

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee

3 Representative Edwards offered the following:

4
 5 **Amendment (with title amendment)**

6 Between lines 341 and 342, insert:

7 Section 5. Subsection (4) is added to section 626.0428,
 8 Florida Statutes, to read:

9 626.0428 Agency personnel powers, duties, and
 10 limitations.—

11 (4) (a) Each branch place of business established by an
 12 agent or agency, firm, corporation, or association shall be in
 13 the active full-time charge of a licensed general lines agent or
 14 life or health agent who is appointed to represent one or more
 15 insurers. Any agent or agency, firm, corporation, or association
 16 which has established one or more branch places of business
 17 shall be required to have at least one licensed general lines
 18 agent or life or health agent who is appointed to represent one

Amendment No. 4

19 or more insurers at each location of the agency including its
20 headquarters location.

21 (b) Notwithstanding paragraph (a), the licensed agent in
22 charge of an insurance agency may also be the agent in charge of
23 additional branch office locations of the agency if insurance
24 activities requiring licensure as an insurance agent do not
25 occur at any location when the agent is not physically present
26 and unlicensed employees at the location do not engage in any
27 insurance activities requiring licensure as an insurance agent
28 or customer representative.

29 (c) An insurance agency and each branch place of business
30 of an insurance agency shall designate an agent in charge and
31 file the name and license number of the agent in charge and the
32 physical address of the insurance agency location with the
33 department at its designated web site. The designation of the
34 agent in charge may be changed at the option of the agency, and
35 any change shall be effective upon notification to the
36 department. Notice to the department must be provided within 30
37 days after such change.

38 (d) For the purposes of this section, an "agent in charge"
39 is the licensed and appointed agent who is responsible for the
40 hiring and supervision of all individuals within an insurance
41 agency location whether or not such individuals deal with the
42 general public in the solicitation or negotiation of insurance
43 contracts or the collection or accounting of moneys.

44 (e) An insurance agency location may not conduct the
45 business of insurance unless an agent in charge is designated at
46 all times. Failure to designate and notify the department of the

Amendment No. 4

47 designation of an agent in charge within 30 days after a change
48 of agent in charge constitutes grounds for the department to
49 issue an immediate final order requiring the agency location to
50 cease operations until such time as an agent in charge is
51 properly designated.

52 Section 6. Subsection (7) of section 626.112, Florida
53 Statutes, is amended to read:

54 626.112 License and appointment required; agents, customer
55 representatives, adjusters, insurance agencies, service
56 representatives, managing general agents.-

57 (7) (a) ~~Effective October 1, 2006,~~ No individual, firm,
58 partnership, corporation, association, or any other entity shall
59 act in its own name or under a trade name, directly or
60 indirectly, as an insurance agency, unless it complies with s.
61 626.172 with respect to possessing an insurance agency license
62 for each place of business at which it engages in any activity
63 which may be performed only by a licensed insurance agent.

64 However, an insurance agency that is owned and operated by a
65 single licensed agent conducting business in his or her
66 individual name and not employing or otherwise using the
67 services of or appointing other licensees shall be exempt from
68 the agency licensing requirements of this subsection. A branch
69 place of business that is established by a licensed agency is
70 considered a branch agency and is not required to be licensed so
71 long as it transacts business under the same name and federal
72 tax identification number as the licensed agency, has designated
73 a licensed agent in charge of the location as required by s.
74 626.0428, and the address and telephone number of the location

