

1 A bill to be entitled

2 An act relating to title insurance; amending s.  
3 626.8412, F.S.; specifying that only a licensed and  
4 appointed agent or agency is authorized to sell title  
5 insurance; amending s. 626.8413, F.S.; providing  
6 additional limitations on the name that a title agent  
7 or agency may adopt; providing applicability; amending  
8 s. 626.8417, F.S.; conforming provisions to changes  
9 made by the act; amending s. 626.8418, F.S.; revising  
10 the application requirements for a title insurance  
11 agency license; deleting certain bonding requirements  
12 and procedures; amending s. 626.8419, F.S.; conforming  
13 provisions to changes made by the act; amending s.  
14 626.8437, F.S.; revising terms relating to grounds for  
15 actions against a licensee or appointee; amending s.  
16 627.778, F.S.; limiting the remedies available for the  
17 breach of duty arising from a title insurance  
18 contract; amending s. 627.782, F.S.; revising the date  
19 by which certain information relating to title  
20 insurance rates must be submitted to the Office of  
21 Insurance Regulation by title insurance agencies and  
22 insurers; amending s. 627.7845, F.S.; revising terms  
23 relating to determination of insurability and  
24 preservation of evidence of title search and  
25 examination; providing an effective date.  
26

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

28

29 Section 1. Paragraph (a) of subsection (1) of section  
30 626.8412, Florida Statutes, is amended to read:

31 626.8412 License and appointments required.—

32 (1) Except as otherwise provided in this part:

33 (a) Title insurance may be sold only by a licensed and  
34 appointed title insurance agent employed by a licensed and  
35 appointed title insurance agency or employed by a title insurer.

36 Section 2. Section 626.8413, Florida Statutes, is amended  
37 to read:

38 626.8413 Title insurance agents; certain names  
39 prohibited.—After October 1, 2014 ~~1985~~, a title insurance agent  
40 or title insurance agency may as defined in s. 626.841 shall not  
41 adopt a name that ~~which~~ contains the words "title insurance,"  
42 "title company," "title guaranty," or "title guarantee," unless  
43 such words are followed by the word "agent" or "agency" in the  
44 same size and type as the words preceding it ~~them~~. This section  
45 does not apply to a title insurer acting as an agent for another  
46 title insurer if both insurers hold active certificates of  
47 authority to transact title insurance business in this state and  
48 both are acting under the names designated on such certificates.

49 Section 3. Section 626.8417, Florida Statutes, is amended  
50 to read:

51 626.8417 Title insurance agent licensure; exemptions.—

52 (1) A person may not act as a title insurance agent ~~as~~

53 ~~defined in s. 626.841~~ until a valid title insurance agent's  
54 license has been issued to that person by the department.

55 (2) An application for license as a title insurance agent  
56 shall be filed with the department on ~~printed~~ forms furnished by  
57 the department.

58 (3) The department may ~~shall~~ not grant or issue a license  
59 as a title insurance agent to an ~~any~~ individual who is found by  
60 the department ~~it~~ to be untrustworthy or incompetent, who does  
61 not meet the qualifications for examination specified in s.  
62 626.8414, or who does not meet the following qualifications:

63 (a) Within the 4 years immediately preceding the date of  
64 the application for license, the applicant must have completed a  
65 40-hour classroom course in title insurance, 3 hours of which  
66 are ~~shall be~~ on the subject matter of ethics, as approved by the  
67 department, or must have had at least 12 months of experience in  
68 responsible title insurance duties, under the supervision of a  
69 licensed title insurance agent, title insurer, or attorney while  
70 working in the title insurance business as a substantially full-  
71 time, bona fide employee of a title insurance agency, title  
72 insurance agent, title insurer, or attorney who conducts real  
73 estate closing transactions and issues title insurance policies  
74 but who is exempt from licensure under subsection (4) ~~pursuant~~  
75 ~~to paragraph (4)(a)~~. If an applicant's qualifications are based  
76 upon the periods of employment at responsible title insurance  
77 duties, the applicant must submit, with the license application  
78 ~~for license on a form prescribed by the department, an~~ the

79 affidavit of the applicant and of the employer affirming ~~setting~~  
 80 ~~forth~~ the period of such employment, that the employment was  
 81 substantially full time, and giving a brief abstract of the  
 82 nature of the duties performed by the applicant.

83 (b) The applicant must have passed any examination for  
 84 licensure required under s. 626.221.

85 (4) ~~(a)~~ Title insurers or attorneys duly admitted to  
 86 practice law in this state and in good standing with The Florida  
 87 Bar are exempt from the provisions of this chapter relating ~~with~~  
 88 ~~regard~~ to title insurance licensing and appointment  
 89 requirements.

