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A bill to be entitled

An act relating to public adjusters; providing an effective date.

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

Section 1. Subsection (5) of section 624.501, Florida Statutes, is amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.--The department, commission, or office, as appropriate, shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

(5) All insurance representatives, application for license, application for reinstatement of suspended license, each filing, filing fee ..... \$50.00

Section 2. Subsection (1) of section 626.015, Florida Statutes, is amended to read:

626.015 Definitions.--As used in this part:

(1) "Adjuster" means a public adjuster as defined in s. 626.854, public adjuster apprentice as defined in s. 626.8541, independent adjuster as defined in s. 626.855, or company employee adjuster as defined in s. 626.856.

Section 3. Paragraph (a) of subsection (1) of section 626.112, Florida Statutes, is amended to read:

626.112 License and appointment required; agents, customer representatives, adjusters, adjuster apprentice, insurance agencies, service representatives, managing general agents.--

(1)(a) No person may be, act as, or advertise or hold himself or herself out to be an insurance agent, insurance adjuster, adjuster apprentice, or customer representative unless he or she is currently licensed by the department

1 and appointed by an appropriate appointing entity or  
2 person; except that appointment does not apply to adjuster  
3 apprentices.

4 Section 4. Subsections (1) and (4) of section 626.171,  
5 Florida Statutes, are amended to read:

6 626.171 Application for license as an agent, customer  
7 representative, adjuster, service representative, managing  
8 general agent, or reinsurance intermediary.—

9 (1) The department shall not issue a license as  
10 agent, customer representative, adjuster, adjuster  
11 apprentice, service representative, managing general agent,  
12 or reinsurance intermediary to any person except upon  
13 written application therefor filed with it, qualification  
14 therefor, and payment in advance of all applicable fees.  
15 Any such application shall be made under the oath of the  
16 applicant and be signed by the applicant. The department  
17 shall accept the uniform application for nonresident agent  
18 licensing. The department may adopt revised versions of the  
19 uniform application by rule.

20 (4) An applicant for a license as an agent, customer  
21 representative, adjuster, adjuster apprentice, service  
22 representative, managing general agent, or reinsurance  
23 intermediary must submit a set of the individual  
24 applicant's fingerprints, or, if the applicant is not an  
25 individual, a set of the fingerprints of the sole  
26 proprietor, majority owner, partners, officers, and  
27 directors, to the department and must pay the fingerprint  
28 processing fee set forth in s. 624.501. Fingerprints shall  
29 be used to investigate the applicant's qualifications  
30 pursuant to s. 626.201. The fingerprints shall be taken by  
31 a law enforcement agency, designated examination center, or  
32 other department-approved entity. The department shall

1 require all designated examination centers to have  
2 fingerprinting equipment and to take fingerprints from any  
3 applicant or prospective applicant who pays the applicable  
4 fee. The department may not approve an application for  
5 licensure as an agent, customer service representative,  
6 adjuster, adjuster apprentice, service representative,  
7 managing general agent, or reinsurance intermediary if  
8 fingerprints have not been submitted.

9 Section 5. Paragraphs (c), (e) and (f) of subsection  
10 (2) of section 626.221, Florida Statutes, are amended to  
11 read:

12 626.221 Examination requirement; exemptions.--

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

15 (c) In the discretion of the department, an applicant  
16 for reinstatement of license or appointment as an agent,  
17 customer representative, company employee adjuster or  
18 independent adjuster whose license has been suspended  
19 within 4 years prior to the date of application or written  
20 request for reinstatement.

21 (e) A person who has been licensed and appointed as  
22 an ~~public adjuster~~, independent adjuster, or company  
23 employee adjuster as to all property, casualty, and surety  
24 insurances, may be licensed and appointed as a company  
25 employee or, independent, ~~or public~~ adjuster, as to these  
26 kinds of insurance, without additional written examination  
27 if an application for licensure is filed with the  
28 department within 48 months following the date of  
29 cancellation or expiration of the prior appointment;

30 (f) A person who has been licensed as a company  
31 employee or independent ~~an~~ adjuster for motor vehicle,  
32 property and casualty, workers' compensation, and health

1 insurance may be licensed as such an adjuster without  
2 additional written examination if his or her application  
3 for licensure is filed with the department within 48 months  
4 after cancellation or expiration of the prior license.