Amendment No. 4

75 have been submitted to the department for inclusion in the
76 licensing record of the licensed agency within 30 days after
77 insurance transactions began at the location ~~Each agency engaged~~
78 ~~in business in this state before January 1, 2003, which is~~
79 ~~wholly owned by insurance agents currently licensed and~~
80 ~~appointed under this chapter, each incorporated agency whose~~
81 ~~voting shares are traded on a securities exchange, each agency~~
82 ~~designated and subject to supervision and inspection as a branch~~
83 ~~office under the rules of the National Association of Securities~~
84 ~~Dealers, and each agency whose primary function is offering~~
85 ~~insurance as a service or member benefit to members of a~~
86 ~~nonprofit corporation may file an application for registration~~
87 ~~in lieu of licensure in accordance with s. 626.172(3). Each~~
88 ~~agency engaged in business before October 1, 2006, shall file an~~
89 ~~application for licensure or registration on or before October~~
90 ~~1, 2006.~~

91 (b)1. If an agency is required to be licensed but fails to
92 file an application for licensure in accordance with this
93 section, the department shall impose on the agency an
94 administrative penalty in an amount of up to \$10,000.

95 ~~2. If an agency is eligible for registration but fails to~~
96 ~~file an application for registration or an application for~~
97 ~~licensure in accordance with this section, the department shall~~
98 ~~impose on the agency an administrative penalty in an amount of~~
99 ~~up to \$5,000.~~

100 (c)(b) Effective October 1, 2013, the department must
101 automatically convert the registration of an approved a
102 registered insurance agency to shall, as a condition precedent

Amendment No. 4

103 ~~to continuing business, obtain an insurance agency license if~~
104 ~~the department finds that, with respect to any majority owner,~~
105 ~~partner, manager, director, officer, or other person who manages~~
106 ~~or controls the agency, any person has:~~

107 ~~1. Been found guilty of, or has pleaded guilty or nolo~~
108 ~~contendere to, a felony in this state or any other state~~
109 ~~relating to the business of insurance or to an insurance agency,~~
110 ~~without regard to whether a judgment of conviction has been~~
111 ~~entered by the court having jurisdiction of the cases.~~

112 ~~2. Employed any individual in a managerial capacity or in~~
113 ~~a capacity dealing with the public who is under an order of~~
114 ~~revocation or suspension issued by the department. An insurance~~
115 ~~agency may request, on forms prescribed by the department,~~
116 ~~verification of any person's license status. If a request is~~
117 ~~mailed within 5 working days after an employee is hired, and the~~
118 ~~employee's license is currently suspended or revoked, the agency~~
119 ~~shall not be required to obtain a license, if the unlicensed~~
120 ~~person's employment is immediately terminated.~~

121 ~~3. Operated the agency or permitted the agency to be~~
122 ~~operated in violation of s. 626.747.~~

123 ~~4. With such frequency as to have made the operation of~~
124 ~~the agency hazardous to the insurance-buying public or other~~
125 ~~persons:~~

126 ~~a. Solicited or handled controlled business. This~~
127 ~~subparagraph shall not prohibit the licensing of any lending or~~
128 ~~financing institution or creditor, with respect to insurance~~
129 ~~only, under credit life or disability insurance policies of~~

Amendment No. 4

130 ~~borrowers from the institutions, which policies are subject to~~
131 ~~part IX of chapter 627.~~

132 ~~b. Misappropriated, converted, or unlawfully withheld~~
133 ~~moneys belonging to insurers, insureds, beneficiaries, or others~~
134 ~~and received in the conduct of business under the license.~~

135 ~~e. Unlawfully rebated, attempted to unlawfully rebate, or~~
136 ~~unlawfully divided or offered to divide commissions with~~
137 ~~another.~~

138 ~~d. Misrepresented any insurance policy or annuity~~
139 ~~contract, or used deception with regard to any policy or~~
140 ~~contract, done either in person or by any form of dissemination~~
141 ~~of information or advertising.~~

142 ~~e. Violated any provision of this code or any other law~~
143 ~~applicable to the business of insurance in the course of dealing~~
144 ~~under the license.~~

145 ~~f. Violated any lawful order or rule of the department.~~

146 ~~g. Failed or refused, upon demand, to pay over to any~~
147 ~~insurer he or she represents or has represented any money coming~~
148 ~~into his or her hands belonging to the insurer.~~

