

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	_____	(Y/N)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

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

3 Representative Giallombardo offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsections (35) through (38) of section
 8 494.001, Florida Statutes, are renumbered as subsections (36)
 9 through (39), respectively, subsection (3) is amended, and a new
 10 subsection (35) is added to that section, to read:

11 494.001 Definitions.—As used in this chapter, the term:

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

Amendment No. 1

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

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

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

23 (35) "Remote location" means a location, other than a
24 principal place of business or a branch office, at which a loan
25 originator of a licensee may conduct business. Licensees may
26 allow loan originators to work from remote locations if:

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

29 (b) Access to company platforms and customer information
30 is in accordance with the licensee's comprehensive written
31 information security plan.

32 (c) An in-person customer interaction does not occur at a
33 loan originator's residence, unless such residence is a licensed
34 location.

35 (d) Physical records are not maintained at a remote
36 location.

37 (e) Customer interactions and conversations about
38 consumers will be in compliance with federal and state
39 information security requirements, including applicable

Amendment No. 1

40 provisions under the Gramm-Leach-Bliley Act and the Safeguards
41 Rule established by the Federal Trade Commission, set forth at
42 16 CFR Part 314, as such requirements may be amended from time
43 to time.

44 (f) Loan originators working at remote locations access
45 the company's secure systems, including a cloud-based system,
46 directly from any out-of-office device such employee uses,
47 including a laptop, telephones desktop computer, and tablet, via
48 a virtual private network or comparable system that ensures
49 secure connectivity and requires passwords or other forms of
50 authentication to access.

51 (g) Licensee ensures that appropriate security updates,
52 patches, or other alterations to the security of all devices
53 used at remote locations are installed and maintained.

54 (h) Licensee has an ability to remotely lock or erase
55 company-related contents of any device or otherwise remotely
56 limit all access to a company's secure systems.

57 (i) The Nationwide Multistate Licensing System and
58 Registry's record of a loan originator who works from a remote
59 location designates the principal place of business as the loan
60 originator's registered location or the loan originator has
61 elected a licensed branch office as a registered location.

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

64 494.0067 Requirements of mortgage lenders.—

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Amendment No. 1

65 (1) A mortgage lender that makes mortgage loans on real
66 estate in this state shall transact business from a principal
67 place of business, branch office, or remote location. Each
68 principal place of business, ~~and~~ each branch office, and remote
69 location shall be operated under the full charge, control, and
70 supervision of the licensee pursuant to this part.

71 Section 3. Section 501.2042, Florida Statutes, is created
72 to read:

73 501.2042 Unlawful acts and practices by online crowd-
74 funding campaigns.-

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

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

80 (b) "Crowd-funding platform" means an entity doing
81 business in this state and that provides an online medium for
82 the creation and facilitation of a crowd-funding campaign.

83 (c) "Disaster" means any natural, technological, or civil
84 emergency that occurs in this state and that causes damage of
85 sufficient severity and magnitude to result in a declaration of
86 a state of emergency by a county, the Governor, or the President
87 of the United States.

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

89 1. Resides or is domiciled in this state.

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Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

90 2. Has an account on a crowd-funding platform and has
91 created a crowd-funding campaign either as a beneficiary or on
92 behalf of a beneficiary who resides in the state, regardless of
93 whether the beneficiary or the crowd-funding campaign has
94 received donations.

95 (2) When an organizer arranges a crowd-funding campaign
96 related to a disaster, the organizer must produce to the crowd-
97 funding platform a complete and accurate accounting of all
98 donations received and expended by the crowd-funding campaign
99 for the benefit of state residents. The crowd-funding platform
100 must publish all received accountings on its website.

101 Section 4. Section 520.23, Florida Statutes, is amended to
102 read:

103 520.23 Disclosures required.—Each agreement governing the
104 sale or lease of a distributed energy generation system shall,
105 at a minimum, include a written statement printed in at least
106 12-point type that is separate from the agreement, is separately
107 acknowledged by the buyer or lessee, and includes the following
108 information and disclosures, if applicable:

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

111 (2) The name, address, telephone number, e-mail address,
112 and valid state contractor license number of the person
113 responsible for installing the distributed energy generation
114 system.

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Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

115 (3) The name, address, telephone number, e-mail address,
116 and valid state contractor license number of the distributed
117 energy generation system maintenance provider, if different from
118 the person responsible for installing the distributed energy
119 generation system.

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

122 (5)-(4) A written statement indicating whether the
123 distributed energy generation system is being purchased or
124 leased.

125 (a) If the distributed energy generation system will be
126 leased, the written statement must include a disclosure in
127 substantially the following form: "You are entering into an
128 agreement to lease a distributed energy generation system. You
129 will lease (not own) the system installed on your property."

130 (b) If the distributed energy generation system will be
131 purchased, the written statement must include a disclosure in
132 substantially the following form: "You are entering into an
133 agreement to purchase a distributed energy generation system.
134 You will own (not lease) the system installed on your property."

135 (6)-(5) The total cost to be paid by the buyer or lessee,
136 including any interest, installation fees, document preparation
137 fees, service fees, or other fees.

138 (7)-(6) A payment schedule, including any amounts owed at
139 contract signing, at the commencement of installation, at the

Amendment No. 1

140 completion of installation, and any final payments. If the
141 distributed energy generation system is being leased, the
142 written statement must include the frequency and amount of each
143 payment due under the lease and the total estimated lease
144 payments over the term of the lease.

145 ~~(8)-(7)~~ Each state or federal tax incentive or rebate, if
146 any, relied upon by the seller in determining the price of the
147 distributed energy generation system.

148 ~~(9)-(8)~~ A description of the assumptions used to calculate
149 any savings estimates provided to the buyer or lessee, and if
150 such estimates are provided, a statement in substantially the
151 following form: "It is important to understand that future
152 electric utility rates are estimates only. Your future electric
153 utility rates may vary."

154 ~~(10)-(9)~~ A description of any one-time or recurring fees,
155 including, but not limited to, estimated system removal fees,
156 maintenance fees, Internet connection fees, and automated
157 clearinghouse fees. If late fees may apply, the description must
158 describe the circumstances triggering such late fees.

