

By the Committee on Banking and Insurance; and Senator DiCeglie

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1 A bill to be entitled
2 An act relating to consumer protection; amending s.
3 494.001, F.S.; revising the definition of the term
4 "branch office"; defining the term "remote location";
5 authorizing a licensee under ch. 494, F.S., to allow
6 loan originators to work from remote locations if
7 specified conditions are met; amending s. 494.0067,
8 F.S.; specifying that mortgage lenders may transact
9 business from branch offices and remote locations;
10 providing a requirement for operating remote
11 locations; creating s. 501.2042, F.S.; defining terms;
12 providing requirements for organizers of crowd-funding
13 campaigns related to disasters and for crowd-funding
14 platforms; amending s. 520.23, F.S.; revising
15 disclosure requirements for agreements governing the
16 sale or lease of a distributed energy generation
17 system; amending s. 560.111, F.S.; providing a
18 criminal penalty; amending s. 560.309, F.S.;
19 prohibiting a licensee under ch. 560, F.S., from
20 cashing corporate checks for certain payees where the
21 aggregate face amount exceeds a specified amount;
22 amending s. 626.551, F.S.; revising the timeframe in
23 which an insurance representative must notify the
24 Department of Financial Services of certain changes in
25 information; amending s. 626.602, F.S.; providing
26 applicability of provisions relating to the
27 disapproval of insurance agency names to adjusting
28 firm names; revising grounds on which such names may
29 be disapproved by the department; deleting an obsolete

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30 provision; amending s. 626.854, F.S.; revising the
31 definition of the term "public adjuster"; prohibiting
32 public adjusters from contracting with anyone other
33 than the named insured without the insured's written
34 consent; specifying a penalty for noncompliance;
35 specifying timeframes in which an insured or a
36 claimant may cancel a public adjuster's contract
37 without penalty or contract under certain
38 circumstances; revising requirements for public
39 adjusters' contracts; specifying requirements for
40 public adjusters if the insurer, within a certain
41 timeframe, pays or commits in writing to pay to the
42 insured the policy limit of the policy; specifying
43 limitations on commissions received by public
44 adjusters; amending s. 626.860, F.S.; providing that
45 an attorney's exemption from public adjuster licensure
46 requirements does not apply to certain persons;
47 amending s. 626.875, F.S.; revising recordkeeping
48 requirements for appointed independent adjusters and
49 licensed public adjusters; amending s. 626.8796, F.S.;
50 revising requirements for public adjuster contracts;
51 specifying requirements for and prohibitions on public
52 adjusters relating to such contracts; providing
53 construction; authorizing the department to adopt
54 rules; amending s. 626.8797, F.S.; revising a fraud
55 statement requirement in proof-of-loss statements;
56 amending s. 626.9541, F.S.; adding an unfair or
57 deceptive insurance act relating to health insurance
58 policies; amending s. 627.4025, F.S.; revising the

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59 definition of the term "hurricane," and defining the
60 term "hurricane deductible," as used in policies
61 providing residential coverage; amending s. 627.4133,
62 F.S.; revising conditions that apply to a specified
63 notice requirement for, and a limitation on, the
64 cancellation or termination of certain insurance
65 policies; amending s. 627.4554, F.S.; revising
66 legislative purpose; revising applicability; revising
67 and defining terms; revising and specifying duties of
68 insurers and agents relating to the recommendation and
69 sale of annuity investments; specifying comparable
70 standards that comply with such requirements;
71 specifying agent training requirements; providing and
72 revising construction; authorizing the department to
73 adopt certain forms by rule; amending s. 634.041,
74 F.S.; specifying authorized methods of paying claims
75 for motor vehicle service agreements; amending s.
76 634.401, F.S.; revising the definition of the term
77 "manufacturer" for purposes of part III of ch. 634,
78 F.S.; amending s. 634.406, F.S.; deleting a debt
79 obligation rating requirement for certain service
80 warranty associations or parent corporations;
81 providing effective dates.

82
83 Be It Enacted by the Legislature of the State of Florida:

84
85 Section 1. Present subsections (35) through (38) of section
86 494.001, Florida Statutes, are redesignated as subsections (36)
87 through (39), respectively, a new subsection (35) is added to

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88 that section, and subsection (3) of that section is amended, to
89 read:

90 494.001 Definitions.—As used in this chapter, the term:

91 (3) "Branch office" means a location, other than a mortgage
92 broker's or mortgage lender's principal place of business or
93 remote location:

94 (a) The address of which appears on business cards,
95 stationery, or advertising used by the licensee in connection
96 with business conducted under this chapter;

97 (b) At which the licensee's name, advertising or
98 promotional materials, or signage suggests that mortgage loans
99 are originated, negotiated, funded, or serviced; or

100 (c) At which mortgage loans are originated, negotiated,
101 funded, or serviced by a licensee.

102 (35) "Remote location" means a location, other than a
103 principal place of business or a branch office, at which a loan
104 originator of a licensee may conduct business. A licensee may
105 allow loan originators to work from remote locations if:

106 (a) The licensee has written policies and procedures for
107 supervision of loan originators working from remote locations.

108 (b) Access to company platforms and customer information is
109 in accordance with the licensee's comprehensive written
110 information security plan.

111 (c) An in-person customer interaction does not occur at a
112 loan originator's residence unless such residence is a licensed
113 location.

114 (d) Physical records are not maintained at a remote
115 location.

116 (e) Customer interactions and conversations about consumers

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117 will be in compliance with federal and state information
118 security requirements, including applicable provisions under the
119 Gramm-Leach-Bliley Act and the Safeguards Rule established by
120 the Federal Trade Commission, set forth at 16 C.F.R. part 314,
121 as such requirements may be amended from time to time.

122 (f) A loan originator working at a remote location accesses
123 the company's secure systems, including a cloud-based system,
124 directly from any out-of-office device such as a laptop, phone,
125 desktop computer, or tablet, through a virtual private network
126 or comparable system that ensures secure connectivity and that
127 requires passwords or other forms of authentication to access.

128 (g) The licensee ensures that appropriate security updates,
129 patches, or other alterations to the security of all devices
130 used at remote locations are installed and maintained.

131 (h) The licensee is able to remotely lock or erase company-
132 related contents of any device or otherwise remotely limit all
133 access to a company's secure systems.

134 (i) The registry's record of a loan originator who works
135 from a remote location designates the principal place of
136 business as the loan originator's registered location, or the
137 loan originator has elected a licensed branch office as a
138 registered location.

139 Section 2. Subsection (1) of section 494.0067, Florida
140 Statutes, is amended to read:

141 494.0067 Requirements of mortgage lenders.—

142 (1) A mortgage lender that makes mortgage loans on real
143 estate in this state shall transact business from a principal
144 place of business, branch office, or remote location. Each
145 principal place of business, ~~and each~~ branch office, and remote

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146 location shall be operated under the full charge, control, and
147 supervision of the licensee pursuant to this part.

148 Section 3. Section 501.2042, Florida Statutes, is created
149 to read:

150 501.2042 Unlawful acts and practices by online crowd-
151 funding campaigns.—

152 (1) As used in this section, the term:

153 (a) "Crowd-funding campaign" means an online fundraising
154 initiative that is intended to receive monetary donations from
155 donors and is created by an organizer in the interest of a
156 beneficiary.

157 (b) "Crowd-funding platform" means an entity doing business
158 in this state which provides an online medium for the creation
159 and facilitation of a crowd-funding campaign.

160 (c) "Disaster" means any natural, technological, or civil
161 emergency that occurs in this state and that causes damage of
162 sufficient severity and magnitude to result in a declaration of
163 a state of emergency by a county, the Governor, or the President
164 of the United States.

165 (d) "Organizer" means a person who:

166 1. Resides or is domiciled in this state; and

167 2. Has an account on a crowd-funding platform and has
168 created a crowd-funding campaign either as a beneficiary or on
169 behalf of a beneficiary, regardless of whether the beneficiary
170 or the crowd-funding campaign has received donations.

171 (2) When an organizer arranges a crowd-funding campaign
172 related to a disaster, the organizer must produce to the crowd-
173 funding platform a complete and accurate accounting of all
174 donations received and expended by the crowd-funding campaign.

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175 The crowd-funding platform must publish all received accountings
176 on its website.

177 Section 4. Section 520.23, Florida Statutes, is amended to
178 read:

179 520.23 Disclosures required.—Each agreement governing the
180 sale or lease of a distributed energy generation system shall,
181 at a minimum, include a written statement printed in at least
182 12-point type that is separate from the agreement, is separately
183 acknowledged by the buyer or lessee, and includes the following
184 information and disclosures, if applicable:

185 (1) The name, address, telephone number, and e-mail address
186 of the buyer or lessee.

187 (2) The name, address, telephone number, e-mail address,
188 and valid state contractor license number of the person
189 responsible for installing the distributed energy generation
190 system.

191 (3) The name, address, telephone number, e-mail address,
192 and valid state contractor license number of the distributed
193 energy generation system maintenance provider, if different from
194 the person responsible for installing the distributed energy
195 generation system.

196 (4) The customer contact center phone number for the
197 Department of Business and Professional Regulation.

198 (5)~~(4)~~ A written statement indicating whether the
199 distributed energy generation system is being purchased or
200 leased.

201 (a) If the distributed energy generation system will be
202 leased, the written statement must include a disclosure in
203 substantially the following form: "You are entering into an

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204 agreement to lease a distributed energy generation system. You
205 will lease (not own) the system installed on your property.”

206 (b) If the distributed energy generation system will be
207 purchased, the written statement must include a disclosure in
208 substantially the following form: “You are entering into an
209 agreement to purchase a distributed energy generation system.
210 You will own (not lease) the system installed on your property.”

211 (6)~~(5)~~ The total cost to be paid by the buyer or lessee,
212 including any interest, installation fees, document preparation
213 fees, service fees, or other fees.

214 (7)~~(6)~~ A payment schedule, including any amounts owed at
215 contract signing, at the commencement of installation, at the
216 completion of installation, and any final payments. If the
217 distributed energy generation system is being leased, the
218 written statement must include the frequency and amount of each
219 payment due under the lease and the total estimated lease
220 payments over the term of the lease.

221 (8)~~(7)~~ Each state or federal tax incentive or rebate, if
222 any, relied upon by the seller in determining the price of the
223 distributed energy generation system.

224 (9)~~(8)~~ A description of the assumptions used to calculate
225 any savings estimates provided to the buyer or lessee, and if
226 such estimates are provided, a statement in substantially the
227 following form: “It is important to understand that future
228 electric utility rates are estimates only. Your future electric
229 utility rates may vary.”

230 (10)~~(9)~~ A description of any one-time or recurring fees,
231 including, but not limited to, estimated system removal fees,
232 maintenance fees, Internet connection fees, and automated

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233 clearinghouse fees. If late fees may apply, the description must
234 describe the circumstances triggering such late fees.

235 (11)~~(10)~~ A statement notifying the buyer whether the
236 distributed energy generation system is being financed and, if
237 so, a statement in substantially the following form: "If your
238 system is financed, carefully read any agreements and/or
239 disclosure forms provided by your lender. This statement does
240 not contain the terms of your financing agreement. If you have
241 any questions about your financing agreement, contact your
242 finance provider before signing a contract."

243 (12)~~(11)~~ A statement notifying the buyer whether the seller
244 is assisting in arranging financing of the distributed energy
245 generation system and, if so, a statement in substantially the
246 following form: "If your system is financed, carefully read any
247 agreements and/or disclosure forms provided by your lender. This
248 statement does not contain the terms of your financing
249 agreement. If you have any questions about your financing
250 agreement, contact your finance provider before signing a
251 contract."

252 (13)~~(12)~~ A provision notifying the buyer or lessee of the
253 right to rescind the agreement for a period of at least 3
254 business days after the agreement is signed. This subsection
255 does not apply to a contract to sell or lease a distributed
256 energy generation system in a solar community in which the
257 entire community has been marketed as a solar community and all
258 of the homes in the community are intended to have a distributed
259 energy generation system, or a solar community in which the
260 developer has incorporated solar technology for purposes of
261 meeting the Florida Building Code in s. 553.73.

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262 (14)~~(13)~~ A description of the distributed energy generation
263 system design assumptions, including the make and model of the
264 major components, system size, estimated first-year energy
265 production, and estimated annual energy production decreases,
266 including the overall percentage degradation over the estimated
267 life of the distributed energy generation system, and the status
268 of utility compensation for excess energy generated by the
269 system at the time of contract signing. A seller who provides a
270 warranty or guarantee of the energy production output of the
271 distributed energy generation system may provide a description
272 of such warranty or guarantee in lieu of a description of the
273 system design and components.