5 Section 6. Effective January 1, 2009, subsection (6)  
6 of section 626.241, Florida Statutes, is amended to read:

7 626.241 Scope of examination.--

8 (6) In order to reflect the differences between  
9 adjusting claims for an insurer and adjusting claims for an  
10 insured, the department shall create an examination for  
11 applicants for a public adjuster license and an examination  
12 for a company employee or independent adjuster license.

13 Examinations given applicants for license as an all-lines  
14 adjuster shall cover adjusting in all lines of insurance,  
15 other than life and annuity; or, in accordance with the  
16 application for the license, the examination may be limited  
17 to adjusting in:

- 18 (a) Automobile physical damage insurance;
- 19 (b) Property and casualty insurance;
- 20 (c) Workers' compensation insurance; or
- 21 (d) Health insurance.

22 Section (7). Subsection (1) of section 626.641,  
23 Florida Statutes, is amended to read:

24 626.641 Duration of suspension or revocation.--

25 (1) The department shall, in its order suspending a  
26 license or appointment or in its order suspending the  
27 eligibility of a person to hold or apply for such license  
28 or appointment, specify the period during which the  
29 suspension is to be in effect; but such period shall not  
30 exceed 2 years. The license, appointment, or eligibility  
31 shall remain suspended during the period so specified,  
32 subject, however, to any rescission or modification of the

1 order by the department, or modification or reversal  
2 thereof by the court, prior to expiration of the suspension  
3 period. A license, appointment, or eligibility which has  
4 been suspended shall not be reinstated except upon the  
5 filing and approval of an application for ~~request for such~~  
6 reinstatement and, in the case of a second suspension,  
7 completion of continuing education courses prescribed and  
8 approved by the department; but the department shall not  
9 approve an application for ~~grant such~~ reinstatement if it  
10 finds that the circumstance or circumstances for which the  
11 license, appointment, or eligibility was suspended still  
12 exist or are likely to recur. In addition, an application a  
13 ~~request~~ for reinstatement is subject to denial and subject  
14 to a waiting period prior to approval on the same grounds  
15 that apply to applications for licensure pursuant to ss.  
16 626.207, 626.611, ~~and~~ 626.621 and 626.8698.

17 Section 8. Subsections (5), (6), (7), (8), (9), (10)  
18 and (11) are added to section 626.854, Florida Statutes, to  
19 read:

20 626.854 "Public adjuster" defined; prohibitions.--The  
21 Legislature finds that it is necessary for the protection  
22 of the public to regulate public insurance adjusters and to  
23 prevent the unauthorized practice of law.

24 (5) A public adjuster shall not directly or  
25 indirectly through any other person or entity engage in  
26 face-to-face or telephonic solicitation or enter into a  
27 contract with any insured or claimant under an insurance  
28 policy until at least 72 hours after occurrence of an event  
29 that may be the subject of a claim under the insurance  
30 policy unless contact is initiated by the insured or  
31 claimant. However, when the event is a storm declared to be  
32 a hurricane by the National Hurricane Center, this

1 provision shall apply for a period of 14 days. A public  
2 adjuster shall not directly or indirectly through any other  
3 person or entity solicit an insured or claimant by any  
4 means between the hours of 9:00 p.m. and 8:00 a.m.

5 (6) It is an unfair and deceptive insurance trade  
6 practice pursuant to s. 626.9541 for a public adjuster or  
7 any other person to circulate or disseminate any  
8 advertisement, announcement, or statement containing any  
9 assertion, representation, or statement with respect to the  
10 business of insurance, which is untrue, deceptive, or  
11 misleading.