159 ~~(11)-(10)~~ A statement notifying the buyer whether the
160 distributed energy generation system is being financed and, if
161 so, a statement in substantially the following form: "If your
162 system is financed, carefully read any agreements and/or
163 disclosure forms provided by your lender. This statement does
164 not contain the terms of your financing agreement. If you have

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Amendment No. 1

165 any questions about your financing agreement, contact your
166 finance provider before signing a contract."

167 ~~(12)-(11)~~ A statement notifying the buyer whether the
168 seller is assisting in arranging financing of the distributed
169 energy generation system and, if so, a statement in
170 substantially the following form: "If your system is financed,
171 carefully read any agreements and/or disclosure forms provided
172 by your lender. This statement does not contain the terms of
173 your financing agreement. If you have any questions about your
174 financing agreement, contact your finance provider before
175 signing a contract."

176 ~~(13)-(12)~~ A provision notifying the buyer or lessee of the
177 right to rescind the agreement for a period of at least 3
178 business days after the agreement is signed. This subsection
179 does not apply to a contract to sell or lease a distributed
180 energy generation system in a solar community in which the
181 entire community has been marketed as a solar community and all
182 of the homes in the community are intended to have a distributed
183 energy generation system, or a solar community in which the
184 developer has incorporated solar technology for purposes of
185 meeting the Florida Building Code in s. 553.73.

186 ~~(14)-(13)~~ A description of the distributed energy
187 generation system design assumptions, including the make and
188 model of the major components, system size, estimated first-year
189 energy production, and estimated annual energy production

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Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

190 decreases, including the overall percentage degradation over the
191 estimated life of the distributed energy generation system, and
192 the status of utility compensation for excess energy generated
193 by the system at the time of contract signing. A seller who
194 provides a warranty or guarantee of the energy production output
195 of the distributed energy generation system may provide a
196 description of such warranty or guarantee in lieu of a
197 description of the system design and components.

198 ~~(15)-(14)~~ A description of any performance or production
199 guarantees.

200 ~~(16)-(15)~~ A description of the ownership and
201 transferability of any tax credits, rebates, incentives, or
202 renewable energy certificates associated with the distributed
203 energy generation system, including a disclosure as to whether
204 the seller will assign or sell any associated renewable energy
205 certificates to a third party.

206 ~~(17)-(16)~~ A statement in substantially the following form:
207 "You are responsible for property taxes on property you own.
208 Consult a tax professional to understand any tax liability or
209 eligibility for any tax credits that may result from the
210 purchase of your distributed energy generation system."

211 ~~(18)-(17)~~ The approximate start and completion dates for
212 the installation of the distributed energy generation system.

Amendment No. 1

213 ~~(19)-(18)~~ A disclosure as to whether maintenance and
214 repairs of the distributed energy generation system are included
215 in the purchase price.

216 ~~(20)-(19)~~ A disclosure as to whether any warranty or
217 maintenance obligations related to the distributed energy
218 generation system may be sold or transferred by the seller to a
219 third party and, if so, a statement in substantially the
220 following form: "Your contract may be assigned, sold, or
221 transferred without your consent to a third party who will be
222 bound to all the terms of the contract. If a transfer occurs,
223 you will be notified if this will change the address or phone
224 number to use for system maintenance or repair requests."

225 ~~(21)-(20)~~ If the distributed energy generation system will
226 be purchased, a disclosure notifying the buyer of the
227 requirements for interconnecting the system to the utility
228 system.

229 ~~(22)-(21)~~ A disclosure notifying the buyer or lessee of the
230 party responsible for obtaining interconnection approval.

231 ~~(23)-(22)~~ A description of any roof warranties.

232 (24) A statement in substantially the following form: "You
233 should consider the age and remaining life of your roof prior to
234 installing a distributed energy generation system. Replacement
235 of your roof may require reinstallation of the distributed
236 energy generation system."

Amendment No. 1

237 ~~(25)-(23)~~ A disclosure notifying the lessee whether the
238 seller will insure a leased distributed energy generation system
239 against damage or loss and, if applicable, the circumstances
240 under which the seller will not insure the system against damage
241 or loss.

242 ~~(26)-(24)~~ A statement, ~~if applicable,~~ in substantially the
243 following form: "You are responsible for obtaining insurance
244 policies or coverage for any loss of or damage to the system.
245 Consult an insurance professional to understand how to protect
246 against the risk of loss or damage to the system."

247 (27) A statement in substantially the following form:
248 "Placing a distributed energy generation system on your roof may
249 impact your future insurance premiums. You are responsible for
250 contacting your insurance carrier, prior to entering into a
251 purchase or lease agreement, to confirm whether your current
252 policy or coverage will need to be modified upon installing the
253 distributed energy generation system onto your dwelling."

254 ~~(28)-(25)~~ A disclosure notifying the buyer or lessee
255 whether the seller or lessor will place a lien on the buyer's or
256 lessee's home or other property as a result of entering into a
257 purchase or lease agreement for the distributed energy
258 generation system.

259 ~~(29)-(26)~~ A disclosure notifying the buyer or lessee
260 whether the seller or lessor will file a fixture filing or a

Amendment No. 1

261 State of Florida Uniform Commercial Code Financing Statement
262 Form (UCC-1) on the distributed energy generation system.

263 ~~(30)-(27)~~ A disclosure identifying whether the agreement
264 contains any restrictions on the buyer's or lessee's ability to
265 modify or transfer ownership of a distributed energy generation
266 system, including whether any modification or transfer is
267 subject to review or approval by a third party.

268 ~~(31)-(28)~~ A disclosure as to whether the lease agreement
269 may be transferred to a purchaser upon sale of the home or real
270 property to which the system is affixed, and any conditions for
271 such transfer.

272 ~~(32)-(29)~~ A blank section that allows the seller to provide
273 additional relevant disclosures or explain disclosures made
274 elsewhere in the disclosure form.

275

276 The requirement to provide a written statement under this
277 section may be satisfied by the electronic delivery of a
278 document within 24 hours after execution of the written
279 statement containing the required statement if the intended
280 recipient of the electronic document affirmatively acknowledges
281 its receipt. An electronic document satisfies the font and other
282 formatting standards required for the written statement if the
283 format and the relative size of characters of the electronic
284 document are reasonably similar to those required in the written

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Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

285 document or if the information is otherwise displayed in a
286 reasonably conspicuous manner.