274 (15)~~(14)~~ A description of any performance or production
275 guarantees.

276 (16)~~(15)~~ A description of the ownership and transferability
277 of any tax credits, rebates, incentives, or renewable energy
278 certificates associated with the distributed energy generation
279 system, including a disclosure as to whether the seller will
280 assign or sell any associated renewable energy certificates to a
281 third party.

282 (17)~~(16)~~ A statement in substantially the following form:
283 "You are responsible for property taxes on property you own.
284 Consult a tax professional to understand any tax liability or
285 eligibility for any tax credits that may result from the
286 purchase of your distributed energy generation system."

287 (18)~~(17)~~ The approximate start and completion dates for the
288 installation of the distributed energy generation system.

289 (19)~~(18)~~ A disclosure as to whether maintenance and repairs
290 of the distributed energy generation system are included in the

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291 purchase price.

292 (20)~~(19)~~ A disclosure as to whether any warranty or
293 maintenance obligations related to the distributed energy
294 generation system may be sold or transferred by the seller to a
295 third party and, if so, a statement in substantially the
296 following form: "Your contract may be assigned, sold, or
297 transferred without your consent to a third party who will be
298 bound to all the terms of the contract. If a transfer occurs,
299 you will be notified if this will change the address or phone
300 number to use for system maintenance or repair requests."

301 (21)~~(20)~~ If the distributed energy generation system will
302 be purchased, a disclosure notifying the buyer of the
303 requirements for interconnecting the system to the utility
304 system.

305 (22)~~(21)~~ A disclosure notifying the buyer or lessee of the
306 party responsible for obtaining interconnection approval.

307 (23)~~(22)~~ A description of any roof warranties.

308 (24) A statement in substantially the following form: "You
309 should consider the age and remaining life of your roof prior to
310 installing a distributed energy generation system. Replacement
311 of your roof may require reinstallation of the distributed energy
312 generation system."

313 (25)~~(23)~~ A disclosure notifying the lessee whether the
314 seller will insure a leased distributed energy generation system
315 against damage or loss and, if applicable, the circumstances
316 under which the seller will not insure the system against damage
317 or loss.

318 (26)~~(24)~~ A statement, ~~if applicable,~~ in substantially the
319 following form: "You are responsible for obtaining insurance

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320 policies or coverage for any loss of or damage to the system.
321 Consult an insurance professional to understand how to protect
322 against the risk of loss or damage to the system."

323 (27) A statement in substantially the following form:
324 "Placing a distributed energy generation system on your roof may
325 impact your future insurance premiums. You are responsible for
326 contacting your insurance carrier, prior to entering into a
327 purchase or lease agreement, to confirm whether your current
328 policy or coverage will need to be modified upon installing the
329 distributed energy generation system onto your dwelling."

330 (28)~~(25)~~ A disclosure notifying the buyer or lessee whether
331 the seller or lessor will place a lien on the buyer's or
332 lessee's home or other property as a result of entering into a
333 purchase or lease agreement for the distributed energy
334 generation system.

335 (29)~~(26)~~ A disclosure notifying the buyer or lessee whether
336 the seller or lessor will file a fixture filing or a State of
337 Florida Uniform Commercial Code Financing Statement Form (UCC-1)
338 on the distributed energy generation system.

339 (30)~~(27)~~ A disclosure identifying whether the agreement
340 contains any restrictions on the buyer's or lessee's ability to
341 modify or transfer ownership of a distributed energy generation
342 system, including whether any modification or transfer is
343 subject to review or approval by a third party.

344 (31)~~(28)~~ A disclosure as to whether the lease agreement may
345 be transferred to a purchaser upon sale of the home or real
346 property to which the system is affixed, and any conditions for
347 such transfer.

348 (32)~~(29)~~ A blank section that allows the seller to provide

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349 additional relevant disclosures or explain disclosures made
350 elsewhere in the disclosure form.

351
352 The requirement to provide a written statement under this
353 section may be satisfied by the electronic delivery of a
354 document within 24 hours after execution of the written
355 statement containing the required statement if the intended
356 recipient of the electronic document affirmatively acknowledges
357 its receipt. An electronic document satisfies the font and other
358 formatting standards required for the written statement if the
359 format and the relative size of characters of the electronic
360 document are reasonably similar to those required in the written
361 document or if the information is otherwise displayed in a
362 reasonably conspicuous manner.

363 Section 5. Subsection (6) of section 560.111, Florida
364 Statutes, is amended to read:

365 560.111 Prohibited acts.—

366 (6) A person who knowingly and willfully violates s.
367 560.309(11) or s. 560.310(2) (d) commits a felony of the third
368 degree, punishable as provided in s. 775.082, s. 775.083, or s.
369 775.084.

370 Section 6. Subsection (11) is added to section 560.309,
371 Florida Statutes, to read:

372 560.309 Conduct of business.—

373 (11) A licensee may not cash corporate checks where the
374 aggregate face amount of all corporate checks cashed for each
375 payee exceeds 200 percent of the payee's workers' compensation
376 policy coverage amount during the same dates as the workers'
377 compensation policy coverage period.

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378 Section 7. Section 626.551, Florida Statutes, is amended to
379 read:

380 626.551 Notice of change of address, name.—A licensee must
381 notify the department, in writing, within 5 ~~30~~ days after a
382 change of name, residence address, principal business street
383 address, mailing address, contact telephone numbers, including a
384 business telephone number, or e-mail address. A licensee who has
385 moved his or her principal place of residence and principal
386 place of business from this state shall have his or her license
387 and all appointments immediately terminated by the department.
388 Failure to notify the department within the required time shall
389 result in a fine not to exceed \$250 for the first offense and a
390 fine of at least \$500 or suspension or revocation of the license
391 pursuant to s. 626.611, s. 626.6115, s. 626.621, or s. 626.6215
392 for a subsequent offense. The department may adopt rules to
393 administer and enforce this section.

394 Section 8. Section 626.602, Florida Statutes, is amended to
395 read:

396 626.602 Insurance agency and adjusting firm names;
397 disapproval.—The department may disapprove the use of any true
398 or fictitious name, other than the bona fide natural name of an
399 individual, by any insurance agency or adjusting firm on any of
400 the following grounds:

401 (1) The name interferes with or is too similar to a name
402 already filed and in use by another agency, adjusting firm, or
403 insurer.

404 (2) The use of the name may mislead the public in any
405 respect.

406 (3) The name states or implies that the agency or adjusting

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407 firm is an insurer, motor club, hospital service plan, state or
408 federal agency, charitable organization, or entity that
409 primarily provides advice and counsel rather than sells or
410 solicits insurance, settles claims, or is entitled to engage in
411 insurance activities not permitted under licenses held or
412 applied for. This provision does not prohibit the use of the
413 word "state" or "states" in the name of the agency. The use of
414 the word "state" or "states" in the name of an agency or
415 adjusting firm does not in and of itself imply that the agency
416 or adjusting firm is a state agency.

417 (4) The name contains the word "Medicare" or "Medicaid." ~~An~~
418 ~~insurance agency whose name contains the word "Medicare" or~~
419 ~~"Medicaid" but which is licensed as of July 1, 2021, may~~
420 ~~continue to use that name until June 30, 2023, provided that the~~
421 ~~agency's license remains valid. If the agency's license expires~~
422 ~~or is suspended or revoked, the agency may not be relicensed~~
423 ~~using that name. Licenses for agencies with names containing~~
424 ~~either of these words automatically expire on July 1, 2023,~~
425 ~~unless these words are removed from the name.~~

426 Section 9. Section 626.854, Florida Statutes, is amended to
427 read:

428 626.854 "Public adjuster" defined; prohibitions.—The
429 Legislature finds that it is necessary for the protection of the
430 public to regulate public insurance adjusters and to prevent the
431 unauthorized practice of law.

432 (1) A "public adjuster" is any person, except a duly
433 licensed attorney at law as exempted under s. 626.860, who, for
434 money, commission, or any other thing of value, directly or
435 indirectly prepares, completes, or files an insurance claim for

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436 an insured or third-party claimant, regardless of how that
437 person describes or presents his or her services, or who, for
438 money, commission, or any other thing of value, acts on behalf
439 of, or aids an insured or third-party claimant in negotiating
440 for or effecting the settlement of a claim or claims for loss or
441 damage covered by an insurance contract, regardless of how that
442 person describes or presents his or her services, or who
443 advertises for employment as an adjuster of such claims. The
444 term also includes any person who, for money, commission, or any
445 other thing of value, directly or indirectly solicits,
446 investigates, or adjusts such claims on behalf of a public
447 adjuster, an insured, or a third-party claimant. The term does
448 not include a person who photographs or inventories damaged
449 personal property or business personal property or a person
450 performing duties under another professional license, if such
451 person does not otherwise solicit, adjust, investigate, or
452 negotiate for or attempt to effect the settlement of a claim.

453 (2) This definition does not apply to:

454 (a) A licensed health care provider or employee thereof who
455 prepares or files a health insurance claim form on behalf of a
456 patient.

457 (b) A licensed health insurance agent who assists an
458 insured with coverage questions, medical procedure coding
459 issues, balance billing issues, understanding the claims filing
460 process, or filing a claim, as such assistance relates to
461 coverage under a health insurance policy.

462 (c) A person who files a health claim on behalf of another
463 and does so without compensation.

464 (3) A public adjuster may not give legal advice or act on

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465 behalf of or aid any person in negotiating or settling a claim
466 relating to bodily injury, death, or noneconomic damages.

467 (4) For purposes of this section, the term "insured"
468 includes only the policyholder and any beneficiaries named or
469 similarly identified in the policy.

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

475 (6) (a) When entering a contract for adjuster services after
476 July 1, 2023, a public adjuster may not contract with anyone
477 other than the named insured unless the named insured provides
478 written consent, subsequent to entering a contract for public
479 adjusting services.

480 (b) If a public adjuster contracts with a third party in
481 settling the named insured's claim without first obtaining the
482 insured's written consent, payment of the third party's fees
483 must be made from the public adjuster's fee.

484 (7) ~~(6)~~ An insured or claimant may cancel a public
485 adjuster's contract to adjust a claim without penalty or
486 obligation within 10 days after the date on which the contract
487 is executed. If the contract was entered into based on events
488 that are the subject of a declaration of a state of emergency by
489 the Governor, an insured or claimant may cancel the public
490 adjuster's contract to adjust a claim without penalty or
491 obligation within 30 days after the date of the event or 10 days
492 after the date on which the contract is executed, whichever is
493 longer. The public adjuster's contract must contain the

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494 following language in minimum 18-point bold type immediately
495 before the space reserved in the contract for the signature of
496 the insured or claimant: "You, the insured, may cancel this
497 contract for any reason without penalty or obligation to you
498 within 10 days after the date of this contract. If this contract
499 was entered into based on events that are the subject of a
500 declaration of a state of emergency by the Governor, you may
501 cancel this contract for any reason without penalty or
502 obligation to you within 30 days after the date of the event or
503 10 days after the date on which the contract is executed,
504 whichever is longer. You may also cancel the contract without
505 penalty or obligation to you if I, as your public adjuster, fail
506 to provide you and your insurer a copy of a written estimate
507 within 60 days of the execution of the contract in accordance
508 with s. 626.854(14)(b), Florida Statutes." The ~~by providing~~
509 notice of cancellation shall be provided to ...(name of public
510 adjuster)..., submitted in writing and sent by certified mail,
511 return receipt requested, or other form of mailing that provides
512 proof thereof, at the address specified in the contract.

513 ~~(8)(7)~~ It is an unfair and deceptive insurance trade
514 practice pursuant to s. 626.9541 for a public adjuster or any
515 other person to circulate or disseminate any advertisement,
516 announcement, or statement containing any assertion,
517 representation, or statement with respect to the business of
518 insurance which is untrue, deceptive, or misleading.

519 (a) The following statements, made in any public adjuster's
520 advertisement or solicitation, are considered deceptive or
521 misleading:

522 1. A statement or representation that invites an insured

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523 policyholder to submit a claim when the policyholder does not
524 have covered damage to insured property.

525 2. A statement or representation that invites an insured
526 policyholder to submit a claim by offering monetary or other
527 valuable inducement.