90 (5) ~~(b)~~ An insurer may designate a corporate officer of the  
 91 insurer to occasionally issue and countersign binders,  
 92 commitments, and policies of title insurance ~~policies, or~~  
 93 ~~guarantees of title~~. The ~~A~~ designated officer is exempt from the  
 94 provisions of this chapter relating ~~with regard~~ to title  
 95 insurance licensing and appointment requirements while the  
 96 officer is acting within the scope of the designation.

97 (6) ~~(c)~~ If an attorney owns ~~or attorneys own~~ a corporation  
 98 or other legal entity that ~~which~~ is doing business as a title  
 99 insurance agency, other than an entity engaged in the active  
 100 practice of law, the agency must be licensed and appointed as a  
 101 title insurance agent.

102 Section 4. Section 626.8418, Florida Statutes, is amended  
 103 to read:

104 626.8418 Application for title insurance agency license.—

105 Before ~~Prior to~~ doing business in this state as a title  
 106 insurance agency, ~~a title insurance agency must meet all of the~~  
 107 ~~following requirements:~~

108 ~~(1)~~ the applicant must file with the department an  
 109 application for a license as a title insurance agency, on  
 110 ~~printed~~ forms furnished by the department, which ~~that~~ includes  
 111 all of the following:

112 (1) ~~(a)~~ The name of each majority owner, partner, officer,  
 113 and director of the title insurance agency.

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

116 (3) ~~(c)~~ The name of the title insurance agency and its  
 117 principal business address.

118 (4) ~~(d)~~ The location of each title insurance agency office  
 119 and the name under which each agency office conducts or will  
 120 conduct business.

121 (5) ~~(e)~~ The name of each title insurance agent to be in  
 122 full-time charge of a title insurance ~~an~~ agency office and  
 123 specification of which office.

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

128 ~~(2) The applicant must have deposited with the department~~  
 129 ~~securities of the type eligible for deposit under s. 625.52 and~~  
 130 ~~having at all times a market value of not less than \$35,000. In~~

131 ~~place of such deposit, the title insurance agency may post a~~  
132 ~~surety bond of like amount payable to the department for the~~  
133 ~~benefit of any appointing insurer damaged by a violation by the~~  
134 ~~title insurance agency of its contract with the appointing~~  
135 ~~insurer. If a properly documented claim is timely filed with the~~  
136 ~~department by a damaged title insurer, the department may remit~~  
137 ~~an appropriate amount of the deposit or the proceeds that are~~  
138 ~~received from the surety in payment of the claim. The required~~  
139 ~~deposit or bond must be made by the title insurance agency, and~~  
140 ~~a title insurer may not provide the deposit or bond directly or~~  
141 ~~indirectly on behalf of the title insurance agency. The deposit~~  
142 ~~or bond must secure the performance by the title insurance~~  
143 ~~agency of its duties and responsibilities under the issuing~~  
144 ~~agency contracts with each title insurer for which it is~~  
145 ~~appointed. The agency may exchange or substitute other~~  
146 ~~securities of like quality and value for securities on deposit,~~  
147 ~~may receive the interest and other income accruing on such~~  
148 ~~securities, and may inspect the deposit at all reasonable times.~~  
149 ~~Such deposit or bond must remain unimpaired as long as the title~~  
150 ~~insurance agency continues in business in this state and until 1~~  
151 ~~year after termination of all title insurance agency~~  
152 ~~appointments held by the title insurance agency. The title~~  
153 ~~insurance agency is entitled to the return of the deposit or~~  
154 ~~bond together with accrued interest after such year has passed,~~  
155 ~~if no claim has been made against the deposit or bond. If a~~  
156 ~~surety bond is unavailable generally, the department may adopt~~

157 ~~rules for alternative methods to comply with this subsection.~~  
 158 ~~With respect to such alternative methods for compliance, the~~  
 159 ~~department must be guided by the past business performance and~~  
 160 ~~good reputation and character of the proposed title insurance~~  
 161 ~~agency. A surety bond is deemed to be unavailable generally if~~  
 162 ~~the prevailing annual premium exceeds 25 percent of the~~  
 163 ~~principal amount of the bond.~~

164 Section 5. Paragraphs (a), (b), and (c) of subsection (1)  
 165 of section 626.8419, Florida Statutes, are amended to read:

166 626.8419 Appointment of title insurance agency.—

167 (1) The title insurer engaging or employing the title  
 168 insurance agency must file with the department, on forms  
 169 furnished by the department, an application certifying that the  
 170 proposed title insurance agency meets all of the following  
 171 requirements:

172 (a) The title insurance agency ~~has~~ must have obtained a  
 173 fidelity bond in an amount of at least, ~~not less than~~ \$50,000,  
 174 acceptable to the insurer appointing the agency. If a fidelity  
 175 bond is unavailable generally, the department shall ~~must~~ adopt  
 176 rules for alternative methods to comply with this paragraph.

