626.928.~~

2030 ~~(5)(6)~~ Examinations as to surplus lines, as required under
2031 subsections (1) and (2), are ~~shall~~ be subject to the provisions
2032 of part I as applicable to applicants for licenses in general.
2033 ~~No such examination shall be required as to persons who held a~~
2034 ~~Florida surplus lines agent's license as of January 1, 1959,~~
2035 ~~except when examinations subsequent to issuance of an initial~~
2036 ~~license are provided for in general under part I.~~

2037 ~~(6)(7)~~ An ~~Any~~ individual who has been licensed by the
2038 department as a surplus lines agent as provided in this section
2039 may be subsequently appointed without additional written
2040 examination if his or her application for appointment is filed
2041 with the department within 48 months after ~~next following~~ the
2042 date of cancellation or expiration of the prior appointment. The

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

2043 department may, ~~in its discretion,~~ require an any individual to
2044 take and successfully pass an examination as for original
2045 issuance of license as a condition precedent to the
2046 reinstatement or continuation of the licensee's current license
2047 or reinstatement or continuation of the licensee's appointment.

2048 Section 47. Section 626.928, Florida Statutes, is
2049 repealed.

2050 Section 48. Section 626.933, Florida Statutes, is amended
2051 to read:

2052 626.933 Collection of tax and service fee.—If the tax or
2053 service fee payable by a surplus lines agent under the ~~this~~
2054 Surplus Lines Law is not so paid within the time prescribed, it
2055 ~~the same~~ shall be recoverable in a suit brought by the
2056 department against the surplus lines agent ~~and the surety or~~
2057 ~~sureties on the bond filed by the surplus lines agent under s.~~
2058 ~~626.928~~. The department may authorize the Florida Surplus Lines
2059 Service Office to file suit on its behalf. All costs and
2060 expenses incurred in a suit brought by the office which are not
2061 recoverable from the agent or surety shall be borne by the
2062 office.

2063 Section 49. Subsection (1) of section 626.935, Florida
2064 Statutes, is amended to read:

2065 626.935 Suspension, revocation, or refusal of surplus
2066 lines agent's license.—

2067 (1) The department shall deny an application for, suspend,
2068 revoke, or refuse to renew the appointment of a surplus lines
2069 agent and all other licenses and appointments held by the
2070 licensee under this code, on ~~upon~~ any of the following grounds:

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

2071 (a) Removal of the licensee's office from the licensee's
2072 state of residence.

2073 (b) Removal of the accounts and records of his or her
2074 surplus lines business from this state or the licensee's state
2075 of residence during the period when such accounts and records
2076 are required to be maintained under s. 626.930.

2077 (c) Closure of the licensee's office for ~~a period of~~ more
2078 than 30 consecutive days.

2079 (d) Failure to make and file his or her affidavit or
2080 reports when due as required by s. 626.931.

2081 (e) Failure to pay the tax or service fee on surplus lines
2082 premiums, as provided ~~for~~ in the ~~this~~ Surplus Lines Law.

2083 ~~(f) Failure to maintain the bond as required by s.~~
2084 ~~626.928.~~

2085 (f)~~(g)~~ Suspension, revocation, or refusal to renew or
2086 continue the license or appointment as a general lines agent,
2087 service representative, or managing general agent.

2088 (g)~~(h)~~ Lack of qualifications as for an original surplus
2089 lines agent's license.

2090 (h)~~(i)~~ Violation of this Surplus Lines Law.

2091 (i)~~(j)~~ For any other applicable cause for which the
2092 license of a general lines agent could be suspended, revoked, or
2093 refused under s. 626.611 or s. 626.621.

2094 Section 50. Paragraph (b) of subsection (1) of section
2095 627.952, Florida Statutes, is amended to read:

2096 627.952 Risk retention and purchasing group agents.—

2097 (1) Any person offering, soliciting, selling, purchasing,
2098 administering, or otherwise servicing insurance contracts,

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

2099 certificates, or agreements for any purchasing group or risk
2100 retention group to any resident of this state, either directly
2101 or indirectly, by the use of mail, advertising, or other means
2102 of communication, shall obtain a license and appointment to act
2103 as a resident general lines agent, if a resident of this state,
2104 or a nonresident general lines agent if not a resident. Any such
2105 person shall be subject to all requirements of the Florida
2106 Insurance Code.