149 ~~h. Violated the provision against twisting as defined in~~
150 ~~s. 626.9541(1)(1).~~

151 ~~i. In the conduct of business, engaged in unfair methods~~
152 ~~of competition or in unfair or deceptive acts or practices, as~~
153 ~~prohibited under part IX of this chapter.~~

154 ~~j. Willfully overinsured any property insurance risk.~~

155 ~~k. Engaged in fraudulent or dishonest practices in the~~
156 ~~conduct of business arising out of activities related to~~
157 ~~insurance or the insurance agency.~~

Amendment No. 4

158 ~~1. Demonstrated lack of fitness or trustworthiness to~~
159 ~~engage in the business of insurance arising out of activities~~
160 ~~related to insurance or the insurance agency.~~

161 ~~m. Authorized or knowingly allowed individuals to transact~~
162 ~~insurance who were not then licensed as required by this code.~~

163 ~~5. Knowingly employed any person who within the preceding~~
164 ~~3 years has had his or her relationship with an agency~~
165 ~~terminated in accordance with paragraph (d).~~

166 ~~6. Willfully circumvented the requirements or prohibitions~~
167 ~~of this code.~~

168 Section 7. Subsections (2), (3), and (4) of section
169 626.172, Florida Statutes, are amended to read:

170 626.172 Application for insurance agency license.—

171 (2) An application for an insurance agency license must
172 ~~shall~~ be signed by the owner or owners of the agency. If the
173 agency is incorporated, the application must ~~shall~~ be signed by
174 the president and secretary of the corporation. The application
175 for an insurance agency license must ~~shall~~ include:

176 (a) The name of each majority owner, partner, officer, and
177 director of the insurance agency.

178 (b) The residence address of each person required to be
179 listed in the application under paragraph (a).

180 (c) The name of the insurance agency, ~~and~~ its principal
181 business street address and a valid email address.

182 (d) The physical address location of each branch agency,
183 including the name, email address, telephone number and the date
184 the branch location began transacting insurance ~~office and the~~

Amendment No. 4

185 ~~name under which each agency office conducts or will conduct~~
186 ~~business.~~

187 (e) The name of each agent to be in full-time charge of an
188 agency office and specification of which office, including
189 branch locations.

190 (f) The fingerprints of each of the following:

191 1. A sole proprietor;

192 2. Each partner;

193 3. Each owner of an unincorporated agency;

194 4. Each owner who directs or participates in the
195 management or control of an incorporated agency whose shares are
196 not traded on a securities exchange;

197 5. The president, senior vice presidents, treasurer,
198 secretary, and directors of the agency; and

199 6. Any other person who directs or participates in the
200 management or control of the agency, whether through the
201 ownership of voting securities, by contract, or otherwise.

202

203 Fingerprints must be taken by a law enforcement agency or other
204 entity approved by the department and must be accompanied by the
205 fingerprint processing fee specified in s. 624.501. Fingerprints
206 must ~~shall~~ be processed in accordance with s. 624.34. However,
207 fingerprints need not be filed for any individual who is
208 currently licensed and appointed under this chapter. This
209 paragraph does not apply to corporations whose voting shares are
210 traded on a securities exchange.

211 (g) Such additional information as the department requires
212 by rule to ascertain the trustworthiness and competence of

Amendment No. 4

213 persons required to be listed on the application and to
214 ascertain that such persons meet the requirements of this code.
215 However, the department may not require that credit or character
216 reports be submitted for persons required to be listed on the
217 application.

218 (h) ~~Beginning October 1, 2005,~~ The department must ~~shall~~
219 accept the uniform application for nonresident agency licensure.
220 The department may adopt by rule revised versions of the uniform
221 application.