528 3. A statement or representation that invites an insured
529 policyholder to submit a claim by stating that there is "no
530 risk" to the policyholder by submitting such claim.

531 4. A statement or representation, or use of a logo or
532 shield, that implies or could mistakenly be construed to imply
533 that the solicitation was issued or distributed by a
534 governmental agency or is sanctioned or endorsed by a
535 governmental agency.

536 (b) For purposes of this paragraph, the term "written
537 advertisement" includes only newspapers, magazines, flyers, and
538 bulk mailers. The following disclaimer, which is not required to
539 be printed on standard size business cards, must be added in
540 bold print and capital letters in typeface no smaller than the
541 typeface of the body of the text to all written advertisements
542 by a public adjuster:

543
544 "THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD
545 A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU
546 ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU
547 MAY DISREGARD THIS ADVERTISEMENT."

548
549 (9)~~(8)~~ A public adjuster, a public adjuster apprentice, or
550 any person or entity acting on behalf of a public adjuster or
551 public adjuster apprentice may not give or offer to give a

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552 monetary loan or advance to a client or prospective client.

553 ~~(10)(9)~~ A public adjuster, public adjuster apprentice, or
554 any individual or entity acting on behalf of a public adjuster
555 or public adjuster apprentice may not give or offer to give,
556 directly or indirectly, any article of merchandise having a
557 value in excess of \$25 to any individual for the purpose of
558 advertising or as an inducement to entering into a contract with
559 a public adjuster.

560 (11) If the insurer, not later than 14 days after the date
561 on which the loss is reported to the insurer, either pays or
562 commits in writing to pay to the insured the policy limit of the
563 insurance policy, the public adjuster shall:

564 (a) Inform the insured that, due to the insurer's payment
565 or commitment to pay the policy limit, the loss recovery amount
566 might not be increased by the insurer.

567 (b) Not receive a commission consisting of a percentage of
568 the total amount of the timely paid or committed policy limits.

569 (c) Be entitled only up to \$1,000 from the insured for any
570 time spent or expenses incurred on the claim by the public
571 adjuster, until the claim is paid or the insured receives a
572 written commitment to pay from the insurer.

573 (12) Except as provided in paragraphs (11)(b) and (c), if
574 the public adjuster enters into a contract with an insured or
575 claimant after the insured or claimant unsuccessfully negotiates
576 an insurance claim payment and the public adjuster is successful
577 in obtaining a higher insurance claim payment, the public
578 adjuster shall receive a commission consisting of 10 percent of
579 the difference between the initial insurance claim payment offer
580 made to the insured and the final insurance claim payment

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581 obtained through the work of the public adjuster after entering
582 into the contract with the insured or claimant.

583 (13) (a) ~~(10) (a)~~ If a public adjuster enters into a contract
584 with an insured or claimant to reopen a claim or file a
585 supplemental claim that seeks additional payments for a claim
586 that has been previously paid in part or in full or settled by
587 the insurer, the public adjuster may not charge, agree to, or
588 accept from any source compensation, payment, commission, fee,
589 or any other thing of value based on a previous settlement or
590 previous claim payments by the insurer for the same cause of
591 loss. The charge, compensation, payment, commission, fee, or any
592 other thing of value must be based only on the claim payments or
593 settlements paid to the insured, exclusive of attorney fees and
594 costs, obtained through the work of the public adjuster after
595 entering into the contract with the insured or claimant.
596 Compensation for the reopened or supplemental claim may not
597 exceed 20 percent of the reopened or supplemental claim payment.
598 In no event shall the contracts described in this paragraph
599 exceed the limitations in paragraph (b).

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

603 1. Ten percent of the amount of insurance claim payments or
604 settlements, exclusive of attorney fees and costs, paid to the
605 insured by the insurer for claims based on events that are the
606 subject of a declaration of a state of emergency by the
607 Governor. This provision applies to claims made during the year
608 after the declaration of emergency. After that year, the
609 limitations in subparagraph 2. apply.

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610 2. Twenty percent of the amount of insurance claim payments
611 or settlements, exclusive of attorney fees and costs, paid to
612 the insured by the insurer for claims that are not based on
613 events that are the subject of a declaration of a state of
614 emergency by the Governor.

615 (c) Insurance claim payments made by the insurer do not
616 include policy deductibles, and public adjuster compensation may
617 not be based on the deductible portion of a claim.

618 (d) Public adjuster compensation may not be based on
619 amounts attributable to additional living expenses, unless such
620 compensation is affirmatively agreed to in a separate agreement
621 that includes a disclosure in substantially the following form:
622 "I agree to retain and compensate the public adjuster for
623 adjusting my additional living expenses and securing payment
624 from my insurer for amounts attributable to additional living
625 expenses payable under the policy issued on my (home/mobile
626 home/condominium unit)."

627 (e) Public adjuster rate of compensation may not be
628 increased based solely on the fact that the claim is litigated.

629 (f) Any maneuver, shift, or device through which the limits
630 on compensation set forth in this subsection are exceeded is a
631 violation of this chapter punishable as provided under s.
632 626.8698.

633 (14) (a) ~~(11)~~ Each public adjuster must provide to the
634 claimant or insured a written estimate of the loss to assist in
635 the submission of a proof of loss or any other claim for payment
636 of insurance proceeds within 60 days after the date of the
637 contract. The written estimate must include an itemized, per-
638 unit estimate of the repairs, including itemized information on

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639 equipment, materials, labor, and supplies, in accordance with
640 accepted industry standards. The public adjuster shall retain
641 such written estimate for at least 5 years and shall make the
642 estimate available to the claimant or insured, the insurer, and
643 the department upon request.

644 (b) An insured may cancel the contract with no additional
645 penalties or fees charged by the public adjuster if such an
646 estimate is not provided within 60 days after executing the
647 contract, subject to the cancellation notice requirement in this
648 section.

649 (15)~~(12)~~ A public adjuster, public adjuster apprentice, or
650 any person acting on behalf of a public adjuster or apprentice
651 may not accept referrals of business from any person with whom
652 the public adjuster conducts business if there is any form or
653 manner of agreement to compensate the person, directly or
654 indirectly, for referring business to the public adjuster. A
655 public adjuster may not compensate any person, except for
656 another public adjuster, directly or indirectly, for the
657 principal purpose of referring business to the public adjuster.

658 (16)~~(13)~~ A company employee adjuster, independent adjuster,
659 attorney, investigator, or other persons acting on behalf of an
660 insurer that needs access to an insured or claimant or to the
661 insured property that is the subject of a claim must provide at
662 least 48 hours' notice to the insured or claimant, public
663 adjuster, or legal representative before scheduling a meeting
664 with the claimant or an onsite inspection of the insured
665 property. The insured or claimant may deny access to the
666 property if the notice has not been provided. The insured or
667 claimant may waive the 48-hour notice.

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668 (17)~~(14)~~ The public adjuster must ensure that prompt notice
669 is given of the claim to the insurer, the public adjuster's
670 contract is provided to the insurer, the property is available
671 for inspection of the loss or damage by the insurer, and the
672 insurer is given an opportunity to interview the insured
673 directly about the loss and claim. The insurer must be allowed
674 to obtain necessary information to investigate and respond to
675 the claim.

676 (a) The insurer may not exclude the public adjuster from
677 its in-person meetings with the insured. The insurer shall meet
678 or communicate with the public adjuster in an effort to reach
679 agreement as to the scope of the covered loss under the
680 insurance policy. The public adjuster shall meet or communicate
681 with the insurer in an effort to reach agreement as to the scope
682 of the covered loss under the insurance policy. This section
683 does not impair the terms and conditions of the insurance policy
684 in effect at the time the claim is filed.

685 (b) A public adjuster may not restrict or prevent an
686 insurer, company employee adjuster, independent adjuster,
687 attorney, investigator, or other person acting on behalf of the
688 insurer from having reasonable access at reasonable times to any
689 insured or claimant or to the insured property that is the
690 subject of a claim.

691 (c) A public adjuster may not act or fail to reasonably act
692 in any manner that obstructs or prevents an insurer or insurer's
693 adjuster from timely conducting an inspection of any part of the
694 insured property for which there is a claim for loss or damage.
695 The public adjuster representing the insureds may be present for
696 the insurer's inspection, but if the unavailability of the

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697 public adjuster otherwise delays the insurer's timely inspection
698 of the property, the public adjuster or the insureds must allow
699 the insurer to have access to the property without the
700 participation or presence of the public adjuster or insureds in
701 order to facilitate the insurer's prompt inspection of the loss
702 or damage.

703 (18)~~(15)~~ A licensed contractor under part I of chapter 489,
704 or a subcontractor of such licensee, may not advertise, solicit,
705 offer to handle, handle, or perform public adjuster services as
706 provided in subsection (1) unless licensed and compliant as a
707 public adjuster under this chapter. The prohibition against
708 solicitation does not preclude a contractor from suggesting or
709 otherwise recommending to a consumer that the consumer consider
710 contacting his or her insurer to determine if the proposed
711 repair is covered under the consumer's insurance policy, except
712 as it relates to solicitation prohibited in s. 489.147. In
713 addition, the contractor may discuss or explain a bid for
714 construction or repair of covered property with the residential
715 property owner who has suffered loss or damage covered by a
716 property insurance policy, or the insurer of such property, if
717 the contractor is doing so for the usual and customary fees
718 applicable to the work to be performed as stated in the contract
719 between the contractor and the insured.

720 (19)~~(16)~~ A public adjuster shall not acquire any interest
721 in salvaged property, except with the written consent and
722 permission of the insured through a signed affidavit.

723 (20)~~(17)~~ A public adjuster, a public adjuster apprentice,
724 or a person acting on behalf of an adjuster or apprentice may
725 not enter into a contract or accept a power of attorney that

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726 vests in the public adjuster, the public adjuster apprentice, or
727 the person acting on behalf of the adjuster or apprentice the
728 effective authority to choose the persons or entities that will
729 perform repair work in a property insurance claim or provide
730 goods or services that will require the insured or third-party
731 claimant to expend funds in excess of those payable to the
732 public adjuster under the terms of the contract for adjusting
733 services.

734 (21)~~(18)~~ Subsections (5)-(20) ~~(5)-(17)~~ apply only to
735 residential property insurance policies and condominium unit
736 owner policies as described in s. 718.111(11).

737 (22)~~(19)~~ Except as otherwise provided in this chapter, no
738 person, except an attorney at law or a licensed public adjuster,
739 may for money, commission, or any other thing of value, directly
740 or indirectly:

741 (a) Prepare, complete, or file an insurance claim for an
742 insured or a third-party claimant;

743 (b) Act on behalf of or aid an insured or a third-party
744 claimant in negotiating for or effecting the settlement of a
745 claim for loss or damage covered by an insurance contract;

746 (c) Offer to initiate or negotiate a claim on behalf of an
747 insured;

748 (d) Advertise services that require a license as a public
749 adjuster; or

750 (e) Solicit, investigate, or adjust a claim on behalf of a
751 public adjuster, an insured, or a third-party claimant.

752 (23)~~(20)~~ The department may take administrative actions and
753 impose fines against any persons performing claims adjusting,
754 soliciting, or any other services described in this section

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755 without the licensure required under this section or s. 626.112.

756 (24)~~(21)~~ A public adjuster, public adjuster apprentice, or
757 public adjusting firm that solicits a claim and does not enter
758 into a contract with an insured or a third-party claimant
759 pursuant to paragraph (13) (a) ~~(10) (a)~~ may not charge an insured
760 or a third-party claimant or receive payment by any other source
761 for any type of service related to the insured or third-party
762 claimant's claim.

763 (25) (a)~~(22) (a)~~ Any following act by a public adjuster, a
764 public adjuster apprentice, or a person acting on behalf of a
765 public adjuster or public adjuster apprentice is prohibited and
766 shall result in discipline as applicable under this part:

767 1. Offering to a residential property owner a rebate, gift,
768 gift card, cash, coupon, waiver of any insurance deductible, or
769 any other thing of value in exchange for:

770 a. Allowing a contractor, a public adjuster, a public
771 adjuster apprentice, or a person acting on behalf of a public
772 adjuster or public adjuster apprentice to conduct an inspection
773 of the residential property owner's roof; or

774 b. Making an insurance claim for damage to the residential
775 property owner's roof.

776 2. Offering, delivering, receiving, or accepting any
777 compensation, inducement, or reward for the referral of any
778 services for which property insurance proceeds would be used for
779 roofing repairs or replacement.