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

289 560.111 Prohibited acts.—

290 (6) A person who knowingly and willfully violates s.
291 560.309(11), s. 560.310(2) (d) commits a felony of the third
292 degree, punishable as provided in s. 775.082, s. 775.083, or
293 s. 775.084.

294 Section 6. Subsection (11) of section 560.309, Florida
295 Statutes, is amended to read:

296 560.309 Conduct of business.—

297 (11) A licensee shall not cash corporate checks where the
298 aggregate face amount of all corporate check(s) cashed for each
299 payee exceeds 200% of the payee's workers' compensation policy
300 coverage amount during the same dates as the workers'
301 compensation policy coverage period.

302 Section 7. Section 626.551, Florida Statutes, is amended
303 to read:

304 626.551 Notice of change of address, name.—A licensee must
305 notify the department, in writing, within 5 ~~30~~ days after a
306 change of name, residence address, principal business street
307 address, mailing address, contact telephone numbers, including a
308 business telephone number, or e-mail address. A licensee who has
309 moved his or her principal place of residence and principal

Amendment No. 1

310 place of business from this state shall have his or her license
311 and all appointments immediately terminated by the department.
312 Failure to notify the department within the required time shall
313 result in a fine not to exceed \$250 for the first offense and a
314 fine of at least \$500 or suspension or revocation of the license
315 pursuant to s. 626.611, s. 626.6115, s. 626.621, or s. 626.6215
316 for a subsequent offense. The department may adopt rules to
317 administer and enforce this section.

318 Section 8. Section 626.602, Florida Statutes, is amended
319 to read:

320 626.602 Insurance agency and adjusting firm names;
321 disapproval.—The department may disapprove the use of any true
322 or fictitious name, other than the bona fide natural name of an
323 individual, by any insurance agency or adjusting firm on any of
324 the following grounds:

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

328 (2) The use of the name may mislead the public in any
329 respect.

330 (3) The name states or implies that the agency or
331 adjusting firm is an insurer, motor club, hospital service plan,
332 state or federal agency, charitable organization, or entity that
333 primarily provides advice and counsel rather than sells or
334 solicits insurance, settles claims, or is entitled to engage in

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Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

335 insurance activities not permitted under licenses held or
336 applied for. This provision does not prohibit the use of the
337 word "state" or "states" in the name of the agency. The use of
338 the word "state" or "states" in the name of an agency or
339 adjusting firm does not in and of itself imply that the agency
340 or adjusting firm is a state agency.

341 (4) (a) The name contains the word "Medicare" or
342 "Medicaid."

343 (b) An insurance agency whose name contains the word
344 "Medicare" or "Medicaid" but which is licensed as of July 1,
345 2021, may continue to use that name until June 30, 2023,
346 provided that the agency's license remains valid. If the
347 agency's license expires or is suspended or revoked, the agency
348 may not be relicensed using that name. Licenses for agencies
349 with names containing either of these words automatically expire
350 on July 1, 2023, unless these words are removed from the name.
351 This paragraph is repealed July 1, 2023.

352 Section 9. Section 626.854, Florida Statutes, is amended
353 to read:

354 626.854 "Public adjuster" defined; prohibitions.—The
355 Legislature finds that it is necessary for the protection of the
356 public to regulate public insurance adjusters and to prevent the
357 unauthorized practice of law.

358 (1) A "public adjuster" is any person, except a duly
359 licensed attorney at law as exempted under s. 626.860, who, for

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

360 money, commission, or any other thing of value, directly or
361 indirectly prepares, completes, or files an insurance claim for
362 an insured or third-party claimant, regardless of how that
363 person describes or presents his or her services, or who, for
364 money, commission, or any other thing of value, acts on behalf
365 of, or aids an insured or third-party claimant in negotiating
366 for or effecting the settlement of a claim or claims for loss or
367 damage covered by an insurance contract, regardless of how that
368 person describes or presents his or her services, or who
369 advertises for employment as an adjuster of such claims. The
370 term also includes any person who, for money, commission, or any
371 other thing of value, directly or indirectly solicits,
372 investigates, or adjusts such claims on behalf of a public
373 adjuster, an insured, or a third-party claimant. The term does
374 not include a person who photographs or inventories damaged
375 personal property or business personal property or a person
376 performing duties under another professional license, if such
377 person does not otherwise solicit, adjust, investigate, or
378 negotiate for or attempt to effect the settlement of a claim.

379 (2) This definition does not apply to:

380 (a) A licensed health care provider or employee thereof
381 who prepares or files a health insurance claim form on behalf of
382 a patient.

383 (b) A licensed health insurance agent who assists an
384 insured with coverage questions, medical procedure coding

Amendment No. 1

385 issues, balance billing issues, understanding the claims filing
386 process, or filing a claim, as such assistance relates to
387 coverage under a health insurance policy.

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

390 (3) A public adjuster may not give legal advice or act on
391 behalf of or aid any person in negotiating or settling a claim
392 relating to bodily injury, death, or noneconomic damages.

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

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

401 (6) (a) When entering a contract for adjuster services
402 after July 1, 2023, a public adjuster is prohibited from
403 contracting with anyone other than the named insured unless the
404 named insured provides written consent, subsequent to entering a
405 contract for public adjusting services.

406 (b) In the event a public adjuster contracts with a third
407 party in settling the named insured's claim, without first
408 obtaining the insured's written consent, payment of the third
409 party's fees shall be made from the public adjuster's fee.

Amendment No. 1

410 ~~(7)-(6)~~ An insured or claimant may cancel a public
411 adjuster's contract to adjust a claim without penalty or
412 obligation within 10 days after the date on which the contract
413 is executed. If the contract was entered into based on events
414 that are the subject of a declaration of a state of emergency by
415 the Governor, an insured or claimant may cancel the public
416 adjuster's contract to adjust a claim without penalty or
417 obligation within 30 days after the date of the event, or 10
418 days after the date on which the contract is executed, whichever
419 is longer. The public adjuster's contract must contain the
420 following language in minimum 18-point bold type immediately
421 before the space reserved in the contract for the signature of
422 the insured or claimant: "You, the insured, may cancel this
423 contract for any reason without penalty or obligation to you
424 within 10 days after the date of this contract. If this contract
425 was entered into based on events that are the subject of a
426 declaration of a state of emergency by the Governor, you may
427 cancel this contract for any reason without penalty or
428 obligation to you within 30 days after the date of the event, or
429 10 days after the date on which the contract is executed,
430 whichever is longer. You may also cancel the contract without
431 penalty or obligation to you if I, as your public adjuster, fail
432 to provide you and your insurer a copy of a written estimate
433 within 60 days of the execution of the contract in accordance
434 with s. 626.854(14)(b), Florida Statutes." ~~The by providing~~

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Page 18 of 80

Amendment No. 1

435 notice of cancellation shall be provided to ...(name of public
436 adjuster)..., submitted in writing and sent by certified mail,
437 return receipt requested, or other form of mailing that provides
438 proof thereof, at the address specified in the contract.