12 (7) A public adjuster's contract to adjust a claim  
13 shall be cancelable by the client, without penalty or  
14 obligation, for 3 business days after the contract is  
15 executed or for 3 business days after the client has  
16 notified the insurer of the claim, either by phone or in  
17 writing, whichever is later. The public adjuster shall  
18 disclose to the client their right to cancel the contract  
19 and advise the client that notice of cancellation must be  
20 submitted in writing and sent by certified mail, return  
21 receipt requested, or other form of mailing which provides  
22 proof of mailing, to the public adjuster at the address  
23 specified in the contract.

24 (8) Neither a public adjuster nor public adjuster  
25 apprentice nor any other person or entity on its or his  
26 behalf shall give or offer to give a monetary loan or  
27 advance to a client or prospective client.

28 (9) Neither a public adjuster nor public adjuster  
29 apprentice nor any other person or entity on its or his  
30 behalf shall give or offer to give, directly or indirectly,  
31 any article of merchandise with a value in excess of \$25 to  
32 any person for the purpose of advertising or as an

1 inducement to entering into a contract with a public  
2 adjuster.

3 (10) A public adjuster shall not charge, agree to, or  
4 accept any compensation, payment, commission, fee, or other  
5 thing of value based on any settlement, regardless of  
6 whether payment has been made to the insured or claimant,  
7 full or partial payment under a settlement, other claim  
8 payments, or any portion of any payment by the insurer,  
9 unless:

10 (a) The public adjuster entered into a written  
11 contract with the insured or claimant to provide services  
12 as a public adjuster for the claim on which the insurer has  
13 made a payment;

14 (b) The contract was executed prior to settlement,  
15 prior to the time of payment and prior to date that the  
16 insurer communicated to the insured or claimant that  
17 insurer agreed to make a payment; and

18 (c) The public adjuster performed the services  
19 required under the contract with respect to the claim for  
20 which the insurer has made a payment.

21 (11) If a public adjuster enters into a contract with  
22 an insured or claimant to re-open a claim or to file a  
23 supplemental claim that seeks additional payments for a  
24 claim that has been previously paid or settled, the public  
25 adjuster shall not base any charge, compensation, payment,  
26 commission, or fee on the previous settlement or previous  
27 claim payments.

28 (12) A public adjuster shall not charge, agree to, or  
29 accept any compensation, payment, commission, fee, or other  
30 thing of value based on any claim payments for additional  
31 living expenses or:

1           (a) Based on the amount of a claim payment or payment  
2 offer by the insurer that occurred prior to the date that  
3 the adjuster and the insured executed a contract with  
4 regard to the claim.

5           (b) Greater than fifteen percent of the amount of an  
6 insurance claim payment by the insurer for claims that do  
7 not arise out of a storm declared to be a hurricane by the  
8 National Hurricane Center.

9           (c) Greater than ten percent of the amount of an  
10 insurance claim payment by the insurer for claims that do  
11 arise out of a storm declared to be a hurricane by the  
12 National Hurricane Center; except that, if a public  
13 adjuster and an insured execute a contract providing for  
14 the adjuster to re-open or file a supplemental claim that  
15 seeks additional payments on behalf of an insured or  
16 claimant for a claim that has been previously paid or  
17 settled, the amount may be up to fifteen percent of the  
18 amount of the claim payments made by the insurer after the  
19 date of the execution of the contract to re-open or file a  
20 supplemental claim.

21           Section 9. Section 626.8541, Florida Statutes, is  
22 created to read:

23           626.8541 "Public adjuster apprentice" defined. - A  
24 "public adjuster apprentice" is any person who is employed  
25 by a licensed and appointed all lines public adjuster in  
26 good standing with the department or a public adjusting  
27 firm that employs at least one licensed and appointed all  
28 lines public adjuster in good standing with the department  
29 to assist a public adjuster in conducting business under  
30 the license and who satisfies the requirements of s.  
31 626.8651.