177 (b) The title insurance agency must have obtained errors  
 178 and omissions insurance in an amount acceptable to the insurer  
 179 appointing the agency. The amount of the coverage must be at  
 180 least ~~may not be less than~~ \$250,000 per claim and an aggregate  
 181 limit with a deductible no greater than \$10,000. If errors and  
 182 omissions insurance is unavailable generally, the department

183 shall ~~must~~ adopt rules for alternative methods that ~~to~~ comply  
 184 with this paragraph.

185 (c) ~~Notwithstanding s. 626.8418(2),~~ The title insurance  
 186 agency must have obtained a surety bond in an amount of at least  
 187 ~~not less than~~ \$35,000 made payable to the title insurer or title  
 188 insurers appointing the agency. The surety bond must be for the  
 189 benefit of any appointing title insurer damaged by a violation  
 190 by the title insurance agency of its contract with the  
 191 appointing title insurer. If the surety bond is payable to  
 192 multiple title insurers, the surety bond must provide that each  
 193 title insurer is to be notified if ~~in the event~~ a claim is made  
 194 upon the surety bond or the bond is terminated.

195 Section 6. Subsections (3) and (4) of section 626.8437,  
 196 Florida Statutes, are amended to read:

197 626.8437 Grounds for denial, suspension, revocation, or  
 198 refusal to renew license or appointment.—The department shall  
 199 deny, suspend, revoke, or refuse to renew or continue the  
 200 license or appointment of any title insurance agent or agency,  
 201 and it shall suspend or revoke the eligibility to hold a license  
 202 or appointment of such person, if it finds that as to the  
 203 applicant, licensee, appointee, or any principal thereof, any  
 204 one or more of the following grounds exist:

205 (3) Willful misrepresentation of any title insurance  
 206 policy, ~~guarantee of title, binder,~~ or commitment, or willful  
 207 deception with regard to any such policy, ~~guarantee, binder,~~ or  
 208 commitment, done either in person or by any form of



209 dissemination of information or advertising.

210 (4) Demonstrated lack of fitness or trustworthiness to  
 211 represent a title insurer in the issuance of its commitments or  
 212 ~~, binders,~~ policies of title insurance, ~~or guarantees of title.~~

213 Section 7. Subsection (3) is added to section 627.778,  
 214 Florida Statutes, to read:

215 627.778 Limit of risk.—

216 (3) Only contractual remedies are available for a breach  
 217 of a duty which arises solely from the terms of a contract of  
 218 title insurance or an instrument issued pursuant to s.  
 219 627.786(3).

220 Section 8. Subsection (8) of section 627.782, Florida  
 221 Statutes, is amended to read:

222 627.782 Adoption of rates.—

223 (8) Each title insurance agency and insurer licensed to do  
 224 business in this state and each insurer's direct or retail  
 225 business in this state shall maintain and submit information,  
 226 including revenue, loss, and expense data, as the office  
 227 determines necessary to assist in the analysis of title  
 228 insurance premium rates, title search costs, and the condition  
 229 of the title insurance industry in this state. Such ~~This~~  
 230 information shall ~~must~~ be transmitted to the office annually by  
 231 May ~~March~~ 31 of the year after the reporting year. The  
 232 commission shall adopt rules relating to ~~regarding~~ the  
 233 collection and analysis of the data from the title insurance  
 234 industry.

235 Section 9. Subsection (2) of section 627.7845, Florida  
236 Statutes, is amended to read:

237 627.7845 Determination of insurability required;  
238 preservation of evidence of title search and examination.—

239 (2) The title insurer shall cause the evidence of the  
240 determination of insurability and the reasonable title search or  
241 search of the records of a Uniform Commercial Code filing office  
242 to be preserved and retained in its files or in the files of its  
243 title insurance agent or agency for at least ~~a period of not~~  
244 ~~less than~~ 7 years after the title insurance commitment or, title  
245 insurance policy, ~~or guarantee of title~~ was issued. The title  
246 insurer or its agent or agency must produce the evidence  
247 required to be maintained under ~~by~~ this subsection at its  
248 offices upon the demand of the office. Instead of retaining the  
249 original evidence, the title insurer or its ~~the title insurance~~  
250 agent or agency may, in the regular course of business,  
251 establish a system under which all or part of the evidence is  
252 recorded, copied, or reproduced by any photographic,  
253 photostatic, microfilm, microcard, miniature photographic, or  
254 other process that ~~which~~ accurately reproduces or forms a  
255 durable medium for reproducing the original.

256 Section 10. This act shall take effect July 1, 2014.