2107 (b) Any person required to be licensed and appointed under
2108 ~~by~~ this subsection, in order to place business through Florida
2109 eligible surplus lines carriers, must shall, if a resident of
2110 this state, be licensed and appointed as a surplus lines agent.
2111 ~~Any such person,~~ If not a resident of this state, such person
2112 must shall be licensed and appointed as a surplus lines agent in
2113 her or his state of residence and ~~shall~~ file and ~~thereafter~~
2114 maintain a fidelity bond in favor of the people of the State of
2115 Florida executed by a surety company admitted in this state and
2116 payable to the State of Florida; ~~provided,~~ however, ~~any~~
2117 ~~activities carried out by such nonresident is pursuant to this~~
2118 ~~part shall be~~ limited to the provision of insurance for
2119 purchasing groups. The bond must shall be continuous in form and
2120 ~~maintained~~ in the amount of not less than \$50,000, aggregate
2121 liability set out in s. 626.928. The bond must shall remain in
2122 force and effect until the surety is released from liability by
2123 the department or until the bond is canceled by the surety. The
2124 surety may cancel the bond and be released from further
2125 liability ~~thereunder~~ upon 30 days' prior written notice to the
2126 department. The cancellation does shall not affect any liability

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

Page 77 of 86

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

2127 incurred or accrued ~~thereunder~~ before the termination of the 30-
2128 day period. Upon receipt of a notice of cancellation, the
2129 department shall immediately notify the agent.

2130 Section 51. Subsections (1) and (2) of section 635.051,
2131 Florida Statutes, are amended to read:

2132 635.051 Licensing and appointment of mortgage guaranty
2133 insurance agents.--

2134 (1) Effective October 1, 2012, a person may not transact
2135 mortgage guaranty insurance unless licensed and appointed as a
2136 credit insurance agent in accordance with the applicable
2137 provisions of the insurance code. Mortgage guaranty licenses
2138 held by persons on October 1, 2012, shall be transferred to a
2139 credit insurance agent license. Persons who wish to obtain a new
2140 license identification card that reflects this change must
2141 submit the \$5 fee as prescribed in s. 624.501(15). Agents of
2142 mortgage guaranty insurers shall be licensed and appointed and
2143 shall be subject to the same qualifications and requirements
2144 applicable to general lines agents under the laws of this state,
2145 except that:

2146 ~~(a) Particular preliminary specialized education or~~
2147 ~~training is not required of an applicant for such an agent's~~
2148 ~~license, and continuing education is not required for renewal of~~
2149 ~~the agent's appointment if, as part of the application for~~
2150 ~~license and appointment, the insurer guarantees that the~~
2151 ~~applicant will receive the necessary training to enable him or~~
2152 ~~her properly to hold himself or herself out to the public as a~~
2153 ~~mortgage guaranty insurance agent and if the department, in its~~
2154 ~~discretion, accepts such guaranty;~~

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

2155 ~~(b) The agent's license and appointment shall be a limited~~
2156 ~~license, limited to the handling of mortgage guaranty insurance~~
2157 ~~only; and~~

2158 ~~(c) An examination may be required of an applicant for~~
2159 ~~such a license if the insurer fails to provide the guaranty~~
2160 ~~described in paragraph (a).~~

2161 (2) Any general lines agent licensed under chapter 626 is
2162 qualified to represent a mortgage guaranty insurer without
2163 additional licensure examination.

2164 Section 52. Subsection (1) of section 648.34, Florida
2165 Statutes, is amended to read:

2166 648.34 Bail bond agents; qualifications.—

2167 (1) An application for licensure as a bail bond agent must
2168 be submitted on forms prescribed by the department. The
2169 application must include the applicant's full name, date of
2170 birth, social security number, residence, business, and mailing
2171 addresses, contact telephone numbers, including a business
2172 telephone number, and e-mail address.