1 Section 10. Subsection (1) is amended and subsection  
2 (3) is added in section 626.865, Florida Statutes, is  
3 amended to read:

4 626.865 Public adjuster's qualifications, bond.--

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

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

10 (b) Is a United States citizen or legal alien who  
11 possesses work authorization from the United States Bureau  
12 of Citizenship and Immigration Services and a bona fide  
13 resident of this state.

14 (c) Is trustworthy and has such business reputation  
15 as would reasonably assure that the applicant will conduct  
16 his or her business as insurance adjuster fairly and in  
17 good faith and without detriment to the public.

18 (d) 1. In the past 4 years, has had 2 years of  
19 sufficient experience involving the adjusting of damages or  
20 losses under insurance contracts, other than life and  
21 annuity contracts, as a licensed and appointed general  
22 lines insurance agent or as a licensed and appointed all-  
23 lines or property and casualty company employee adjuster or  
24 independent adjuster; or, training, or instruction  
25 concerning the adjusting of damages or losses under

26 insurance contracts, other than life and annuity contracts,  
27 2. Has successfully completed 12 semester hours or 18  
28 quarter hours in courses on insurance, other than life and  
29 annuity contracts, at an accredited institution of higher  
30 learning; or

31 3. Has completed 12 months of employment as a public  
32 adjuster apprentice in accordance with s. 626.8651.

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1           (e) Is sufficiently informed as to the terms and  
2 effects of the provisions of those types of insurance  
3 contracts, and possesses adequate knowledge of the laws of  
4 this state relating to such contracts as to enable and  
5 qualify him or her to engage in the business of insurance  
6 adjuster fairly and without injury to the public or any  
7 member thereof with whom the applicant may have business as  
8 a public adjuster.

9           ~~(f)(e)~~ Has passed the any required written  
10 examination.

11           (3) The department shall not issue a license as a  
12 public adjuster to any person who has not passed the  
13 examination for a public adjuster's license. Any person who  
14 is applying for reinstatement of a license after completion  
15 of a period of suspension and any person who is applying  
16 for a new license after termination, cancellation,  
17 revocation or expiration of a prior license as a public  
18 adjuster must pass the examination for a public adjuster's  
19 license after approval of the application for reinstatement  
20 or for a new license regardless of whether the applicant  
21 passed an examination prior to issuance of the license that  
22 was suspended, terminated, cancelled, revoked or expired.

23           Section 11. Section 626.8651, Florida Statutes, is  
24 created to read:

25           626.8651 Public adjuster apprentice license;  
26 qualifications.--

27           (1) If, upon the basis of a completed application for  
28 license as a public adjuster apprentice and such further  
29 inquiry or investigation as the department may make  
30 concerning an applicant, the department is satisfied that

1 the applicant is qualified and that all pertinent fees have  
2 been paid, it shall approve the application.

3 (2) If, upon the basis of the completed application  
4 and such further inquiry or investigation, the department  
5 finds the applicant to be lacking in any one or more of the  
6 required qualifications for licensure as a public adjuster  
7 apprentice, the department shall deny the application and  
8 notify the applicant, stating the grounds for denial.

9 (3) The department shall issue a license as a public  
10 adjuster apprentice if the applicant meets the following  
11 qualifications:

12 (a) The applicant is a natural person at least 18  
13 years of age.

14 (b) The applicant is a United States citizen or legal  
15 alien who possesses work authorization from the United  
16 States Bureau of Citizenship and Immigration Services and  
17 is a resident of this state.

18 (c) The applicant is trustworthy and has such  
19 business reputation as would reasonably assure that the  
20 applicant will conduct business as a public adjuster  
21 apprentice fairly and in good faith and without detriment  
22 to the public.