439 ~~(8)(7)~~ It is an unfair and deceptive insurance trade
440 practice pursuant to s. 626.9541 for a public adjuster or any
441 other person to circulate or disseminate any advertisement,
442 announcement, or statement containing any assertion,
443 representation, or statement with respect to the business of
444 insurance which is untrue, deceptive, or misleading.

445 (a) The following statements, made in any public
446 adjuster's advertisement or solicitation, are considered
447 deceptive or misleading:

448 1. A statement or representation that invites an insured
449 policyholder to submit a claim when the policyholder does not
450 have covered damage to insured property.

451 2. A statement or representation that invites an insured
452 policyholder to submit a claim by offering monetary or other
453 valuable inducement.

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

457 4. A statement or representation, or use of a logo or
458 shield, that implies or could mistakenly be construed to imply
459 that the solicitation was issued or distributed by a

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Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

460 governmental agency or is sanctioned or endorsed by a
461 governmental agency.

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

469 "THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD A
470 CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU ARE
471 SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU MAY
472 DISREGARD THIS ADVERTISEMENT."

473 ~~(9)-(8)~~ A public adjuster, a public adjuster apprentice, or
474 any person or entity acting on behalf of a public adjuster or
475 public adjuster apprentice may not give or offer to give a
476 monetary loan or advance to a client or prospective client.

477 ~~(10)-(9)~~ A public adjuster, public adjuster apprentice, or
478 any individual or entity acting on behalf of a public adjuster
479 or public adjuster apprentice may not give or offer to give,
480 directly or indirectly, any article of merchandise having a
481 value in excess of \$25 to any individual for the purpose of
482 advertising or as an inducement to entering into a contract with
483 a public adjuster.

Amendment No. 1

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

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

491 (b) Not receive a commission consisting of a percentage of
492 the total amount of the paid by an insurer to resolve the claim.

493 (c) Be entitled only to \$1,000 from the insured for the
494 time spent and expenses incurred on the claim by the public
495 adjuster, until the claim is paid or the insured receives a
496 written commitment to pay from the insurer.

497 (12) If the public adjuster enters into a contract with an
498 insured or claimant after the insured or claimant unsuccessfully
499 negotiates an insurance claim payment and the public adjuster is
500 successful in obtaining a higher insurance claim payment, the
501 public adjuster shall receive a commission consisting of 10
502 percent of the difference between the last insurance claim
503 payment offer made to the insured before the insured signed a
504 contract with the public adjuster and the final insurance claim
505 payment obtained through the work of the public adjuster after
506 entering into the contract with the insured or claimant.

507 (13)-(10)(a) If a public adjuster enters into a contract
508 with an insured or claimant to reopen a claim or file a

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

509 supplemental claim that seeks additional payments for a claim
510 that has been previously paid in part or in full or settled by
511 the insurer, the public adjuster may not charge, agree to, or
512 accept from any source compensation, payment, commission, fee,
513 or any other thing of value based on a previous settlement or
514 previous claim payments by the insurer for the same cause of
515 loss. The charge, compensation, payment, commission, fee, or any
516 other thing of value must be based only on the claim payments or
517 settlements paid to the insured, exclusive of attorney fees and
518 costs, obtained through the work of the public adjuster after
519 entering into the contract with the insured or claimant.
520 Compensation for the reopened or supplemental claim may not
521 exceed 20 percent of the reopened or supplemental claim payment.
522 In no event shall the contracts described in this paragraph
523 exceed the limitations in paragraph (b).

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

527 1. Ten percent of the amount of insurance claim payments
528 or settlements, exclusive of attorney fees and costs, paid to
529 the insured by the insurer for claims based on events that are
530 the subject of a declaration of a state of emergency by the
531 Governor. This provision applies to claims made during the year
532 after the declaration of emergency. After that year, the
533 limitations in subparagraph 2. apply.

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

534 2. Twenty percent of the amount of insurance claim
535 payments or settlements, exclusive of attorney fees and costs,
536 paid to the insured by the insurer for claims that are not based
537 on events that are the subject of a declaration of a state of
538 emergency by the Governor.

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

542 (d) Public adjuster compensation may not be based on
543 amounts attributable to additional living expenses, unless such
544 compensation is affirmatively agreed to in a separate agreement
545 that includes a disclosure in substantially the following form:
546 "I agree to retain and compensate the public adjuster for
547 adjusting my additional living expenses and securing payment
548 from my insurer for amounts attributable to additional living
549 expenses payable under the policy issued on my (home/mobile
550 home/condominium unit)."

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

553 (f) Any maneuver, shift, or device through which the
554 limits on compensation set forth in this subsection are exceeded
555 is a violation of this chapter punishable as provided under s.
556 626.8698.

557 (14) (a) ~~(11)~~ Each public adjuster must provide to the
558 claimant or insured a written estimate of the loss to assist in

Amendment No. 1

559 the submission of a proof of loss or any other claim for payment
560 of insurance proceeds within 60 days after the date of the
561 contract. The written estimate must include an itemized, per-
562 unit estimate of the repairs, including itemized information on
563 equipment, materials, labor, and supplies, in accordance with
564 accepted industry standards. The public adjuster shall retain
565 such written estimate for at least 5 years and shall make the
566 estimate available to the claimant or insured, the insurer, and
567 the department upon request.

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

573 (15)-(12) A public adjuster, public adjuster apprentice, or
574 any person acting on behalf of a public adjuster or apprentice
575 may not accept referrals of business from any person with whom
576 the public adjuster conducts business if there is any form or
577 manner of agreement to compensate the person, directly or
578 indirectly, for referring business to the public adjuster. A
579 public adjuster may not compensate any person, except for
580 another public adjuster, directly or indirectly, for the
581 principal purpose of referring business to the public adjuster.