2173 Section 53. Subsection (2) of section 648.38, Florida
2174 Statutes, is amended to read:

2175 648.38 Licensure examination for bail bond agents; time;
2176 place; fees; scope.—

2177 (2) The department or a person designated by the
2178 department shall provide ~~mail-written~~ notice of the time and
2179 place of the examination to each applicant for licensure
2180 required to take an examination who will be eligible to take the
2181 examination as of the examination date. The notice shall be e-
2182 mailed ~~so mailed, postage prepaid, and addressed to the~~

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

2183 applicant at the e-mail ~~his or her~~ address shown on his or her
2184 application for licensure ~~or at such other address as requested~~
2185 ~~by the applicant in writing filed with the department prior to~~
2186 ~~the mailing of the notice.~~ Notice shall be deemed given when so
2187 mailed.

2188 Section 54. Section 648.385, Florida Statutes, is amended
2189 to read:

2190 648.385 Continuing education required; application;
2191 exceptions; requirements; penalties.-

2192 (1) The purpose of this section is to establish
2193 requirements and standards for continuing education courses for
2194 persons authorized to write bail bonds in this state.

2195 (2)(a) Each person subject to ~~the provisions of this~~
2196 chapter must complete a minimum of 14 hours of continuing
2197 education courses every 2 years as specified in s. 626.2815 ~~in~~
2198 ~~courses approved by the department. Compliance with continuing~~
2199 ~~education requirements is a condition precedent to the issuance,~~
2200 ~~continuation, or renewal of any appointment subject to the~~
2201 ~~provisions of this chapter.~~

2202 (b) ~~A person teaching any approved course of instruction~~
2203 ~~or lecturing at any approved seminar and attending the entire~~
2204 ~~course or seminar shall qualify for the same number of classroom~~
2205 ~~hours as would be granted to a person taking and successfully~~
2206 ~~completing such course, seminar, or program. Credit shall be~~
2207 ~~limited to the number of hours actually taught unless a person~~
2208 ~~attends the entire course or seminar.~~

2209 (c) ~~For good cause shown, the department may grant an~~
2210 ~~extension of time during which the requirements imposed by this~~

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

2211 ~~section may be completed, but such extension of time may not~~
2212 ~~exceed 1 year.~~

2213 ~~(3)(a) Any bail related course developed or sponsored by~~
2214 ~~any authorized insurer or recognized bail bond agents'~~
2215 ~~association, or any independent study program of instruction,~~
2216 ~~subject to approval by the department, qualifies for the~~
2217 ~~equivalency of the number of classroom hours assigned to such~~
2218 ~~course by the department. However, unless otherwise provided in~~
2219 ~~this section, continuing education credit may not be credited~~
2220 ~~toward meeting the requirements of this section unless the~~
2221 ~~course is provided by classroom instruction or results in a~~
2222 ~~monitored examination.~~

2223 ~~(b) Each person or entity sponsoring a course for~~
2224 ~~continuing education credit must furnish, within 30 days after~~
2225 ~~completion of the course, in a form satisfactory to the~~
2226 ~~department or its designee, a written and certified roster~~
2227 ~~showing the name and license number of all persons successfully~~
2228 ~~completing such course and requesting credit, accompanied by the~~
2229 ~~required fee. The department shall refuse to issue, continue, or~~
2230 ~~renew the appointment of any bail bond agent who has not had the~~
2231 ~~continuing education requirements certified unless the agent has~~
2232 ~~been granted an extension by the department.~~

2233 Section 55. Section 648.421, Florida Statutes, is amended
2234 to read:

2235 648.421 Notice of change of address or telephone number.—
2236 Each licensee under this chapter shall notify in writing the
2237 department, insurer, managing general agent, and the clerk of
2238 each court in which the licensee is registered within 10 working

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

2239 days after a change in the licensee's principal business address
2240 or telephone number. The licensee shall also notify the
2241 department within 10 working days after a change of the name,
2242 address, or telephone number of each agency or firm for which he
2243 or she writes bonds and any change in the licensee's name, home
2244 address, e-mail address, or telephone number.