780 (b) Notwithstanding the fine set forth in s. 626.8698, a
781 public adjuster or public adjuster apprentice may be subject to
782 a fine not to exceed \$10,000 per act for a violation of this
783 subsection and a fine not to exceed \$20,000 per act for a

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784 violation of this subsection that occurs during a state of
785 emergency declared by executive order or proclamation of the
786 Governor pursuant to s. 252.36.

787 (c) A person who engages in an act prohibited by this
788 subsection and who is not a public adjuster or a public adjuster
789 apprentice, or is not otherwise exempt from licensure, is guilty
790 of the unlicensed practice of public adjusting and may be:

791 1. Subject to all applicable penalties set forth in this
792 part.

793 2. Notwithstanding subparagraph 1., subject to a fine not
794 to exceed \$10,000 per act for a violation of this subsection and
795 a fine not to exceed \$20,000 per act for a violation of this
796 subsection that occurs during a state of emergency declared by
797 executive order or proclamation of the Governor pursuant to s.
798 252.36.

799 Section 10. Section 626.860, Florida Statutes, is amended
800 to read:

801 626.860 Attorneys at law; exemption.—Attorneys at law duly
802 licensed to practice law in the courts of this state, and in
803 good standing with The Florida Bar, shall not be required to be
804 licensed under ~~the provisions of~~ this code to authorize them to
805 adjust or participate in the adjustment of any claim, loss, or
806 damage arising under policies or contracts of insurance. This
807 exemption does not extend to the employees, interns, volunteers,
808 or contractors of an attorney or of a law firm.

809 Section 11. Section 626.875, Florida Statutes, is amended
810 to read:

811 626.875 Office and records.—

812 (1) (a) Each appointed independent adjuster and licensed

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813 public adjuster must maintain a place of business in this state
814 which is accessible to the public and keep therein the usual and
815 customary records pertaining to transactions under the license.
816 This provision does not prohibit maintenance of such an office
817 in the home of the licensee.

818 (b) A license issued under this chapter must at all times
819 be posted in a conspicuous place in the principal place of
820 business of the license holder. If the licensee is conducting
821 business away from the place of business such that the license
822 cannot be posted, the licensee shall have such license in his or
823 her actual possession at the time of carrying on such business.

824 (2) The records of the adjuster relating to a particular
825 claim or loss shall be so retained in the adjuster's place of
826 business for a period of not less than 5 years after completion
827 of the adjustment and shall be available for inspection by the
828 department at all times. This provision shall not be deemed to
829 prohibit return or delivery to the insurer or insured of
830 documents furnished to or prepared by the adjuster and required
831 by the insurer or insured to be returned or delivered thereto.
832 At a minimum, the following records must be maintained for a
833 period of not less than 5 years:

834 (a) Name, address, telephone number, and e-mail address of
835 the insured, and the name of the attorney representing the
836 insured, if applicable.

837 (b) The date, location, and amount of the loss.

838 (c) An unaltered copy of the executed disclosure document
839 required by s. 626.8796.

840 (d) An unaltered copy of the executed public adjuster
841 contract required by s. 626.8796.

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842 (e) A copy of the estimate of damages provided to the
843 insurer.

844 (f) The name of the insurer; the name of the claims
845 representative of the insurer; and the amount, expiration date,
846 and number of each policy under which the loss is covered.

847 (g) An itemized statement of the recoveries by the insured
848 from the sources known to the adjuster.

849 (h) An itemized statement of all compensation received by
850 the public adjuster from any source in connection with the loss.

851 (i) A register of all money received, deposited, disbursed,
852 and withdrawn in connection with a transaction with the insured,
853 including fees, transfers, and disbursements in connection with
854 the loss.

855 Section 12. Section 626.8796, Florida Statutes, is amended
856 to read:

857 626.8796 Public adjuster contracts; disclosure statement;
858 fraud statement.-

859 (1) All contracts for public adjuster services must be in
860 writing in at least 12-point type, be titled "Public Adjuster
861 Contract," and prominently display the following statement on
862 the contract in minimum 18-point bold type before the space
863 reserved in the contract for the signature of the insured:

864 "Pursuant to s. 817.234, Florida Statutes, any person who, with
865 the intent to injure, defraud, or deceive an insurer or insured,
866 prepares, presents, or causes to be presented a proof of loss or
867 estimate of cost or repair of damaged property in support of a
868 claim under an insurance policy knowing that the proof of loss
869 or estimate of claim or repairs contains false, incomplete, or
870 misleading information concerning any fact or thing material to

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871 the claim commits a felony of the third degree, punishable as
872 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
873 Statutes."

874 (2) A public adjuster contract relating to a property and
875 casualty claim must contain the full name, permanent business
876 address, phone number, e-mail address, and license number of the
877 public adjuster; the full name of the public adjusting firm; and
878 the insured's full name, ~~and~~ street address, phone number, and
879 e-mail address, together with a brief description of the loss.
880 The contract must state the percentage of compensation for the
881 public adjuster's services in minimum 18-point bold type before
882 the space reserved in the contract for the signature of the
883 insured; the type of claim, including an emergency claim,
884 nonemergency claim, or supplemental claim; the initials of the
885 named insured on each page that does not contain the insured's
886 signature; the signatures of the public adjuster and all named
887 insureds; and the signature date. If all of the named insureds'
888 signatures are not available, the public adjuster must submit an
889 affidavit signed by the available named insureds attesting that
890 they have authority to enter into the contract and settle all
891 claim issues on behalf of the named insureds. An unaltered copy
892 of the executed contract must be remitted to the insured at the
893 time of execution and to the insurer within 10 ~~30~~ days after
894 execution. A public adjusting firm that adjusts claims primarily
895 for commercial entities with operations in more than one state
896 and that does not directly or indirectly perform adjusting
897 services for insurers or individual homeowners is deemed to
898 comply with the requirements of this subsection if, at the time
899 a proof of loss is submitted, the public adjusting firm remits

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900 to the insurer an affidavit signed by the public adjuster or
901 public adjuster apprentice that identifies:

902 (a) The full name, permanent business address, phone
903 number, e-mail address, and license number of the public
904 adjuster or public adjuster apprentice.

905 (b) The full name of the public adjusting firm.

906 (c) The insured's full name, ~~and~~ street address, phone
907 number, and e-mail address, together with a brief description of
908 the loss.

909 (d) An attestation that the compensation for public
910 adjusting services will not exceed the limitations provided by
911 law.

912 (e) The type of claim, including an emergency claim,
913 nonemergency claim, or supplemental claim.

914 (3) The public adjuster shall not provide services until
915 both the insured and insurer have been provided with unaltered
916 copies of the executed contract.

917 (4) The insured may rescind the contract for public
918 adjuster services if the public adjuster has not submitted a
919 written estimate to the insurer within 60 days after executing
920 the contract.

921 (5) Before the signing of the contract, the public adjuster
922 shall provide the insured with a separate disclosure document to
923 be signed by the insured, on a form adopted by the department,
924 regarding the claim process which accomplishes the following:

925 (a) Defines the following types of adjusters who may be
926 involved in the claim process: company adjuster, independent
927 adjuster, and public adjuster.

928 (b) Explains that the public adjuster is not a

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929 representative or employee of the insurer.

930 (c) Explains that the insured is not required to hire a
931 public adjuster, but has a right to do so.

932 (d) Explains that an insured has a right to initiate direct
933 communications with the insured's attorney, the insurer, the
934 company adjuster, the insurer's attorney, or any person
935 regarding the settlement of the insured's claim.

936 (e) Explains that the public adjuster's salary, fee,
937 commission, or other consideration to be paid to a public
938 adjuster is the insured's responsibility.

939 (f) Explains that the public adjuster is required to
940 provide the insured an unaltered copy of the executed contract
941 at the time of execution.

942 (g) Explains that if the contract was entered into based on
943 events that are the subject of a declaration of a state of
944 emergency by the Governor, an insured or a claimant may cancel
945 the public adjuster's contract to adjust a claim without penalty
946 or obligation within 30 days after the date of the event or 10
947 days after the date on which the contract is executed, whichever
948 is longer.

949 (h) The public adjuster shall provide an unaltered copy of
950 the executed disclosure document to the insured at the time of
951 execution.

952 (6) A contract that does not comply with this section is
953 invalid and unenforceable.

954 (7) The department may adopt rules pursuant to ss.
955 120.536(1) and 120.54 to implement this section, including rules
956 to adopt forms required by this section.

957 Section 13. Section 626.8797, Florida Statutes, is amended

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958 to read:

959 626.8797 Proof of loss; fraud statement.—All proof-of-loss
960 statements must prominently display the following statement in
961 minimum 18-point bold type before the space reserved in the
962 contract for the signature of the insured: “Pursuant to s.
963 817.234, Florida Statutes, any person who, with the intent to
964 injure, defraud, or deceive any insurer or insured, prepares,
965 presents, or causes to be presented a proof of loss or estimate
966 of cost or repair of damaged property in support of a claim
967 under an insurance policy knowing that the proof of loss or
968 estimate of claim or repairs contains any false, incomplete, or
969 misleading information concerning any fact or thing material to
970 the claim commits a felony of the third degree, punishable as
971 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
972 Statutes.”

973 Section 14. Paragraph (a) of subsection (1) of section
974 626.9541, Florida Statutes, is amended to read:

975 626.9541 Unfair methods of competition and unfair or
976 deceptive acts or practices defined.—

977 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
978 ACTS.—The following are defined as unfair methods of competition
979 and unfair or deceptive acts or practices:

980 (a) *Misrepresentations and false advertising of insurance*
981 *policies*.—Knowingly making, issuing, circulating, or causing to
982 be made, issued, or circulated, any estimate, illustration,
983 circular, statement, sales presentation, omission, comparison,
984 or property and casualty certificate of insurance altered after
985 being issued, which:

986 1. Misrepresents the benefits, advantages, conditions, or

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987 terms of any insurance policy.

988 2. Misrepresents the dividends or share of the surplus to
989 be received on any insurance policy.

990 3. Makes any false or misleading statements as to the
991 dividends or share of surplus previously paid on any insurance
992 policy.

993 4. Is misleading, or is a misrepresentation, as to the
994 financial condition of any person or as to the legal reserve
995 system upon which any life insurer operates.

996 5. Uses any name or title of any insurance policy or class
997 of insurance policies misrepresenting the true nature thereof.

998 6. Is a misrepresentation for the purpose of inducing, or
999 tending to induce, the lapse, forfeiture, exchange, conversion,
1000 or surrender of any insurance policy.

1001 7. Is a misrepresentation for the purpose of effecting a
1002 pledge or assignment of, or effecting a loan against, any
1003 insurance policy.

1004 8. Misrepresents any insurance policy as being shares of
1005 stock or misrepresents ownership interest in the company.

1006 9. Uses any advertisement that would mislead or otherwise
1007 cause a reasonable person to believe mistakenly that the state
1008 or the Federal Government is responsible for the insurance sales
1009 activities of any person or stands behind any person's credit or
1010 that any person, the state, or the Federal Government guarantees
1011 any returns on insurance products or is a source of payment of
1012 any insurance obligation of or sold by any person.

1013 10. Fails to disclose a third party that receives
1014 royalties, referral fees, or other remuneration for sponsorship,
1015 marketing, or use of third-party branding for a policy of health

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1016 insurance as defined in s. 624.603.

1017 Section 15. Paragraph (c) of subsection (2) of section
1018 627.4025, Florida Statutes, is amended, and paragraph (d) is
1019 added to that subsection, to read:

1020 627.4025 Residential coverage and hurricane coverage
1021 defined.—

1022 (2) As used in policies providing residential coverage:

1023 (c) "Hurricane" for purposes of paragraphs (a) and (b)
1024 means a storm system that has been declared to be a hurricane by
1025 the National Hurricane Center of the National Weather Service.
1026 The duration of the hurricane includes the time period, in
1027 Florida:

1028 1. Beginning at the time a ~~hurricane watch~~ or hurricane
1029 warning is issued for any part of Florida by the National
1030 Hurricane Center of the National Weather Service; and

1031 2. ~~Continuing for the time period during which the~~
1032 ~~hurricane conditions exist anywhere in Florida; and~~

1033 3. Ending 24 ~~72~~ hours following the termination of the last
1034 hurricane watch or hurricane warning issued for any part of
1035 Florida by the National Hurricane Center of the National Weather
1036 Service.