23 (d) The applicant has had sufficient experience,  
24 training, or instruction concerning the adjusting of  
25 damages or losses under insurance contracts, other than  
26 life and annuity contracts, is sufficiently informed as to  
27 the terms and effects of the provisions of those types of  
28 insurance contracts, and possesses adequate knowledge of  
29 the laws of this state relating to such contracts as to  
30 enable and qualify him or her to engage in business as a  
31 public adjuster apprentice fairly and without injury to the  
32 public or any member thereof with whom the applicant may

1 have business as a public adjuster apprentice. The  
2 department may adopt rules that establish standards for the  
3 experience, training, or instruction requirements.

4 (4) All applicable license fees, as prescribed in s.  
5 624.501, must be paid before issuance of the license.

6 (5) At the time of application for license as a  
7 public adjuster apprentice, the applicant shall file with  
8 the department a bond executed and issued by a surety  
9 insurer authorized to transact such business in this state,  
10 in the amount of \$50,000, conditioned for the faithful  
11 performance of his or her duties as a public adjuster  
12 apprentice under the license for which the applicant has  
13 applied, and thereafter maintain the bond unimpaired  
14 throughout the existence of the license and for at least 1  
15 year after termination of the license. The bond shall be in  
16 favor of the department and shall specifically authorize  
17 recovery by the department of the damages sustained in case  
18 the licensee is guilty of fraud or unfair practices in  
19 connection with his or her business as public adjuster  
20 apprentice. The aggregate liability of the surety for all  
21 such damages shall in no event exceed the amount of the  
22 bond. Such bond shall not be terminated by the issuing  
23 insurer unless at least 30 days' written notice is given to  
24 the licensee and filed with the department.

25 (6) A public adjuster apprentice must complete at  
26 least 12 months of employment under the supervision of a  
27 licensed and appointed all lines public adjuster in order  
28 to qualify for licensure as a public adjuster. The  
29 department may adopt rules that adopt standards for the  
30 employment requirement including but not limited to the

1 number of hours of employment needed to qualify as 12  
2 months of employment.

3 (7) The supervising public adjuster is responsible  
4 and accountable for the acts of a public adjuster  
5 apprentice that are related to transacting business as a  
6 public adjuster apprentice. The supervising public adjuster  
7 must be licensed for all lines of insurance except life and  
8 annuities.

9 (8) The apprentice license shall be effective for 18  
10 months unless surrendered by the licensee, terminated,  
11 suspended or revoked by the department or cancelled by the  
12 department upon issuance of a public adjuster license.

13 (9) After completing at least 12 months of employment  
14 as a public adjuster apprentice, the licensee may file an  
15 application for a public adjuster license. The applicant  
16 and supervising public adjuster or public adjusting firm  
17 must each file an affidavit under oath, on a form  
18 prescribed by the department, verifying the required  
19 employment of the public adjuster apprentice before  
20 issuance of the license.

21 (10) In no event shall a public adjuster apprentice  
22 licensed under this section perform any of the functions  
23 for which a public adjuster's license is required after  
24 expiration of the public adjuster apprentice license  
25 without having obtained a public adjuster license.

26 (11) A public adjuster apprentice has the same  
27 authority as the licensed public adjuster or public  
28 adjusting firm that employs the apprentice except that an  
29 apprentice may not execute contracts for the services of a  
30 public adjuster or public adjusting firm and may not  
31 solicit contracts for the services except under direct

1 supervision and guidance of the supervisory public  
2 adjuster.

3 Section 12. Subsection (4) of section 626.869, Florida  
4 Statutes, is amended to read:

5 626.869 License, adjusters; continuing education.--

6 (4)(a) Any individual holding a company employee or  
7 independent adjuster license for 24 consecutive months or  
8 longer must, beginning in his or her birth month and every  
9 2 years thereafter, have completed 24 hours of courses, 2  
10 hours of which relate to ethics, in subjects designed to  
11 inform the licensee regarding the current insurance laws of  
12 this state, so as to enable him or her to engage in  
13 business as an insurance adjuster fairly and without injury  
14 to the public and to adjust all claims in accordance with  
15 the policy or contract and the laws of this state.