2245 Section 56. Except as otherwise expressly provided in this
2246 act, this act shall take effect October 1, 2012.

2251 **T I T L E A M E N D M E N T**

2252 Remove the entire title and insert:

2253 A bill to be entitled

2254 An act relating to insurance agents and adjusters; amending s.
2255 624.501, F.S.; deleting the title insurer administrative
2256 surcharge for a licensed title insurance agency; amending s.
2257 624.505, F.S.; deleting a requirement that an insurer pay an
2258 agent tax for each county in which an agent represents the
2259 insurer and has a place of business; amending s. 626.015, F.S.;
2260 revising the definitions of "adjuster" and "home state";
2261 amending s. 626.0428, F.S.; revising provisions relating to who
2262 may bind insurance coverage; amending s. 626.171, F.S.;
2263 providing that an applicant is responsible for the information
2264 in an application even if completed by a third party; requiring
2265 an application to include a statement about the method used to
2266 meet certain requirements; amending s. 626.191, F.S.; revising

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

2267 provisions relating to when an applicant may apply for a license
2268 after an initial application is denied by the Department of
2269 Financial Services; amending s. 626.221, F.S.; revising
2270 provisions relating to license examinations; conforming
2271 provisions relating to all-lines adjusters; deleting an
2272 exemption from examination for certain adjusters; amending s.
2273 626.231, F.S.; providing for submitting an application for
2274 examination on a designee's website; amending s. 626.241, F.S.;
2275 revising the scope of the examination for an all-lines adjuster;
2276 amending s. 626.251, F.S.; providing for e-mailing notices of
2277 examinations; amending s. 626.281, F.S.; specifying how many
2278 times an applicant may take an examination during a year;
2279 amending s. 626.2815, F.S.; revising provisions relating to
2280 continuing education requirements; providing that persons on
2281 active military duty may seek a waiver; providing for an update
2282 course and the contents of such course; deleting requirements
2283 relating specifically to certain types of insurance; providing
2284 education requirements for bail bond agents and public
2285 adjusters; eliminating the continuing education advisory board;
2286 amending s. 626.292, F.S.; conforming provisions to changes made
2287 by the act relating to all-lines adjusters; amending s. 626.311,
2288 F.S.; conforming provisions to changes made by the act relating
2289 to limited licenses; amending s. 626.321, F.S.; revising
2290 provisions relating to limited licenses; prohibiting the future
2291 issuance of new limited licenses for motor vehicle physical
2292 damage and mechanical breakdown insurance; combining limited
2293 licenses relating to credit insurance; specifying events covered
2294 by crop hail and multiple-peril crop insurance; revising in-

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

2295 transit and storage personal property insurance to create a
2296 limited license for portable electronics insurance; amending s.
2297 626.342, F.S.; clarifying that the prohibition relating to the
2298 furnishing of supplies to unlicensed agents applies to all
2299 unlicensed agents; amending s. 626.381, F.S.; revising
2300 provisions relating to the reporting of administrative actions;
2301 amending s. 626.536, F.S.; clarifying requirements for reporting
2302 administrative actions taken against a licensee; amending s.
2303 626.551, F.S.; shortening the time within which a licensee must
2304 report to the department a change in certain information;
2305 authorizing the Department of Financial Services to adopt rules
2306 relating to notification of a change of address; amending s.
2307 626.621, F.S.; adding failure to comply with child support
2308 requirements as grounds for action against a license; amending
2309 s. 626.641, F.S.; clarifying provisions relating to the
2310 suspension or revocation of a license or appointment; amending
2311 s. 626.651, F.S.; revising provisions relating to the suspension
2312 or revocation of licenses; amending ss. 626.730 and 626.732,
2313 F.S.; revising provisions relating to the purpose of the general
2314 lines and personal lines license and certain requirements
2315 related to general lines and personal lines agents; conforming
2316 provisions to changes made by the act relating to limited
2317 licenses; amending s. 626.8411, F.S.; revising requirements and
2318 exemptions relating to title insurance agents or agencies;
2319 creating s. 626.8548, F.S.; defining the term "all-lines
2320 adjuster"; amending s. 626.855, F.S.; revising the definition of
2321 "independent adjuster"; amending s. 626.856, F.S.; revising the
2322 definition of "company employee adjuster"; repealing s. 626.858,