1037 (d) "Hurricane deductible" means the deductible applicable
1038 to loss caused by a hurricane.

1039 Section 16. Paragraph (b) of subsection (1) and paragraph
1040 (b) of subsection (2) of section 627.4133, Florida Statutes, are
1041 amended to read:

1042 627.4133 Notice of cancellation, nonrenewal, or renewal
1043 premium.—

1044 (1) Except as provided in subsection (2):

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1045 (b) An insurer issuing a policy providing coverage for
1046 property, casualty, except mortgage guaranty, surety, or marine
1047 insurance, other than motor vehicle insurance subject to s.
1048 627.728 or s. 627.7281, shall give the first-named insured
1049 written notice of cancellation or termination other than
1050 nonrenewal at least 45 days prior to the effective date of the
1051 cancellation or termination, including in the written notice the
1052 reason or reasons for the cancellation or termination, except
1053 that:

1054 1. When cancellation is for nonpayment of premium, at least
1055 10 days' written notice of cancellation accompanied by the
1056 reason therefor shall be given. As used in this subparagraph and
1057 s. 440.42(3), the term "nonpayment of premium" means failure of
1058 the named insured to discharge when due any of her or his
1059 obligations in connection with the payment of premiums on a
1060 policy or any installment of such premium, whether the premium
1061 is payable directly to the insurer or its agent or indirectly
1062 under any premium finance plan or extension of credit, or
1063 failure to maintain membership in an organization if such
1064 membership is a condition precedent to insurance coverage.
1065 "Nonpayment of premium" also means the failure of a financial
1066 institution to honor an insurance applicant's check after
1067 delivery to a licensed agent for payment of a premium, even if
1068 the agent has previously delivered or transferred the premium to
1069 the insurer. If a dishonored check represents the initial
1070 premium payment, the contract and all contractual obligations
1071 shall be void ab initio unless the nonpayment is cured within
1072 the earlier of 5 days after actual notice by certified mail is
1073 received by the applicant or 15 days after notice is sent to the

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1074 applicant by certified mail or registered mail, and if the
1075 contract is void, any premium received by the insurer from a
1076 third party shall be refunded to that party in full; and

1077 2. When such cancellation or termination occurs during the
1078 first 60 ~~90~~ days during which the insurance is in force and the
1079 insurance is canceled or terminated for reasons other than
1080 nonpayment of premium, at least 20 days' written notice of
1081 cancellation or termination accompanied by the reason therefor
1082 shall be given except where there has been a material
1083 misstatement or misrepresentation or failure to comply with the
1084 underwriting requirements established by the insurer.

1085
1086 After the policy has been in effect for 60 ~~90~~ days, no such
1087 policy shall be canceled by the insurer except when there has
1088 been a material misstatement, a nonpayment of premium, a failure
1089 to comply with underwriting requirements established by the
1090 insurer within 60 ~~90~~ days of the date of effectuation of
1091 coverage, or a substantial change in the risk covered by the
1092 policy or when the cancellation is for all insureds under such
1093 policies for a given class of insureds. This subsection does not
1094 apply to individually rated risks having a policy term of less
1095 than 90 days.

1096 (2) With respect to any personal lines or commercial
1097 residential property insurance policy, including, but not
1098 limited to, any homeowner, mobile home owner, farmowner,
1099 condominium association, condominium unit owner, apartment
1100 building, or other policy covering a residential structure or
1101 its contents:

1102 (b) The insurer shall give the first-named insured written

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1103 notice of nonrenewal, cancellation, or termination at least 120
1104 days before the effective date of the nonrenewal, cancellation,
1105 or termination. The notice must include the reason for the
1106 nonrenewal, cancellation, or termination, except that:

1107 1. If cancellation is for nonpayment of premium, at least
1108 10 days' written notice of cancellation accompanied by the
1109 reason therefor must be given. As used in this subparagraph, the
1110 term "nonpayment of premium" means failure of the named insured
1111 to discharge when due her or his obligations for paying the
1112 premium on a policy or an installment of such premium, whether
1113 the premium is payable directly to the insurer or its agent or
1114 indirectly under a premium finance plan or extension of credit,
1115 or failure to maintain membership in an organization if such
1116 membership is a condition precedent to insurance coverage. The
1117 term also means the failure of a financial institution to honor
1118 an insurance applicant's check after delivery to a licensed
1119 agent for payment of a premium even if the agent has previously
1120 delivered or transferred the premium to the insurer. If a
1121 dishonored check represents the initial premium payment, the
1122 contract and all contractual obligations are void ab initio
1123 unless the nonpayment is cured within the earlier of 5 days
1124 after actual notice by certified mail is received by the
1125 applicant or 15 days after notice is sent to the applicant by
1126 certified mail or registered mail. If the contract is void, any
1127 premium received by the insurer from a third party must be
1128 refunded to that party in full.

1129 2. If cancellation or termination occurs during the first
1130 60 ~~90~~ days the insurance is in force and the insurance is
1131 canceled or terminated for reasons other than nonpayment of

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1132 premium, at least 20 days' written notice of cancellation or
1133 termination accompanied by the reason therefor must be given
1134 unless there has been a material misstatement or
1135 misrepresentation or a failure to comply with the underwriting
1136 requirements established by the insurer.

1137 3. After the policy has been in effect for 60 ~~90~~ days, the
1138 policy may not be canceled by the insurer unless there has been
1139 a material misstatement; a nonpayment of premium; a failure to
1140 comply, within 60 ~~90~~ days after the date of effectuation of
1141 coverage, with underwriting requirements established by the
1142 insurer before the date of effectuation of coverage; or a
1143 substantial change in the risk covered by the policy or unless
1144 the cancellation is for all insureds under such policies for a
1145 given class of insureds. This subparagraph does not apply to
1146 individually rated risks that have a policy term of less than 90
1147 days.

1148 4. After a policy or contract has been in effect for more
1149 than 60 ~~90~~ days, the insurer may not cancel or terminate the
1150 policy or contract based on credit information available in
1151 public records.

1152 5. A policy that is nonrenewed by Citizens Property
1153 Insurance Corporation, pursuant to s. 627.351(6), for a policy
1154 that has been assumed by an authorized insurer offering
1155 replacement coverage to the policyholder is exempt from the
1156 notice requirements of paragraph (a) and this paragraph. In such
1157 cases, the corporation must give the named insured written
1158 notice of nonrenewal at least 45 days before the effective date
1159 of the nonrenewal.

1160 6. Notwithstanding any other provision of law, an insurer

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1161 may cancel or nonrenew a property insurance policy after at
 1162 least 45 days' notice if the office finds that the early
 1163 cancellation of some or all of the insurer's policies is
 1164 necessary to protect the best interests of the public or
 1165 policyholders and the office approves the insurer's plan for
 1166 early cancellation or nonrenewal of some or all of its policies.
 1167 The office may base such finding upon the financial condition of
 1168 the insurer, lack of adequate reinsurance coverage for hurricane
 1169 risk, or other relevant factors. The office may condition its
 1170 finding on the consent of the insurer to be placed under
 1171 administrative supervision pursuant to s. 624.81 or to the
 1172 appointment of a receiver under chapter 631.

1173 7. A policy covering both a home and a motor vehicle may be
 1174 nonrenewed for any reason applicable to the property or motor
 1175 vehicle insurance after providing 90 days' notice.

1176 Section 17. Effective January 1, 2024, section 627.4554,
 1177 Florida Statutes, is amended to read:

1178 627.4554 Suitability in annuity transactions investments.-

1179 (1) PURPOSE.-The purpose of this section is to require
 1180 agents to act in the best interest of the consumer when making a
 1181 recommendation of an annuity and to require insurers to
 1182 establish and maintain a system to supervise so set forth
 1183 ~~standards and procedures for making recommendations to consumers~~
 1184 ~~which result in transactions involving annuity products, and to~~
 1185 ~~establish a system for supervising such recommendations in order~~
 1186 ~~to ensure~~ that the insurance needs and financial objectives of
 1187 consumers are effectively ~~appropriately~~ addressed at the time of
 1188 the transaction.

1189 (2) SCOPE.-This section applies to any sale or

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1190 recommendation of ~~made to a consumer to purchase, exchange, or~~
1191 ~~replace an annuity by an insurer or its agent, and which results~~
1192 ~~in the purchase, exchange, or replacement recommended.~~

1193 (3) DEFINITIONS.—As used in this section, the term:

1194 (a) "Agent" means a person or entity required to be
1195 licensed under the laws of this state to sell, solicit, or
1196 negotiate insurance, including annuities. For purposes of this
1197 section, the term includes an insurer when no agent is involved
1198 ~~has the same meaning as provided in s. 626.015.~~

1199 (b) "Annuity" means an insurance product under state law
1200 which is individually solicited, whether classified as an
1201 individual or group annuity.

1202 (c) "Cash compensation" means any discount, concession,
1203 fee, service fee, commission, sales charge, loan, override, or
1204 cash benefit received by an agent from an insurer or
1205 intermediary or directly from the consumer in connection with
1206 the recommendation or sale of an annuity.

1207 (d) "Consumer profile information" means information that
1208 is reasonably appropriate to determine whether a recommendation
1209 addresses the consumer's financial situation, insurance needs,
1210 and financial objectives, including, at a minimum, the
1211 following:

1212 1. Age.

1213 2. Annual income.

1214 3. Financial situation and needs, including debts and other
1215 obligations.

1216 4. Financial experience.

1217 5. Insurance needs.

1218 6. Financial objectives.

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- 1219 7. Intended use of the annuity.
- 1220 8. Financial time horizon.
- 1221 9. Existing assets or financial products, including
1222 investment, annuity, and insurance holdings.
- 1223 10. Liquidity needs.
- 1224 11. Liquid net worth.
- 1225 12. Risk tolerance, including, but not limited to,
1226 willingness to accept nonguaranteed elements in the annuity.
- 1227 13. Financial resources used to fund the annuity.
- 1228 14. Tax status.
- 1229 ~~(e)~~ "FINRA" means the Financial Industry Regulatory
1230 Authority or a succeeding agency.
- 1231 ~~(f)~~ "Insurer" has the same meaning as provided in s.
1232 624.03.
- 1233 (g) "Intermediary" means an entity contracted directly with
1234 an insurer or with another entity contracted with an insurer to
1235 facilitate the sale of the insurer's annuities by agents.
- 1236 (h) "Material conflict of interest" means a financial
1237 interest of the agent in the sale of an annuity which a
1238 reasonable person would expect to influence the impartiality of
1239 a recommendation. The term does not include cash compensation or
1240 noncash compensation.
- 1241 (i) "Noncash compensation" means any form of compensation
1242 that is not cash compensation, including, but not limited to,
1243 health insurance, office rent, office support, and retirement
1244 benefits.
- 1245 (j) "Nonguaranteed elements" means the premiums; credited
1246 interest rates, including any bonus; benefits; values;
1247 dividends; noninterest-based credits; charges; or elements of

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1248 formulas used to determine any of these, which are subject to
1249 company discretion and are not guaranteed at issue. An element
1250 is considered nonguaranteed if any of the underlying
1251 nonguaranteed elements are used in its calculation.

1252 (k) ~~(e)~~ "Recommendation" means advice provided by an ~~insurer~~
1253 ~~or its~~ agent to an individual a consumer which was intended to
1254 result or does result ~~which would result~~ in a the purchase, an
1255 exchange, or a replacement of an annuity in accordance with that
1256 advice. The term does not include general communication to the
1257 public, generalized customer services, assistance or
1258 administrative support, general educational information and
1259 tools, prospectuses, or other product and sales material.

1260 (l) ~~(f)~~ "Replacement" means a transaction in which a new
1261 annuity ~~policy or contract~~ is to be purchased and it is known or
1262 should be known to the proposing ~~insurer or its~~ agent, or to the
1263 proposing insurer whether or not an agent is involved, that by
1264 reason of such transaction an existing annuity or other
1265 insurance policy has been or is to be any of the following ~~or~~
1266 contract will be:

1267 1. Lapsed, forfeited, surrendered or partially surrendered,
1268 assigned to the replacing insurer, or otherwise terminated;

1269 2. Converted to reduced paid-up insurance, continued as
1270 extended term insurance, or otherwise reduced in value due to
1271 the use of nonforfeiture benefits or other policy values;

1272 3. Amended so as to effect a reduction in benefits or the
1273 term for which coverage would otherwise remain in force or for
1274 which benefits would be paid;

1275 4. Reissued with a reduction in cash value; or

1276 5. Used in a financed purchase.