16 (b) Any individual holding a license as a public  
17 adjuster for 24 consecutive months or longer, beginning in  
18 their birth month and every 2 years thereafter, must have  
19 completed 24 hours of courses, 2 hours of which relate to  
20 ethics, in subjects designed to inform the licensee  
21 regarding the current laws of this state pertaining to all  
22 lines of insurance other than life and annuities, the  
23 current laws of this state pertaining to the duties and  
24 responsibilities of public adjusters as set forth in this  
25 part, the current rules of the department that are  
26 applicable to public adjusters and standard or  
27 representative policy forms used by insurers, other than  
28 forms for life insurance and annuities, so as to enable him  
29 or her to engage in business as an adjuster fairly and  
30 without injury to the public and to adjust all claims in  
31 accordance with the policy or contract and laws of this  
32 state. In order to receive credit for continuing education

1 courses, public adjusters must take courses that are  
2 specifically designed for and approved by the department  
3 for public adjusters.

4 (c) The department shall adopt rules necessary to  
5 implement and administer the continuing education  
6 requirements of this subsection. For good cause shown, the  
7 department may grant an extension of time during which the  
8 requirements imposed by this section may be completed, but  
9 such extension of time may not exceed 1 year.

10 (d) A nonresident adjuster who must complete  
11 continuing education requirements in his or her home state  
12 may use the home state requirements to meet this state's  
13 continuing education requirements as well, if the  
14 resident's state recognizes reciprocity with this state's  
15 continuing education requirements. A nonresident whose home  
16 state does not have a continuing education requirement but  
17 is licensed for the same type and class of adjuster license  
18 in another state which does have a continuing education  
19 requirement may comply with this section by furnishing  
20 proof of compliance with the other state's requirement if  
21 that state has a reciprocal agreement with this state  
22 relative to continuing education. A nonresident whose home  
23 state does not have such continuing education requirements  
24 for adjusters, and who is not licensed as a nonresident  
25 adjuster in a state that has continuing education  
26 requirements and reciprocates with this state, must meet  
27 the continuing education requirements of this state.

28 Section 13. Section 626.8698, Florida Statutes, is  
29 amended to read:

30 626.8698 Disciplinary guidelines for public adjusters  
31 and public adjuster apprentices.--The department may deny,  
32 suspend, or revoke the license of a public adjuster or

1 public adjuster apprentice, and administer a fine not to  
2 exceed \$5,000 per act, for any of the following:

3 (1) Violating any provision of this chapter or a rule  
4 or order of the department;

5 (2) Receiving payment or anything of value as a  
6 result of an unfair or deceptive practice;

7 (3) Receiving or accepting any fee, kickback, or  
8 other thing of value pursuant to any agreement or  
9 understanding, oral or otherwise; entering into a split-fee  
10 arrangement with another person who is not a public  
11 adjuster; or being otherwise paid or accepting payment for  
12 services that have not been performed;

13 (4) Violating s. 316.066 or s. 817.234;

14 (5) Soliciting or otherwise taking advantage of a  
15 person who is vulnerable, emotional, or otherwise upset as  
16 the result of a trauma, accident, or other similar  
17 occurrence; or

18 (6) Violating any ethical rule of the department.

19 Section 14. Subsection (4) is added to section  
20 626.870, to read:

21 626.870 Application for license and reinstatement of  
22 suspended license--

23 (4) A license, appointment, or eligibility which has  
24 been suspended shall not be reinstated except upon the  
25 filing and approval of an application for reinstatement in  
26 accordance with s. 626.641 and passing of the public  
27 adjuster licensing examination. An application for  
28 reinstatement shall be accompanied by an application for  
29 examination in accordance with s. 626.231 and the  
30 applicable examination fee. Successful completion of the  
31 examination does not entitle the applicant to have a  
32 license reinstated. The application is subject to denial

1 pursuant to ss. 626.207, 626.611, 626.621 and 626.8698. If  
2 the department approves an application for reinstatement,  
3 the applicant will be notified that the license will be  
4 reinstated upon payment by the applicant of the  
5 reinstatement fee contained in s. 626.501(15).