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

2323 F.S., relating to defining "nonresident company employee
2324 adjuster"; amending s. 626.8584, F.S.; revising the definition
2325 of "nonresident all-lines adjuster"; amending s. 626.863, F.S.;
2326 conforming provisions to changes made by the act relating to
2327 all-lines adjusters; amending s. 626.864, F.S.; revising
2328 provisions relating to adjuster license types; amending s.
2329 626.865, F.S.; requiring an applicant for public adjuster to be
2330 licensed as a public adjuster apprentice; amending s. 626.866,
2331 F.S.; conforming provisions to changes made by the act relating
2332 to all-lines adjusters; repealing s. 626.867, F.S., relating to
2333 qualifications for company employee adjusters; amending s.
2334 626.869, F.S.; revising provisions relating to an all-lines
2335 adjuster license; ceasing the issuance of certain adjuster
2336 licenses; revising continuing education requirements; amending
2337 s. 626.8697, F.S.; revising provisions relating to the violation
2338 of rules resulting in the suspension or revocation of an
2339 adjuster's license; amending s. 626.872, F.S.; conforming
2340 provisions to changes made by the act relating to all-lines
2341 adjusters; repealing s. 626.873, F.S., relating to licensure for
2342 nonresident company employee adjusters; amending s. 626.8734,
2343 F.S.; amending provisions relating to nonresident all-lines
2344 adjusters; providing for verifying an applicant's status through
2345 the National Association of Insurance Commissioners' Producer
2346 Database; amending ss. 626.8736, 626.874, 626.875, and 626.876,
2347 F.S.; conforming provisions to changes made by the act relating
2348 to all-lines adjusters; amending s. 626.927, F.S.; deleting a
2349 requirement that a licensed surplus lines agent maintain a bond;
2350 repealing s. 626.928, F.S., relating to a surplus lines agent's

418273 - h0725-strike.docx

Published On: 1/10/2012 6:50:06 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 725 (2012)

Amendment No.

2351 bond; amending ss. 626.933, 626.935, and 627.952, F.S.;

2352 conforming cross-references; amending s. 635.051, F.S.;

2353 requiring persons transacting mortgage guaranty insurance to be

2354 licensed and appointed as a credit insurance agent; amending s.

2355 648.38, F.S.; revising the notice of examination requirements

2356 for bail bond agents; amending s. 648.34, F.S.; requiring

2357 application information for bail bond agents; amending s.

2358 648.385, F.S.; revising continuing education courses for bail

2359 bond agents, to conform to changes made by the act; amending s.

2360 648.421, F.S., requiring notification by bail bond agents;

2361 providing effective dates.

INSURANCE & BANKING SUBCOMMITTEE

PCS for HB 119 by Rep. Boyd Motor Vehicle Insurance

AMENDMENT SUMMARY January 11, 2012

Amendment 1 by Rep. Julien (Lines 536-543): Increases the time within which a person injured in a motor vehicle accident can seek medical treatment that will be covered by emergency care coverage policies from 72 hours to 14 days after the accident.

Amendment 2 by Rep. Julien (Lines 1109-1169): Removes language relating to examinations under oath (EUO), and that makes compliance with all policy terms, including submission to an EUO, a condition precedent to the payment of emergency care coverage benefits.

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCS for HB 119 (2012)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing: Insurance & Banking
2 Subcommittee

3 Representative Julien offered the following:

4
5 **Amendment**

6 Remove lines 536-543 and insert:

7 2. Emergency services and care rendered within 14 days
8 after the motor vehicle accident in a hospital licensed pursuant
9 to chapter 395.

10 3. Services and care rendered when an insured is admitted
11 to a hospital as defined in s. 395.002(12), within 14 days after
12 the motor vehicle accident.

13 4. Services and care rendered to an insured who is
14 determined more than 14 days after the motor vehicle accident

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing: Insurance & Banking
 2 Subcommittee
 3 Representative Julien offered the following:

Amendment (with title amendment)

Remove lines 1109-1169 and insert:

7 (a) Every employer shall, if a request is made by an
 8 insurer providing emergency care coverage under ss. 627.748-
 9 627.7491 against whom a claim has been made, furnish forthwith,
 10 in a form approved by the office, a sworn statement of the
 11 earnings, since the time of the bodily injury and for a
 12 reasonable period before the injury, of the person upon whose
 13 injury the claim is based.

14
 15
 16 -----
 17 **T I T L E A M E N D M E N T**

18 Remove lines 111-130 and insert:

19 deny reimbursement; providing