222 ~~(3) The department shall issue a registration as an~~
223 ~~insurance agency to any agency that files a written application~~
224 ~~with the department and qualifies for registration. The~~
225 ~~application for registration shall require the agency to provide~~
226 ~~the same information required for an agency licensed under~~
227 ~~subsection (2), the agent identification number for each owner~~
228 ~~who is a licensed agent, proof that the agency qualifies for~~
229 ~~registration as provided in s. 626.112(7), and any other~~
230 ~~additional information that the department determines is~~
231 ~~necessary in order to demonstrate that the agency qualifies for~~
232 ~~registration. The application must be signed by the owner or~~
233 ~~owners of the agency. If the agency is incorporated, the~~
234 ~~application must be signed by the president and the secretary of~~
235 ~~the corporation. An agent who owns the agency need not file~~
236 ~~fingerprints with the department if the agent obtained a license~~
237 ~~under this chapter and the license is currently valid.~~

238 ~~(a) If an application for registration is denied, the~~
239 ~~agency must file an application for licensure no later than 30~~
240 ~~days after the date of the denial of registration.~~

Amendment No. 4

241 ~~(b) A registered insurance agency must file an application~~
242 ~~for licensure no later than 30 days after the date that any~~
243 ~~person who is not a licensed and appointed agent in this state~~
244 ~~acquires any ownership interest in the agency. If an agency~~
245 ~~fails to file an application for licensure in compliance with~~
246 ~~this paragraph, the department shall impose an administrative~~
247 ~~penalty in an amount of up to \$5,000 on the agency.~~

248 ~~(c) Sections 626.6115 and 626.6215 do not apply to~~
249 ~~agencies registered under this subsection.~~

250 ~~(3)(4)~~ The department must ~~shall~~ issue a license ~~or~~
251 ~~registration~~ to each agency upon approval of the application,
252 and each agency location must ~~shall~~ display the license ~~or~~
253 ~~registration~~ prominently in a manner that makes it clearly
254 visible to any customer or potential customer who enters the
255 agency.

256 Section 8. Section 626.382, Florida Statutes, is amended
257 to read:

258 626.382 Continuation, expiration of license; insurance
259 agencies.—The license of any insurance agency ~~shall be issued~~
260 ~~for a period of 3 years and~~ shall continue in force until
261 canceled, suspended, revoked, or otherwise terminated. ~~A license~~
262 ~~may be renewed by submitting a renewal request to the department~~
263 ~~on a form adopted by department rule.~~

264
265 Between lines 462 and 463, insert:

266 Section. 7 Section 626.747, Florida Statutes, is repealed.
267
268

Amendment No. 4

269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295

T I T L E A M E N D M E N T

Remove line 20 and insert:

authority; amending s. 626.0428, F.S.; requiring a branch place of business to have an agent in charge and a general lines agent appointed to represent one or more insurers; authorizing an agent to be in charge of more than one branch office under certain circumstances; providing requirements relating to the designation of an agent in charge; prohibiting an insurance agency from conducting insurance business at a location without a designated agent in charge; providing grounds for the Department of Financial Services to order operations to cease at certain insurance agency locations until an agent in charge is properly designated; amending s. 626.112, F.S.; providing licensure exemptions that allow specified individuals or entities to conduct insurance business at specified locations under certain circumstances; revising licensure requirements and penalties with respect to registered insurance agencies; providing that the registration of an approved registered insurance agency automatically converts to an insurance agency license on a specified date; amending s. 626.172, F.S.; revising requirements relating to applications for insurance agency licenses; deleting provisions relating to registration as an insurance agency to conform to changes made by the act; amending s. 626.382, F.S.; providing that an insurance agency license

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 635 (2013)

Amendment No. 4

296 continues in force until canceled, suspended, revoked, or
297 terminated; amending s. 626.321, F.S.; providing that a

298

299 Remove line 28 and insert:

300 entities involved in the insurance industry; repealing s.
301 626.747 F.S., relating to branch agencies, agents in charge, and
302 the payment of additional county tax under certain
303 circumstances; amending

304