582 (16)-(13) A company employee adjuster, independent
583 adjuster, attorney, investigator, or other persons acting on

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

584 | behalf of an insurer that needs access to an insured or claimant
585 | or to the insured property that is the subject of a claim must
586 | provide at least 48 hours' notice to the insured or claimant,
587 | public adjuster, or legal representative before scheduling a
588 | meeting with the claimant or an onsite inspection of the insured
589 | property. The insured or claimant may deny access to the
590 | property if the notice has not been provided. The insured or
591 | claimant may waive the 48-hour notice.

592 | ~~(17)~~~~(14)~~ The public adjuster must ensure that prompt
593 | notice is given of the claim to the insurer, the public
594 | adjuster's contract is provided to the insurer, the property is
595 | available for inspection of the loss or damage by the insurer,
596 | and the insurer is given an opportunity to interview the insured
597 | directly about the loss and claim. The insurer must be allowed
598 | to obtain necessary information to investigate and respond to
599 | the claim.

600 | (a) The insurer may not exclude the public adjuster from
601 | its in-person meetings with the insured. The insurer shall meet
602 | or communicate with the public adjuster in an effort to reach
603 | agreement as to the scope of the covered loss under the
604 | insurance policy. The public adjuster shall meet or communicate
605 | with the insurer in an effort to reach agreement as to the scope
606 | of the covered loss under the insurance policy. This section
607 | does not impair the terms and conditions of the insurance policy
608 | in effect at the time the claim is filed.

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

609 (b) A public adjuster may not restrict or prevent an
610 insurer, company employee adjuster, independent adjuster,
611 attorney, investigator, or other person acting on behalf of the
612 insurer from having reasonable access at reasonable times to any
613 insured or claimant or to the insured property that is the
614 subject of a claim.

615 (c) A public adjuster may not act or fail to reasonably
616 act in any manner that obstructs or prevents an insurer or
617 insurer's adjuster from timely conducting an inspection of any
618 part of the insured property for which there is a claim for loss
619 or damage. The public adjuster representing the insureds may be
620 present for the insurer's inspection, but if the unavailability
621 of the public adjuster otherwise delays the insurer's timely
622 inspection of the property, the public adjuster or the insureds
623 must allow the insurer to have access to the property without
624 the participation or presence of the public adjuster or insureds
625 in order to facilitate the insurer's prompt inspection of the
626 loss or damage.

627 ~~(18)(15)~~ A licensed contractor under part I of chapter
628 489, or a subcontractor of such licensee, may not advertise,
629 solicit, offer to handle, handle, or perform public adjuster
630 services as provided in subsection (1) unless licensed and
631 compliant as a public adjuster under this chapter. The
632 prohibition against solicitation does not preclude a contractor
633 from suggesting or otherwise recommending to a consumer that the

Amendment No. 1

634 consumer consider contacting his or her insurer to determine if
635 the proposed repair is covered under the consumer's insurance
636 policy, except as it relates to solicitation prohibited in s.
637 489.147. In addition, the contractor may discuss or explain a
638 bid for construction or repair of covered property with the
639 residential property owner who has suffered loss or damage
640 covered by a property insurance policy, or the insurer of such
641 property, if the contractor is doing so for the usual and
642 customary fees applicable to the work to be performed as stated
643 in the contract between the contractor and the insured.

644 ~~(19)-(16)~~ A public adjuster shall not acquire any interest
645 in salvaged property, except with the written consent and
646 permission of the insured through a signed affidavit.

647 ~~(20)-(17)~~ A public adjuster, a public adjuster apprentice,
648 or a person acting on behalf of an adjuster or apprentice may
649 not enter into a contract or accept a power of attorney that
650 vests in the public adjuster, the public adjuster apprentice, or
651 the person acting on behalf of the adjuster or apprentice the
652 effective authority to choose the persons or entities that will
653 perform repair work in a property insurance claim or provide
654 goods or services that will require the insured or third-party
655 claimant to expend funds in excess of those payable to the
656 public adjuster under the terms of the contract for adjusting
657 services.

Amendment No. 1

658 ~~(21)-(18)~~ Subsections (5)-(20) ~~(5)-(17)~~ apply only to
659 residential property insurance policies and condominium unit
660 owner policies as described in s. 718.111(11).

661 ~~(22)-(19)~~ Except as otherwise provided in this chapter, no
662 person, except an attorney at law or a licensed public adjuster,
663 may for money, commission, or any other thing of value, directly
664 or indirectly:

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

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

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

672 (d) Advertise services that require a license as a public
673 adjuster; or

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

676 ~~(23)-(20)~~ The department may take administrative actions
677 and impose fines against any persons performing claims
678 adjusting, soliciting, or any other services described in this
679 section without the licensure required under this section or s.
680 626.112.

681 ~~(24)-(21)~~ A public adjuster, public adjuster apprentice, or
682 public adjusting firm that solicits a claim and does not enter

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

683 into a contract with an insured or a third-party claimant
684 pursuant to paragraph (13)(a) ~~(10)(a)~~ may not charge an insured
685 or a third-party claimant or receive payment by any other source
686 for any type of service related to the insured or third-party
687 claimant's claim.

688 (25)~~(22)~~(a) Any following act by a public adjuster, a
689 public adjuster apprentice, or a person acting on behalf of a
690 public adjuster or public adjuster apprentice is prohibited and
691 shall result in discipline as applicable under this part:

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

695 a. Allowing a contractor, a public adjuster, a public
696 adjuster apprentice, or a person acting on behalf of a public
697 adjuster or public adjuster apprentice to conduct an inspection
698 of the residential property owner's roof; or

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

701 2. Offering, delivering, receiving, or accepting any
702 compensation, inducement, or reward for the referral of any
703 services for which property insurance proceeds would be used for
704 roofing repairs or replacement.

705 (b) Notwithstanding the fine set forth in s. 626.8698, a
706 public adjuster or public adjuster apprentice may be subject to
707 a fine not to exceed \$10,000 per act for a violation of this

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

708 subsection and a fine not to exceed \$20,000 per act for a
709 violation of this subsection that occurs during a state of
710 emergency declared by executive order or proclamation of the
711 Governor pursuant to s. 252.36.