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1277 (m) "SEC" means the United States Securities and Exchange
1278 Commission.

1279 ~~(g) "Suitability information" means information related to~~
1280 ~~the consumer which is reasonably appropriate to determine the~~
1281 ~~suitability of a recommendation made to the consumer, including~~
1282 ~~the following:~~

1283 1. ~~Age;~~

1284 2. ~~Annual income;~~

1285 3. ~~Financial situation and needs, including the financial~~
1286 ~~resources used for funding the annuity;~~

1287 4. ~~Financial experience;~~

1288 5. ~~Financial objectives;~~

1289 6. ~~Intended use of the annuity;~~

1290 7. ~~Financial time horizon;~~

1291 8. ~~Existing assets, including investment and life insurance~~
1292 ~~holdings;~~

1293 9. ~~Liquidity needs;~~

1294 10. ~~Liquid net worth;~~

1295 11. ~~Risk tolerance; and~~

1296 12. ~~Tax status.~~

1297 (4) EXEMPTIONS.—Unless otherwise specifically included,
1298 this section does not apply to transactions involving:

1299 (a) Direct-response solicitations where there is no
1300 recommendation based on information collected from the consumer
1301 pursuant to this section;

1302 (b) Contracts used to fund:

1303 1. An employee pension or welfare benefit plan that is
1304 covered by the federal Employee Retirement and Income Security
1305 Act;

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1306 2. A plan described by s. 401(a), s. 401(k), s. 403(b), s.
1307 408(k), or s. 408(p) of the Internal Revenue Code, if
1308 established or maintained by an employer;

1309 3. A government or church plan defined in s. 414 of the
1310 Internal Revenue Code, a government or church welfare benefit
1311 plan, or a deferred compensation plan of a state or local
1312 government or tax-exempt organization under s. 457 of the
1313 Internal Revenue Code; or

1314 4. A nonqualified deferred compensation arrangement
1315 established or maintained by an employer or plan sponsor;

1316 (c)5. Settlements or assumptions of liabilities associated
1317 with personal injury litigation or a dispute or claim-resolution
1318 process; or

1319 (d)6. Formal prepaid funeral contracts.

1320 (5) DUTIES OF INSURERS AND AGENTS.—

1321 (a) An agent, when making a recommendation of an annuity,
1322 shall act in the best interest of the consumer under the
1323 circumstances known at the time the recommendation is made,
1324 without placing the financial interest of the agent or insurer
1325 ahead of the consumer's interest. An agent has acted in the best
1326 interest of the consumer if the agent has satisfied the
1327 following obligations regarding care, disclosure, conflict of
1328 interest, and documentation:

1329 1.a. The agent, in making a recommendation, shall exercise
1330 reasonable diligence, care, and skill to:

1331 (I) Know the financial situation, insurance needs, and
1332 financial objectives of the customer.

1333 (II) Understand the available options after making a
1334 reasonable inquiry into options available to the agent.

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1335 (III) Have a reasonable basis to believe the recommended
1336 option effectively addresses the consumer's financial situation,
1337 insurance needs, and financial objectives over the life of the
1338 product, as evaluated in light of the consumer profile
1339 information.

1340 (IV) Communicate the reason or reasons for the
1341 recommendation.

1342 b. The requirements of sub-subparagraph a. include:

1343 (I) Making reasonable efforts to obtain consumer profile
1344 information from the consumer before the recommendation of an
1345 annuity.

1346 (II) Requiring an agent to consider the types of products
1347 the agent is authorized and licensed to recommend or sell which
1348 address the consumer's financial situation, insurance needs, and
1349 financial objectives. This does not require analysis or
1350 consideration of any products outside the authority and license
1351 of the agent or other possible alternative products or
1352 strategies available in the market at the time of the
1353 recommendation. Agents shall be held to standards applicable to
1354 agents with similar authority and licensure.

1355 (III) Having a reasonable basis to believe the consumer
1356 would benefit from certain features of the annuity, such as
1357 annuitization, death or living benefit, or other insurance-
1358 related features.

1359 c. The requirements of this subsection do not create a
1360 fiduciary obligation or relationship and only create a
1361 regulatory obligation as provided in this section.

1362 d. The consumer profile information, characteristics of the
1363 insurer, and product costs, rates, benefits, and features are

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1364 those factors generally relevant in making a determination
1365 whether an annuity effectively addresses the consumer's
1366 financial situation, insurance needs, and financial objectives,
1367 but the level of importance of each factor under the care
1368 obligation of this paragraph may vary depending on the facts and
1369 circumstances of a particular case. However, each factor may not
1370 be considered in isolation.

1371 e. The requirements under sub-subparagraph a. apply to the
1372 particular annuity as a whole and the underlying subaccounts to
1373 which funds are allocated at the time of purchase or exchange of
1374 an annuity, and riders and similar product enhancements, if any.

1375 f. Sub-subparagraph a. does not require that the annuity
1376 with the lowest one-time occurrence compensation structure or
1377 multiple occurrence compensation structure shall necessarily be
1378 recommended.

1379 g. Sub-subparagraph a. does not require the agent to have
1380 ongoing monitoring obligations under the care obligation,
1381 although such an obligation may be separately owed under the
1382 terms of a fiduciary, consulting, investment, advising, or
1383 financial planning agreement between the consumer and the agent.

1384 h. In the case of an exchange or replacement of an annuity,
1385 the agent shall consider the whole transaction, which includes
1386 taking into consideration whether:

1387 (I) The consumer will incur a surrender charge; be subject
1388 to the commencement of a new surrender period; lose existing
1389 benefits, such as death, living, or other contractual benefits;
1390 or be subject to increased fees, investment advisory fees, or
1391 charges for riders and similar product enhancements.

1392 (II) The replacing product would substantially benefit the

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1393 consumer in comparison to the replaced product over the life of
1394 the product.

1395 (III) The consumer has had another annuity exchange or
1396 replacement and, in particular, an exchange or replacement
1397 within the preceding 60 months.

1398 i. This section does not require an agent to obtain any
1399 license other than an agent license with the appropriate line of
1400 authority to sell, solicit, or negotiate insurance in this
1401 state, including, but not limited to, any securities license, in
1402 order to fulfill the duties and obligations contained in this
1403 section; provided, the agent does not give advice or provide
1404 services that are otherwise subject to securities laws or engage
1405 in any other activity requiring other professional licenses.

1406 2.a. Before the recommendation or sale of an annuity, the
1407 agent shall prominently disclose to the consumer, on a form
1408 substantially similar to that posted on the office website as
1409 Appendix A, related to an insurance agent disclosure for
1410 annuities:

1411 (I) A description of the scope and terms of the
1412 relationship with the consumer and the role of the agent in the
1413 transaction.

1414 (II) An affirmative statement on whether the agent is
1415 licensed and authorized to sell the following products:

1416 (A) Fixed annuities.

1417 (B) Fixed indexed annuities.

1418 (C) Variable annuities.

1419 (D) Life insurance.

1420 (E) Mutual funds.

1421 (F) Stocks and bonds.

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- 1422 (G) Certificates of deposit.
- 1423 (III) An affirmative statement describing the insurers for
1424 which the agent is authorized, contracted, or appointed, or
1425 otherwise able to sell insurance products, using the following
1426 descriptions:
- 1427 (A) From one insurer;
- 1428 (B) From two or more insurers; or
- 1429 (C) From two or more insurers, although primarily
1430 contracted with one insurer.
- 1431 (IV) A description of the sources and types of cash
1432 compensation and noncash compensation to be received by the
1433 agent, including whether the agent is to be compensated for the
1434 sale of a recommended annuity by commission as part of premium
1435 or other remuneration received from the insurer, intermediary,
1436 or other agent, or by fee as a result of a contract for advice
1437 or consulting services.
- 1438 (V) A notice of the consumer's right to request additional
1439 information regarding cash compensation described in sub-
1440 subparagraph b.
- 1441 b. Upon request of the consumer or the consumer's
1442 designated representative, the agent shall disclose:
- 1443 (I) A reasonable estimate of the amount of cash
1444 compensation to be received by the agent, which may be stated as
1445 a range of amounts or percentages.
- 1446 (II) Whether the cash compensation is a one-time or
1447 multiple occurrence amount; and if a multiple occurrence amount,
1448 the frequency and amount of the occurrence, which may be stated
1449 as a range of amounts or percentages. ~~When recommending the~~
1450 ~~purchase or exchange of an annuity to a consumer which results~~

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1451 ~~in an insurance transaction or series of insurance transactions,~~
1452 ~~the agent, or the insurer where no agent is involved, must have~~
1453 ~~reasonable grounds for believing that the recommendation is~~
1454 ~~suitable for the consumer, based on the consumer's suitability~~
1455 ~~information, and that there is a reasonable basis to believe all~~
1456 ~~of the following:~~

1457 c.1. Before or at the time of the recommendation or sale of
1458 an annuity, the agent shall have a reasonable basis to believe
1459 the consumer has been reasonably informed of various features of
1460 the annuity, such as the potential surrender period and
1461 surrender charge; potential tax penalty if the consumer sells,
1462 exchanges, surrenders, or annuitizes the annuity; mortality and
1463 expense fees; any annual fees; investment advisory fees;
1464 potential charges for and features of riders or other options of
1465 the annuity; limitations on interest returns; potential changes
1466 in nonguaranteed elements of the annuity; insurance and
1467 investment components; and market risk.

1468 ~~2. The consumer would benefit from certain features of the~~
1469 ~~annuity, such as tax-deferred growth, annuitization, or the~~
1470 ~~death or living benefit.~~

1471 3. An agent shall identify and avoid or reasonably manage
1472 and disclose material conflicts of interest, including material
1473 conflicts of interest related to an ownership interest.

1474 4. An agent shall at the time of the recommendation or
1475 sale:

1476 a. Make a written record of any recommendation and the
1477 basis for the recommendation, subject to this section.

1478 b. Obtain a consumer-signed statement on a form
1479 substantially similar to that posted on the office website as

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1480 Appendix B, related to a consumer's refusal to provide
1481 information, documenting:

1482 (I) A customer's refusal to provide the consumer profile
1483 information, if any.

1484 (II) A customer's understanding of the ramifications of not
1485 providing his or her consumer profile information or providing
1486 insufficient consumer profile information.

1487 c. Obtain a consumer-signed statement on a form
1488 substantially similar to that posted on the office website as
1489 Appendix C, related to a consumer's decision to purchase an
1490 annuity not based on a recommendation, acknowledging the annuity
1491 transaction is not recommended if a customer decides to enter
1492 into an annuity transaction that is not based on the agent's
1493 recommendation.

1494 5. Any requirement applicable to an agent under this
1495 subsection applies to every agent who has exercised material
1496 control or influence in the making of a recommendation and has
1497 received direct compensation as a result of the recommendation
1498 or sale, regardless of whether the agent has had any direct
1499 contact with the consumer. Activities such as providing or
1500 delivering marketing or education materials, product wholesaling
1501 or other back office product support, and general supervision of
1502 an agent do not, in and of themselves, constitute material
1503 control or influence.