6 Section 15. Subsections (1) and (2) of section  
7 626.8732, Florida Statutes, are amended and subsection (6)  
8 is added to read:

9 626.8732 Nonresident public adjuster's  
10 qualifications, bond.--

11 (1) The department shall, upon application therefor,  
12 issue a license to an applicant for a nonresident public  
13 adjuster's license upon determining that the applicant has  
14 paid the applicable license fees required under s. 624.501  
15 and:

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

17 (b) Has passed to the satisfaction of the department  
18 a written Florida public adjuster's examination of the  
19 scope prescribed in s. 626.241(6); ~~however, the requirement~~  
20 ~~for such an examination does not apply to any of the~~  
21 ~~following:~~

22 ~~1. An applicant who is licensed as a resident public~~  
23 ~~adjuster in his or her state of residence, when that state~~  
24 ~~requires the passing of a written examination in order to~~  
25 ~~obtain the license and a reciprocal agreement with the~~  
26 ~~appropriate official of that state has been entered into by~~  
27 ~~the department; or~~

28 ~~2. An applicant who is licensed as a nonresident~~  
29 ~~public adjuster in a state other than his or her state of~~  
30 ~~residence when the state of licensure requires the passing~~  
31 ~~of a written examination in order to obtain the license and~~

1 ~~a reciprocal agreement with the appropriate official of the~~  
2 ~~state of licensure has been entered into by the department.~~

3 (c) Is self-employed as a public adjuster or  
4 associated with or employed by a public adjusting firm or  
5 other public adjuster. Applicants licensed as nonresident  
6 public adjusters under this section must be appointed as  
7 such in accordance with the provisions of ss. 626.112 and  
8 626.451. Appointment fees in the amount specified in s.  
9 624.501 must be paid to the department in advance. The  
10 appointment of a nonresident public adjuster shall continue  
11 in force until suspended, revoked, or otherwise terminated,  
12 but subject to biennial renewal or continuation by the  
13 licensee in accordance with procedures prescribed in s.  
14 626.381 for licensees in general.

15 (d) Is trustworthy and has such business reputation  
16 as would reasonably assure that he or she will conduct his  
17 or her business as a nonresident public adjuster fairly and  
18 in good faith and without detriment to the public.

19 (e) Has been licensed and employed as a public  
20 adjuster in the applicant's resident state on a continual  
21 basis for the past 3 years. If the applicant's state of  
22 residence does not issue licenses to persons who act as  
23 public adjusters, has been licensed and employed as a  
24 resident insurance company or independent adjuster,  
25 insurance agent, insurance broker, or other insurance  
26 representative in his or her state of residence or any  
27 other state on a continual basis for the past 3 years. This  
28 provision does not apply to persons who are only licensed  
29 to transact life insurance and annuity business. ~~Has had~~  
30 ~~sufficient experience, training, or instruction concerning~~  
31 ~~the adjusting of damages or losses under insurance~~  
32 ~~contracts, other than life and annuity contracts; is~~

1 ~~sufficiently informed as to the terms and effects of the~~  
2 ~~provisions of those types of insurance contracts; and~~  
3 ~~possesses adequate knowledge of the laws of this state~~  
4 ~~relating to such contracts as to enable and qualify him or~~  
5 ~~her to engage in the business of insurance adjuster fairly~~  
6 ~~and without injury to the public or any member thereof with~~  
7 ~~whom he or she may have business as a public adjuster.~~

8 (2) The applicant shall furnish the following with  
9 his or her application:

10 (a) A complete set of his or her fingerprints. The  
11 applicant's fingerprints must be certified by an authorized  
12 law enforcement officer. The department may not authorize  
13 an applicant to take the required examination or issue a  
14 nonresident public adjuster's license to the applicant  
15 until the department has received a report from the Florida  
16 Department of Law Enforcement and the Federal Bureau of  
17 Investigation relative to the existence or nonexistence of  
18 a criminal history report based on the applicant's  
19 fingerprints.