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

716 1. Subject to all applicable penalties set forth in this
717 part.

718 2. Notwithstanding subparagraph 1., subject to a fine not
719 to exceed \$10,000 per act for a violation of this subsection and
720 a fine not to exceed \$20,000 per act for a violation of this
721 subsection that occurs during a state of emergency declared by
722 executive order or proclamation of the Governor pursuant to s.
723 252.36.

724 Section 10. Section 626.860, Florida Statutes, is amended
725 to read:

726 626.860 Attorneys at law; exemption.—Attorneys at law duly
727 licensed to practice law in the courts of this state, and in
728 good standing with The Florida Bar, shall not be required to be
729 licensed under ~~the provisions of~~ this code to authorize them to
730 adjust or participate in the adjustment of any claim, loss, or
731 damage arising under policies or contracts of insurance. This

Amendment No. 1

732 exemption does not extend to the employees, interns, volunteers,
733 or contractors of an attorney or of a law firm.

734 Section 11. Section 626.875, Florida Statutes, is amended
735 to read:

736 626.875 Office and records.—

737 (1)(a) Each appointed independent adjuster and licensed
738 public adjuster must maintain a place of business in this state
739 which is accessible to the public and keep therein the usual and
740 customary records pertaining to transactions under the license.
741 This provision does not prohibit maintenance of such an office
742 in the home of the licensee.

743 (b) A license issued under this chapter must at all times
744 be posted in a conspicuous place in the principal place of
745 business of the license holder. If the licensee is conducting
746 business away from the place of business such that the license
747 cannot be posted, the licensee shall have such license in his or
748 her actual possession at the time of carrying on such business.

749 (2) The records of the adjuster relating to a particular
750 claim or loss shall be so retained in the adjuster's place of
751 business for a period of not less than 5 years after completion
752 of the adjustment and shall be available for inspection by the
753 department at all times. This provision shall not be deemed to
754 prohibit return or delivery to the insurer or insured of
755 documents furnished to or prepared by the adjuster and required
756 by the insurer or insured to be returned or delivered thereto.

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

757 At a minimum, the following records must be maintained for a
758 period of not less than 5 years:

759 (a) Name, address, telephone number, and e-mail address of
760 the insured, and the name of the attorney representing the
761 insured, if applicable.

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

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

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

767 (e) A copy of the estimate of damages provided to the
768 insurer.

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

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

774 (h) An itemized statement of all compensation received by
775 the public adjuster from any source, in connection with the
776 loss.

777 (i) A register of all money received, deposited,
778 disbursed, and withdrawn in connection with a transaction with
779 the insured, including fees, transfers, and disbursements in
780 connection with the loss.

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

781 Section 12. Section 626.8796, Florida Statutes, is amended
782 to read:

783 626.8796 Public adjuster contracts; disclosure statement;
784 fraud statement.—

785 (1) All contracts for public adjuster services must be in
786 writing in at least 12-point font, titled "Public Adjuster
787 Contract" and prominently display the following statement on the
788 contract in minimum 18-point bold type before the space reserved
789 for in the contract for the signature of the insured: "Pursuant
790 to s. 817.234, Florida Statutes, any person who, with the intent
791 to injure, defraud, or deceive an insurer or insured, prepares,
792 presents, or causes to be presented a proof of loss or estimate
793 of cost or repair of damaged property in support of a claim
794 under an insurance policy knowing that the proof of loss or
795 estimate of claim or repairs contains false, incomplete, or
796 misleading information concerning any fact or thing material to
797 the claim commits a felony of the third degree, punishable as
798 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
799 Statutes."

800 (2) A public adjuster contract relating to a property and
801 casualty claim must contain the full name, permanent business
802 address, phone number, e-mail address, and license number of the
803 public adjuster; the full name of the public adjusting firm; and
804 the insured's full name, ~~and~~ street address, phone number, and
805 e-mail address, together with a brief description of the loss.

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

806 The contract must state the percentage of compensation for the
807 public adjuster's services in minimum 18-point bold type before
808 the space reserved for in the contract for the signature of the
809 insured; the type of claim, including an emergency claim,
810 nonemergency claim, or supplemental claim; the initials of the
811 named insured on each page that does not contain the insured's
812 signature; the signatures of the public adjuster and all named
813 insureds; and the signature date. If all of the named insureds'
814 signatures are not available, the public adjuster must submit an
815 affidavit signed by the available named insureds attesting that
816 they have authority to enter into the contract and settle all
817 claim issues on behalf of the named insureds. An unaltered copy
818 of the executed contract must be remitted to the insured at the
819 time of execution and to the insurer within 10 ~~30~~ days after
820 execution. A public adjusting firm that adjusts claims primarily
821 for commercial entities with operations in more than one state
822 and that does not directly or indirectly perform adjusting
823 services for insurers or individual homeowners is deemed to
824 comply with the requirements of this subsection if, at the time
825 a proof of loss is submitted, the public adjusting firm remits
826 to the insurer an affidavit signed by the public adjuster or
827 public adjuster apprentice that identifies:

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

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

- 831 (b) The full name of the public adjusting firm.
- 832 (c) The insured's full name, ~~and~~ street address, phone
833 number, and e-mail address, together with a brief description of
834 the loss.
- 835 (d) An attestation that the compensation for public
836 adjusting services will not exceed the limitations provided by
837 law.
- 838 (e) The type of claim, including an emergency claim,
839 nonemergency claim, or supplemental claim.
- 840 (3) The public adjuster shall not provide services until
841 both the insured and insurer have been provided with unaltered
842 copies of the executed contract.
- 843 (4) The insured may rescind the contract for public
844 adjuster services if the public adjuster has not submitted a
845 written estimate to the insurer within 60 days of executing the
846 contract.
- 847 (5) Before the signing of the contract, the public
848 adjuster shall provide the insured with a separate disclosure
849 document to be signed by the insured, on a form adopted by the
850 department, regarding the claim process that accomplishes the
851 following:
- 852 (a) Defines the following types of adjusters who may be
853 involved in the claim process: company adjuster, independent
854 adjuster, and public adjuster.

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

855 (b) Explains that the public adjuster is not a
856 representative or employee of the insurer.