1504 ~~3. The particular annuity as a whole, the underlying~~
1505 ~~subaccounts to which funds are allocated at the time of purchase~~
1506 ~~or exchange of the annuity, and riders and similar product~~
1507 ~~enhancements, if any, are suitable; and, in the case of an~~
1508 ~~exchange or replacement, the transaction as a whole is suitable~~

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1509 ~~for the particular consumer based on his or her suitability~~
1510 ~~information.~~

1511 ~~4. In the case of an exchange or replacement of an annuity,~~
1512 ~~the exchange or replacement is suitable after considering~~
1513 ~~whether the consumer:~~

1514 ~~a. Will incur a surrender charge; be subject to the~~
1515 ~~commencement of a new surrender period; lose existing benefits,~~
1516 ~~such as death, living, or other contractual benefits; or be~~
1517 ~~subject to increased fees, investment advisory fees, or charges~~
1518 ~~for riders and similar product enhancements;~~

1519 ~~b. Would benefit from product enhancements and~~
1520 ~~improvements; and~~

1521 ~~c. Has had another annuity exchange or replacement,~~
1522 ~~including an exchange or replacement within the preceding 36~~
1523 ~~months.~~

1524 ~~(b) Before executing a purchase, exchange, or replacement~~
1525 ~~of an annuity resulting from a recommendation, an insurer or its~~
1526 ~~agent must make reasonable efforts to obtain the consumer's~~
1527 ~~suitability information. The information shall be collected on~~
1528 ~~form DFS-H1-1980, which is hereby incorporated by reference, and~~
1529 ~~completed and signed by the applicant and agent. Questions~~
1530 ~~requesting this information must be presented in at least 12-~~
1531 ~~point type and be sufficiently clear so as to be readily~~
1532 ~~understandable by both the agent and the consumer. A true and~~
1533 ~~correct executed copy of the form must be provided by the agent~~
1534 ~~to the insurer, or to the person or entity that has contracted~~
1535 ~~with the insurer to perform this function as authorized by this~~
1536 ~~section, within 10 days after execution of the form, and shall~~
1537 ~~be provided to the consumer no later than the date of delivery~~

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1538 ~~of the contract or contracts.~~

1539 ~~(c) Except as provided under paragraph (d), an insurer may~~
1540 ~~not issue an annuity recommended to a consumer unless there is a~~
1541 ~~reasonable basis to believe the annuity is suitable based on the~~
1542 ~~consumer's suitability information.~~

1543 (b)1.~~(d)~~ Except as provided under subparagraph 2., An
1544 insurer's issuance of an annuity must be reasonable based on all
1545 the circumstances actually known to the insurer at the time the
1546 annuity is issued. However, an insurer or its agent does not
1547 have ~~does not have~~ an obligation to a consumer related to an
1548 annuity transaction under subparagraph (a)1. ~~paragraph (a) or~~
1549 paragraph (c) if:

1550 a.1. A recommendation has not been made;

1551 b.2. A recommendation was made and is later found to have
1552 been based on materially inaccurate information provided by the
1553 consumer;

1554 c.3. A consumer refuses to provide relevant consumer
1555 profile suitability information and the annuity transaction is
1556 not recommended; or

1557 d.4. A consumer decides to enter into an annuity
1558 transaction that is not based on a recommendation of the an
1559 insurer or its agent.

1560 2. An insurer's issuance of an annuity subject to
1561 subparagraph 1. must be reasonable under all the circumstances
1562 actually known to the insurer at the time the annuity is issued.

1563 (c)1. Except as permitted under paragraph (b), an insurer
1564 may not issue an annuity recommended to a consumer unless there
1565 is a reasonable basis to believe the annuity would effectively
1566 address the particular consumer's financial situation, insurance

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1567 needs, and financial objectives based on the consumer's consumer
1568 profile information.

1569 ~~(e) At the time of sale, the agent or the agent's~~
1570 ~~representative must:~~

1571 ~~1. Make a record of any recommendation made to the consumer~~
1572 ~~pursuant to paragraph (a);~~

1573 ~~2. Obtain the consumer's signed statement documenting his~~
1574 ~~or her refusal to provide suitability information, if~~
1575 ~~applicable; and~~

1576 ~~3. Obtain the consumer's signed statement acknowledging~~
1577 ~~that an annuity transaction is not recommended if he or she~~
1578 ~~decides to enter into an annuity transaction that is not based~~
1579 ~~on the insurer's or its agent's recommendation, if applicable.~~

1580 ~~(f) Before executing a replacement or exchange of an~~
1581 ~~annuity contract resulting from a recommendation, the agent must~~
1582 ~~provide on form DFS-H1-1981, which is hereby incorporated by~~
1583 ~~reference, information that compares the differences between the~~
1584 ~~existing annuity contract and the annuity contract being~~
1585 ~~recommended in order to determine the suitability of the~~
1586 ~~recommendation and its benefit to the consumer. A true and~~
1587 ~~correct executed copy of this form must be provided by the agent~~
1588 ~~to the insurer, or to the person or entity that has contracted~~
1589 ~~with the insurer to perform this function as authorized by this~~
1590 ~~section, within 10 days after execution of the form, and must be~~
1591 ~~provided to the consumer no later than the date of delivery of~~
1592 ~~the contract or contracts.~~

1593 ~~2.~~(g) An insurer shall establish and maintain a supervision
1594 system that is reasonably designed to achieve the insurer's and
1595 its agent's compliance with this section, including, but not

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1596 limited to, the following:-

1597 ~~1. Such system must include, but is not limited to:~~

1598 a. The insurer shall establish and maintain ~~Maintaining~~
1599 reasonable procedures to inform its agents of the requirements
1600 of this section and incorporating those requirements into
1601 relevant agent training manuals.~~.~~

1602 b. The insurer shall establish and maintain ~~Establishing~~
1603 standards for agent product training and shall establish and
1604 maintain reasonable procedures to require its agents to comply
1605 with the requirements of subsection (6).~~.~~

1606 c. The insurer shall provide ~~Providing~~ product-specific
1607 training and training materials that explain all material
1608 features of its annuity products to its agents.~~.~~

1609 d. The insurer shall establish and maintain ~~Maintaining~~
1610 procedures for the review of each recommendation before issuance
1611 of an annuity which are designed to ensure that there is a
1612 reasonable basis to determine the recommended annuity would
1613 effectively address the particular consumer's financial
1614 situation, insurance needs, and financial objectives ~~for~~
1615 ~~determining that a recommendation is suitable.~~ Such review
1616 procedures may use a screening system for identifying selected
1617 transactions for additional review and may be accomplished
1618 electronically or through other means, including, but not
1619 limited to, physical review. Such electronic or other system may
1620 be designed to require additional review only of those
1621 transactions identified for additional review using established
1622 selection criteria.~~.~~

1623 e. The insurer shall establish and maintain ~~Maintaining~~
1624 reasonable procedures to detect recommendations that are not in

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1625 compliance with paragraphs (a)-(e). This may include, but is not
1626 limited to, ~~suitable, such as~~ confirmation of consumer profile
1627 ~~suitability~~ information, systematic customer surveys, agent and
1628 consumer interviews, confirmation letters, agent statements or
1629 attestations, and internal monitoring programs. This sub-
1630 subparagraph does not prevent an insurer from using sampling
1631 procedures or from confirming the consumer profile ~~suitability~~
1632 information after the issuance or delivery of the annuity.; and

1633 f. The insurer shall establish and maintain reasonable
1634 procedures to assess, prior to or upon issuance or delivery of
1635 an annuity, whether an agent has provided to the consumer the
1636 information required to be provided under this subsection.

1637 g. The insurer shall establish and maintain reasonable
1638 procedures to identify and address suspicious consumer refusals
1639 to provide consumer profile information.

1640 h. The insurer shall establish and maintain reasonable
1641 procedures to identify and eliminate any sales contests, sales
1642 quotas, bonuses, and noncash compensation that are based on the
1643 sales of specific annuities within a limited period of time. The
1644 requirements of this sub-subparagraph are not intended to
1645 prohibit the receipt of health insurance, office rents, office
1646 support, retirement benefits, or other employee benefits by
1647 employees, as long as those benefits are not based upon the
1648 volume of sales of a specific annuity within a limited period of
1649 time.

1650 i.f. The insurer shall annually provide ~~providing~~ a written
1651 report to senior managers, including the senior manager who is
1652 responsible for audit functions, which details a review, along
1653 with appropriate testing, which is reasonably designed to

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1654 determine the effectiveness of the supervision system, the
1655 exceptions found, and corrective action taken or recommended, if
1656 any.

1657 3.2. An insurer is not required to include in its
1658 supervision system:

1659 a. Agent recommendations to consumers of products other
1660 than the annuities offered by the insurer; or

1661 b. Consideration of or comparison to options available to
1662 the agent or compensation relating to those options other than
1663 annuities or other products offered by the insurer.

1664 4.3. An insurer may contract for performance of a function,
1665 including maintenance of procedures, required under subparagraph
1666 1.

1667 a. An insurer's supervision system under this subsection
1668 shall include supervision of contractual performance under this
1669 subsection, which includes, but is ~~If an insurer contracts for~~
1670 ~~the performance of a function, the insurer must include the~~
1671 ~~supervision of contractual performance as part of those~~
1672 ~~procedures listed in subparagraph 1. These include, but are not~~
1673 limited to:

1674 (I) Monitoring and, as appropriate, conducting audits to
1675 ensure that the contracted function is properly performed; and

1676 (II) Annually obtaining a certification from a senior
1677 manager who has responsibility for the contracted function that
1678 the manager has a reasonable basis to represent, and does
1679 represent, ~~for representing~~ that the function is being properly
1680 performed.

1681 b. An insurer is responsible for taking appropriate
1682 corrective action and may be subject to sanctions and penalties

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1683 pursuant to subsection (8) ~~(7)~~ regardless of whether the insurer
1684 contracts for performance of a function and regardless of the
1685 insurer's compliance with sub-subparagraph a.

1686 ~~(d)(h)~~ Neither an agent nor an insurer shall ~~may not~~
1687 ~~dissuade, or attempt to dissuade,~~ a consumer from:

1688 1. Truthfully responding to an insurer's request for
1689 confirmation of consumer profile suitability information;

1690 2. Filing a complaint; or

1691 3. Cooperating with the investigation of a complaint.

1692 ~~(e)1.(i)~~ Recommendations and sales made in compliance with
1693 comparable standards shall ~~FINRA requirements pertaining to the~~
1694 ~~suitability and supervision of annuity transactions~~ satisfy the
1695 requirements of this section. This applies to all
1696 recommendations and ~~FINRA broker-dealer~~ sales of variable
1697 annuities made by financial professionals in compliance with
1698 business rules, controls, and procedures that satisfy a
1699 comparable standard even if such standard would not otherwise
1700 apply to the product or recommendation at issue ~~and fixed~~
1701 ~~annuities if the suitability and supervision is similar to those~~
1702 ~~applied to variable annuity sales.~~ However, this paragraph does
1703 not limit the ability of the office or the department to
1704 investigate and enforce, ~~including investigate, the provisions~~
1705 ~~of~~ this section.

1706 2. Subparagraph 1. does not limit the insurer's obligation
1707 to comply with subparagraph (c)1., although the insurer may base
1708 its analysis on information received from either the financial
1709 professional or the entity supervising the financial
1710 professional.

1711 3. For subparagraph 1. this paragraph ~~this paragraph~~ to apply, an insurer

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1712 must:

1713 a.1. Monitor relevant conduct of the financial professional
1714 seeking to rely on subparagraph 1. or the entity responsible for
1715 supervising the financial professional, such as the financial
1716 professional's broker-dealer or an investment adviser registered
1717 under federal or state securities law, the FINRA member broker-
1718 dealer using information collected in the normal course of an
1719 insurer's business; and

1720 b.2. Provide to the entity responsible for supervising the
1721 financial professional seeking to rely on subparagraph 1., such
1722 as the financial professional's broker-dealer or investment
1723 adviser registered under federal or state securities laws, FINRA
1724 member broker-dealer information and reports that are reasonably
1725 appropriate to assist such entity the FINRA member broker-dealer
1726 in maintaining its supervision system.

1727 4. For purposes of this paragraph, the term:

1728 a. "Comparable standards" means:

1729 (I) With respect to broker-dealers and registered
1730 representatives of broker-dealers, applicable SEC and FINRA
1731 rules pertaining to best interest obligations and supervision of
1732 annuity recommendations and sales, including, but not limited
1733 to, Regulation Best Interest, 17 C.F.R. s. 240.151-1, and any
1734 amendments or successor regulations thereto;

1735 (II) With respect to investment advisers registered under
1736 federal or state securities laws or investment adviser
1737 representatives, the fiduciary duties and all other requirements
1738 imposed on such investment advisers or investment adviser
1739 representatives by contract or under the Investment Advisers Act
1740 of 1940 or applicable state securities laws, including, but not

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1741 limited to, Form ADV and interpretations; and

1742 (III) With respect to plan fiduciaries or fiduciaries, the
1743 duties, obligations, prohibitions, and all other requirements
1744 attendant to such status under the Employee Retirement Income
1745 Security Act of 1974 or the Internal Revenue Code and any
1746 amendments or successor statutes thereto.

1747 b. "Financial professional" means an agent that is
1748 regulated and acting as:

1749 (I) A broker-dealer registered under federal or state
1750 securities laws or a registered representative of a broker-
1751 dealer;

1752 (II) An investment adviser registered under federal or
1753 state securities laws or an investment adviser representative
1754 associated with the federal or state registered investment
1755 adviser; or

1756 (III) A plan fiduciary under s. 3(21) of the Employee
1757 Retirement Income Security Act of 1974 or fiduciary under s.
1758 4975(e)(3) of the Internal Revenue Code or any amendments or
1759 successor statutes thereto.