20 (b) If currently licensed as a resident public  
21 adjuster in the applicant's state of residence, a  
22 certificate or letter of authorization from the licensing  
23 authority of the applicant's state of residence, stating  
24 that the applicant holds a current or comparable license to  
25 act as a public adjuster and has held the license  
26 continuously for the past 3 years. The certificate or  
27 letter of authorization must be signed by the insurance  
28 commissioner or his or her deputy or the appropriate  
29 licensing official and must disclose whether the adjuster  
30 has ever had any license or eligibility to hold any license  
31 declined, denied, suspended, revoked, or placed on  
32 probation or whether an administrative fine or penalty has

1 been levied against the adjuster and, if so, the reason for  
2 the action.

3 (c) If the applicant's state of residence does not  
4 require licensure as a public adjuster and the applicant  
5 has been licensed as a resident insurance adjuster, agent,  
6 broker, or other insurance representative in his or her  
7 state of residence or any other state ~~within the past 3~~  
8 ~~years~~, a certificate or letter of authorization from the  
9 licensing authority stating that the applicant holds ~~or has~~  
10 ~~held~~ a license to act as such an insurance adjuster, agent,  
11 or other insurance representative and has held the license  
12 continuously for the past 3 years. The certificate or  
13 letter of authorization must be signed by the insurance  
14 commissioner or his or her deputy or the appropriate  
15 licensing official and must disclose whether or not the  
16 adjuster, agent, or other insurance representative has ever  
17 had any license or eligibility to hold any license  
18 declined, denied, suspended, revoked, or placed on  
19 probation or whether an administrative fine or penalty has  
20 been levied against the adjuster and, if so, the reason for  
21 the action.

22 (6) If available, the department shall verify the  
23 nonresident applicant's licensing status through the  
24 Producer Database maintained by the National Association of  
25 Insurance Commissioners, its affiliates or subsidiaries.

26 Section 16. Section 626.8796, Florida Statutes, is  
27 created to read:

28 626.8796 Public adjuster contracts; fraud  
29 statement.-- All contracts for public adjuster  
30 services must be in writing and must prominently display  
31 the following statement on the first page of the contract:  
32 "Any person who knowingly and with intent to injure,

1 defraud, or deceive any insurer files a statement of claim  
2 or proof of loss containing any false, incomplete, or  
3 misleading information is guilty of a felony of the third  
4 degree."

5 Section 17. Section 626.8797, Florida Statutes, is  
6 created to read:

7 626.8797 Public adjusters; proof of loss  
8 certification.—If an insurance policy requires an insured  
9 or claimant to file a written proof of loss containing an  
10 estimate of the costs to repair or replace damaged  
11 property, a public adjuster under contract to adjust the  
12 claim for the insured or claimant must affirm, under oath  
13 given by a notary public, the proof of loss by signing the  
14 following statement: "I, . . . , do solemnly, sincerely and  
15 truly declare and affirm that I have reviewed the estimate  
16 of the cost of repair or replacement of damaged property as  
17 set forth in this proof of loss and that in my best  
18 judgment the estimated costs are reasonable and, to the  
19 best of my knowledge, the proof of loss does not contain  
20 any false, incomplete, or misleading information." If this  
21 statement is not printed on the proof of loss form, the  
22 adjuster shall add the statement to the form or attach a  
23 separate page containing the signed statement to the form.  
24 Pursuant to s. 817.234, a person commits a felony if that  
25 person, with the intent to injure, defraud, or deceive any  
26 insurer, prepares, presents or causes to be presented a  
27 proof of loss in support of a claim under an insurance  
28 policy knowing that the proof of loss contains any false,  
29 incomplete, or misleading information concerning any fact  
30 or thing material to the claim.

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1           Section 18. This act shall take effect on October 1,  
2 2008.

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4           DRAFT (11/20/07)

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