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

859 (d) Explains that an insured has a right to initiate
860 direct communications with the insured's attorney, the insurer,
861 the company adjuster, the insurer's attorney, or any person
862 regarding the settlement of the insured's claim.

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

866 (f) Explains that the public adjuster is required to
867 provide the insured an unaltered copy of the executed contract
868 at the time of execution.

869 (g) Explains that if the contract was entered based on
870 events that are the subject of a declaration of a state of
871 emergency by the Governor, the insured has a right to rescind
872 the contract within 30 days.

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

875 (7) The department may adopt rules pursuant to ss.
876 120.536(1) and 120.54 to implement this section, including rules
877 to adopt forms required by this section.

878 Section 13. Section 626.8797, Florida Statutes, is amended
879 to read:

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

880 626.8797 Proof of loss; fraud statement.—All proof-of-loss
881 statements must prominently display the following statement in
882 minimum 18-point bold type before the space reserved in the
883 contract for the signature of the insured: "Pursuant to s.
884 817.234, Florida Statutes, any person who, with the intent to
885 injure, defraud, or deceive any insurer or insured, prepares,
886 presents, or causes to be presented a proof of loss or estimate
887 of cost or repair of damaged property in support of a claim
888 under an insurance policy knowing that the proof of loss or
889 estimate of claim or repairs contains any false, incomplete, or
890 misleading information concerning any fact or thing material to
891 the claim commits a felony of the third degree, punishable as
892 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
893 Statutes."

894 Section 14. Paragraph (a) of subsection (1) of section
895 626.9541, Florida Statutes, is amended to read:

896 626.9541 Unfair methods of competition and unfair or
897 deceptive acts or practices defined.—

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

901 (a) Misrepresentations and false advertising of insurance
902 policies.—Knowingly making, issuing, circulating, or causing to
903 be made, issued, or circulated, any estimate, illustration,
904 circular, statement, sales presentation, omission, comparison,

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

905 or property and casualty certificate of insurance altered after
906 being issued, which:

907 1. Misrepresents the benefits, advantages, conditions, or
908 terms of any insurance policy.

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

911 3. Makes any false or misleading statements as to the
912 dividends or share of surplus previously paid on any insurance
913 policy.

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

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

919 6. Is a misrepresentation for the purpose of inducing, or
920 tending to induce, the lapse, forfeiture, exchange, conversion,
921 or surrender of any insurance policy.

922 7. Is a misrepresentation for the purpose of effecting a
923 pledge or assignment of, or effecting a loan against, any
924 insurance policy.

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

927 9. Uses any advertisement that would mislead or otherwise
928 cause a reasonable person to believe mistakenly that the state
929 or the Federal Government is responsible for the insurance sales

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

930 activities of any person or stands behind any person's credit or
931 that any person, the state, or the Federal Government guarantees
932 any returns on insurance products or is a source of payment of
933 any insurance obligation of or sold by any person.

934 10. Fails to disclose a third party that receives
935 royalties, referral fees, or other remuneration for sponsorship,
936 marketing, or use of third-party branding for a policy of health
937 insurance as defined in s. 624.603.

938 Section 15. Paragraph (c) of subsection (2) of section
939 627.4025, Florida Statutes, is amended, and paragraph (d) is
940 added to that subsection, to read:

941 627.4025 Residential coverage and hurricane coverage
942 defined.—

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

944 (c) "Hurricane" for purposes of paragraphs (a) and (b)
945 means a storm system that has been declared to be a hurricane by
946 the National Hurricane Center of the National Weather Service.
947 The duration of the hurricane includes the time period, in
948 Florida:

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

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

Amendment No. 1

954 ~~3.~~ Ending 24 ~~72~~ hours following the termination of the
955 last hurricane watch or hurricane warning issued for any part of
956 Florida by the National Hurricane Center of the National Weather
957 Service.

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

960 Section 16. Paragraph (b) of subsection (1) and paragraph
961 (b) of subsection (2) of section 627.4133, Florida Statutes, are
962 amended to read:

963 627.4133 Notice of cancellation, nonrenewal, or renewal
964 premium.—

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

966 (b) An insurer issuing a policy providing coverage for
967 property, casualty, except mortgage guaranty, surety, or marine
968 insurance, other than motor vehicle insurance subject to s.
969 627.728 or s. 627.7281, shall give the first-named insured
970 written notice of cancellation or termination other than
971 nonrenewal at least 45 days prior to the effective date of the
972 cancellation or termination, including in the written notice the
973 reason or reasons for the cancellation or termination, except
974 that:

975 1. When cancellation is for nonpayment of premium, at
976 least 10 days' written notice of cancellation accompanied by the
977 reason therefor shall be given. As used in this subparagraph and
978 s. 440.42(3), the term "nonpayment of premium" means failure of

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

979 the named insured to discharge when due any of her or his
980 obligations in connection with the payment of premiums on a
981 policy or any installment of such premium, whether the premium
982 is payable directly to the insurer or its agent or indirectly
983 under any premium finance plan or extension of credit, or
984 failure to maintain membership in an organization if such
985 membership is a condition precedent to insurance coverage.
986 "Nonpayment of premium" also means the failure of a financial
987 institution to honor an insurance applicant's check after
988 delivery to a licensed agent for payment of a premium, even if
989 the agent has previously delivered or transferred the premium to
990 the insurer. If a dishonored check represents the initial
991 premium payment, the contract and all contractual obligations
992 shall be void ab initio unless the nonpayment is cured within
993 the earlier of 5 days after actual notice by certified mail is
994 received by the applicant or 15 days after notice is sent to the
995 applicant by certified mail or registered mail, and if the
996 contract is void, any premium received by the insurer from a
997 third party shall be refunded to that party in full; and
998 2. When such cancellation or termination occurs during the
999 first 90 days during which the insurance is in force and the
1000 insurance is canceled or terminated for reasons other than
1001 nonpayment of premium, at least 20 days' written notice of
1002 cancellation or termination accompanied by the reason therefor
1003 shall be given except where there has been a material

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1004 misstatement or misrepresentation or failure to comply with the
1005 underwriting requirements established by the insurer.