1760 (6) AGENT TRAINING.—

1761 (a) An agent shall not solicit the sale of an annuity
1762 product unless the agent has adequate knowledge of the product
1763 to recommend the annuity and the agent is in compliance with the
1764 insurer's standards for product training. An agent may rely on
1765 insurer-provided, product-specific training standards and
1766 materials to comply with this subsection.

1767 (b)1.a. An agent who engages in the sale of annuity
1768 products shall complete a one-time 4-hour training course. This
1769 requirement is not part of an agent's continuing education

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1770 requirement in s. 626.2815; however, if a course provider
1771 submits and receives approval from the department, the course is
1772 eligible for continuing education credit pursuant to s.
1773 626.2815.

1774 b. Agents who hold a life insurance line of authority on
1775 January 1, 2024, and who desire to sell annuities shall complete
1776 the requirements of this subsection by July 1, 2024. Individuals
1777 who obtain a life insurance line of authority after January 1,
1778 2024, may not engage in the sale of annuities until the annuity
1779 training course required under this subsection has been
1780 completed.

1781 2. The minimum length of the training required under this
1782 subsection is 4 hours.

1783 3. The training required under this subsection shall
1784 include information on the following topics:

1785 a. The types of annuities and various classifications of
1786 annuities.

1787 b. Identification of the parties to an annuity.

1788 c. How product-specific annuity contract features affect
1789 consumers.

1790 d. The application of income taxation of qualified and
1791 nonqualified annuities.

1792 e. The primary uses of annuities.

1793 f. The appropriate standard of conduct, sales practices,
1794 replacement, and disclosure requirements.

1795 4. Providers of courses intended to comply with this
1796 subsection shall cover all topics listed in the prescribed
1797 outline and shall not present any marketing information or
1798 provide training on sales techniques or provide specific

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1799 information about a particular insurer's products. Additional
1800 topics may be offered in conjunction with and in addition to the
1801 required outline.

1802 5. An agent who has completed an annuity training course
1803 before January 1, 2024, shall, by July 1, 2024, complete either:

1804 a. A new 4-hour training course; or

1805 b. An additional 1-hour training course on appropriate
1806 sales practices, replacement, and disclosure requirements under
1807 this section.

1808 6. Annuity training courses may be conducted and completed
1809 by classroom or self-study methods.

1810 7. Providers of annuity training shall issue certificates
1811 of completion.

1812 8. The satisfaction of the training requirements of another
1813 state that are substantially similar to the provisions of this
1814 subsection shall be deemed to satisfy the training requirements
1815 of this subsection in this state.

1816 9. The satisfaction of the training requirements of any
1817 course or courses with components substantially similar to the
1818 provisions of this subsection shall be deemed to satisfy the
1819 training requirements of this subsection in this state.

1820 10. An insurer shall verify that an agent has completed the
1821 annuity training course required under this subsection before
1822 allowing the agent to sell an annuity product for that insurer.

1823 (7) ~~(6)~~ RECORDKEEPING.-

1824 (a) Insurers and agents must maintain or be able to make
1825 available to the office or department records of the information
1826 collected from the consumer and other information used in making
1827 the recommendations that were the basis for insurance

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1828 transactions for 5 years after the insurance transaction is
1829 completed by the insurer. An insurer may maintain the
1830 documentation on behalf of its agent.

1831 (b) Records required to be maintained under this subsection
1832 may be maintained in paper, photographic, microprocess,
1833 magnetic, mechanical, or electronic media, or by any process
1834 that accurately reproduces the actual document.

1835 (8)~~(7)~~ COMPLIANCE MITIGATION; PENALTIES.—

1836 (a) An insurer is responsible for compliance with this
1837 section. If a violation occurs because of the action or inaction
1838 of the insurer or its agent which results in harm to a consumer,
1839 the office may order the insurer to take reasonably appropriate
1840 corrective action for the consumer and may impose appropriate
1841 penalties and sanctions.

1842 (b) The department may order:

1843 1. An ~~insurance~~ agent to take reasonably appropriate
1844 corrective action for a consumer harmed by a violation of this
1845 section by the ~~insurance~~ agent, including monetary restitution
1846 of penalties or fees incurred by the consumer, and impose
1847 appropriate penalties and sanctions.

1848 2. A managing general agency or insurance agency that
1849 employs or contracts with an ~~insurance~~ agent to sell or solicit
1850 the sale of annuities to consumers to take reasonably
1851 appropriate corrective action for a consumer harmed by a
1852 violation of this section by the ~~insurance~~ agent.

1853 (c) In addition to any other penalty authorized under
1854 chapter 626, the department shall order an insurance agent to
1855 pay restitution to a consumer who has been deprived of money by
1856 the agent's misappropriation, conversion, or unlawful

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1857 withholding of moneys belonging to the consumer in the course of
1858 a transaction involving annuities. The amount of restitution
1859 required to be paid may not exceed the amount misappropriated,
1860 converted, or unlawfully withheld. This paragraph does not limit
1861 or restrict a person's right to seek other remedies as provided
1862 by law.

1863 (d) Any applicable penalty under the Florida Insurance Code
1864 for a violation of this section shall be reduced or eliminated
1865 according to a schedule adopted by the office or the department,
1866 as appropriate, if corrective action for the consumer was taken
1867 promptly after a violation was discovered.

1868 (e) A violation of this section does not create or imply a
1869 private cause of action.

1870 (9)~~(8)~~ PROHIBITED CHARGES.—An annuity contract issued to a
1871 senior consumer age 65 or older may not contain a surrender or
1872 deferred sales charge for a withdrawal of money from an annuity
1873 exceeding 10 percent of the amount withdrawn. The charge shall
1874 be reduced so that no surrender or deferred sales charge exists
1875 after the end of the 10th policy year or 10 years after the date
1876 of each premium payment if multiple premiums are paid, whichever
1877 is later. This subsection does not apply to annuities purchased
1878 by an accredited investor, as defined in Regulation D as adopted
1879 by the United States Securities and Exchange Commission, or to
1880 those annuities specified in paragraph (4) (b).

1881 (10)~~(9)~~ RULES.—The department and the commission may adopt
1882 rules to administer this section. The department may adopt by
1883 rule the forms prescribed in the National Association of
1884 Insurance Commissioners Suitability in Annuity Transactions
1885 Model Regulation Appendix A - Insurance Agent (Producer)

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1886 Disclosure for Annuities, Appendix B - Consumer Refusal to
1887 Provide Information, and Appendix C - Consumer Decision to
1888 Purchase an Annuity Not Based on a Recommendation.

1889 Section 18. Paragraph (b) of subsection (8) of section
1890 634.041, Florida Statutes, is amended to read:

1891 634.041 Qualifications for license.—To qualify for and hold
1892 a license to issue service agreements in this state, a service
1893 agreement company must be in compliance with this part, with
1894 applicable rules of the commission, with related sections of the
1895 Florida Insurance Code, and with its charter powers and must
1896 comply with the following:

1897 (8)

1898 (b) A service agreement company does not have to establish
1899 and maintain an unearned premium reserve if it secures and
1900 maintains contractual liability insurance in accordance with the
1901 following:

1902 1. Coverage of 100 percent of the claim exposure is
1903 obtained from an insurer approved by the office, which holds a
1904 certificate of authority under s. 624.401 to do business within
1905 this state, or secured through a risk retention group, which is
1906 authorized to do business within this state under s. 627.943 or
1907 s. 627.944. Such insurer or risk retention group must maintain a
1908 surplus as regards policyholders of at least \$15 million.

1909 2. If the service agreement company does not meet its
1910 contractual obligations, the contractual liability insurance
1911 policy binds its issuer to pay or cause to be paid to the
1912 service agreement holder all legitimate claims and cancellation
1913 refunds for all service agreements issued by the service
1914 agreement company while the policy was in effect. This

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1915 requirement also applies to those service agreements for which
1916 no premium has been remitted to the insurer.

1917 3. If the issuer of the contractual liability policy is
1918 fulfilling the service agreements covered by the contractual
1919 liability policy and the service agreement holder cancels the
1920 service agreement, the issuer must make a full refund of
1921 unearned premium to the consumer, subject to the cancellation
1922 fee provisions of s. 634.121(3). The sales representative and
1923 agent must refund to the contractual liability policy issuer
1924 their unearned pro rata commission.

1925 4. The policy may not be canceled, terminated, or
1926 nonrenewed by the insurer or the service agreement company
1927 unless a 90-day written notice thereof has been given to the
1928 office by the insurer before the date of the cancellation,
1929 termination, or nonrenewal.

1930 5. The service agreement company must provide the office
1931 with the claims statistics.

1932 6. A policy issued in compliance with this paragraph may
1933 either pay 100 percent of claims as they are incurred, or 100
1934 percent of claims due in the event of the failure of the service
1935 agreement company to pay such claims when due.

1936
1937 All funds or premiums remitted to an insurer by a motor vehicle
1938 service agreement company under this part shall remain in the
1939 care, custody, and control of the insurer and shall be counted
1940 as an asset of the insurer; provided, however, this requirement
1941 does not apply when the insurer and the motor vehicle service
1942 agreement company are affiliated companies and members of an
1943 insurance holding company system. If the motor vehicle service

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1944 agreement company chooses to comply with this paragraph but also
 1945 maintains a reserve to pay claims, such reserve shall only be
 1946 considered an asset of the covered motor vehicle service
 1947 agreement company and may not be simultaneously counted as an
 1948 asset of any other entity.

1949 Section 19. Paragraphs (d), (e), and (f) of subsection (17)
 1950 of section 634.401, Florida Statutes, are amended to read:

1951 634.401 Definitions.—As used in this part, the term:

1952 (17) "Manufacturer" means any entity or its affiliate
 1953 which:

1954 ~~(d) Maintains outstanding debt obligations, if any, rated~~
 1955 ~~in the top four rating categories by a recognized rating~~
 1956 ~~service;~~

1957 (d)~~(e)~~ Has and maintains at all times, a minimum net worth
 1958 of at least \$100 ~~\$10~~ million as evidenced by certified financial
 1959 statements prepared by an independent certified public
 1960 accountant in accordance with generally accepted accounting
 1961 principles; and

1962 (e)~~(f)~~ Is authorized to do business in this state.

1963 Section 20. Paragraph (a) of subsection (7) of section
 1964 634.406, Florida Statutes, is amended to read:

1965 634.406 Financial requirements.—

1966 (7) An association licensed under this part and holding no
 1967 other license under part I or part II of this chapter is not
 1968 required to establish an unearned premium reserve or maintain
 1969 contractual liability insurance and may allow its premiums to
 1970 exceed the ratio to net assets limitation of this section if the
 1971 association complies with the following:

1972 (a) The association or, if the association is a direct or

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1973 indirect wholly owned subsidiary of a parent corporation, its
1974 parent corporation has, and maintains at all times, a minimum
1975 net worth of at least \$100 million and provides the office with
1976 the following:

1977 1. A copy of the association's annual audited financial
1978 statements or the audited consolidated financial statements of
1979 the association's parent corporation, prepared by an independent
1980 certified public accountant in accordance with generally
1981 accepted accounting principles, which clearly demonstrate the
1982 net worth of the association or its parent corporation to be
1983 \$100 million and a quarterly written certification to the office
1984 that such entity continues to maintain the net worth required
1985 under this paragraph.

1986 2. The association's, or its parent corporation's, Form 10-
1987 K, Form 10-Q, or Form 20-F as filed with the United States
1988 Securities and Exchange Commission or such other documents
1989 required to be filed with a recognized stock exchange, which
1990 shall be provided on a quarterly and annual basis within 10 days
1991 after the last date each such report must be filed with the
1992 Securities and Exchange Commission, the National Association of
1993 Security Dealers Automated Quotation system, or other recognized
1994 stock exchange.

1995
1996 Failure to timely file the documents required under this
1997 paragraph may, at the discretion of the office, subject the
1998 association to suspension or revocation of its license under
1999 this part. ~~An association or parent corporation demonstrating~~
2000 ~~compliance with subparagraphs 1. and 2. must maintain~~
2001 ~~outstanding debt obligations, if any, rated in the top four~~

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2002 ~~rating categories by a recognized rating service.~~

2003 Section 21. Except as otherwise expressly provided in this

2004 act, this act shall take effect July 1, 2023.