1006

1007 After the policy has been in effect for 60 ~~90~~ days, no such
1008 policy shall be canceled by the insurer except when there has
1009 been a material misstatement, a nonpayment of premium, a failure
1010 to comply with underwriting requirements established by the
1011 insurer within 90 days of the date of effectuation of coverage,
1012 or a substantial change in the risk covered by the policy or
1013 when the cancellation is for all insureds under such policies
1014 for a given class of insureds. This subsection does not apply to
1015 individually rated risks having a policy term of less than 90
1016 days.

1017 (2) With respect to any personal lines or commercial
1018 residential property insurance policy, including, but not
1019 limited to, any homeowner, mobile home owner, farmowner,
1020 condominium association, condominium unit owner, apartment
1021 building, or other policy covering a residential structure or
1022 its contents:

1023 (b) The insurer shall give the first-named insured written
1024 notice of nonrenewal, cancellation, or termination at least 120
1025 days before the effective date of the nonrenewal, cancellation,
1026 or termination. The notice must include the reason for the
1027 nonrenewal, cancellation, or termination, except that:

Amendment No. 1

1028 1. If cancellation is for nonpayment of premium, at least
1029 10 days' written notice of cancellation accompanied by the
1030 reason therefor must be given. As used in this subparagraph, the
1031 term "nonpayment of premium" means failure of the named insured
1032 to discharge when due her or his obligations for paying the
1033 premium on a policy or an installment of such premium, whether
1034 the premium is payable directly to the insurer or its agent or
1035 indirectly under a premium finance plan or extension of credit,
1036 or failure to maintain membership in an organization if such
1037 membership is a condition precedent to insurance coverage. The
1038 term also means the failure of a financial institution to honor
1039 an insurance applicant's check after delivery to a licensed
1040 agent for payment of a premium even if the agent has previously
1041 delivered or transferred the premium to the insurer. If a
1042 dishonored check represents the initial premium payment, the
1043 contract and all contractual obligations are void ab initio
1044 unless the nonpayment is cured within the earlier of 5 days
1045 after actual notice by certified mail is received by the
1046 applicant or 15 days after notice is sent to the applicant by
1047 certified mail or registered mail. If the contract is void, any
1048 premium received by the insurer from a third party must be
1049 refunded to that party in full.

1050 2. If cancellation or termination occurs during the first
1051 90 days the insurance is in force and the insurance is canceled
1052 or terminated for reasons other than nonpayment of premium, at

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1053 least 20 days' written notice of cancellation or termination
1054 accompanied by the reason therefor must be given unless there
1055 has been a material misstatement or misrepresentation or a
1056 failure to comply with the underwriting requirements established
1057 by the insurer.

1058 3. After the policy has been in effect for 60 ~~90~~ days, the
1059 policy may not be canceled by the insurer unless there has been
1060 a material misstatement; a nonpayment of premium; a failure to
1061 comply, within 90 days after the date of effectuation of
1062 coverage, with underwriting requirements established by the
1063 insurer before the date of effectuation of coverage; or a
1064 substantial change in the risk covered by the policy or unless
1065 the cancellation is for all insureds under such policies for a
1066 given class of insureds. This subparagraph does not apply to
1067 individually rated risks that have a policy term of less than 90
1068 days.

1069 4. After a policy or contract has been in effect for more
1070 than 90 days, the insurer may not cancel or terminate the policy
1071 or contract based on credit information available in public
1072 records.

1073 5. A policy that is nonrenewed by Citizens Property
1074 Insurance Corporation, pursuant to s. 627.351(6), for a policy
1075 that has been assumed by an authorized insurer offering
1076 replacement coverage to the policyholder is exempt from the
1077 notice requirements of paragraph (a) and this paragraph. In such

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1078 cases, the corporation must give the named insured written
1079 notice of nonrenewal at least 45 days before the effective date
1080 of the nonrenewal.

1081 6. Notwithstanding any other provision of law, an insurer
1082 may cancel or nonrenew a property insurance policy after at
1083 least 45 days' notice if the office finds that the early
1084 cancellation of some or all of the insurer's policies is
1085 necessary to protect the best interests of the public or
1086 policyholders and the office approves the insurer's plan for
1087 early cancellation or nonrenewal of some or all of its policies.
1088 The office may base such finding upon the financial condition of
1089 the insurer, lack of adequate reinsurance coverage for hurricane
1090 risk, or other relevant factors. The office may condition its
1091 finding on the consent of the insurer to be placed under
1092 administrative supervision pursuant to s. 624.81 or to the
1093 appointment of a receiver under chapter 631.

1094 7. A policy covering both a home and a motor vehicle may
1095 be nonrenewed for any reason applicable to the property or motor
1096 vehicle insurance after providing 90 days' notice.

1097 Section 17. Effective January 1, 2024, section 627.4554,
1098 Florida Statutes, is amended to read:

1099 627.4554 Suitability in Annuity Transactions.—

1100 (1) PURPOSE.—The purpose of this section is to require
1101 agents to act in the best interest of the consumer when making
1102 a recommendation of an annuity and to require insurers to

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1103 establish and maintain a system to supervise so set forth
1104 ~~standards and procedures for making recommendations to consumers~~
1105 ~~which result in transactions involving annuity products, and to~~
1106 ~~establish a system for supervising such recommendations in order~~
1107 ~~to ensure~~ that the insurance needs and financial objectives of
1108 consumers are effectively ~~appropriately~~ addressed at the time of
1109 the transaction.

1110 (2) SCOPE.—This section applies to any sale or
1111 recommendation of ~~made to a consumer to purchase, exchange, or~~
1112 ~~replace an annuity by an insurer or its agent, and which results~~
1113 ~~in the purchase, exchange, or replacement recommended.~~

1114 (3) DEFINITIONS.—As used in this section, the term:

1115 (a) "Agent" means a person or entity required to be
1116 licensed under the laws of this state to sell, solicit, or
1117 negotiate insurance, including annuities. For purposes of this
1118 section, the term includes an insurer where no agent is involved
1119 ~~has the same meaning as provided in s. 626.015.~~

1120 (b) "Annuity" means an insurance product under state law
1121 which is individually solicited, whether classified as an
1122 individual or group annuity.

1123 (c) "Cash compensation" means any discount, concession,
1124 fee, service fee, commission, sales charge, loan, override, or
1125 cash benefit received by an agent in connection with the
1126 recommendation or sale of an annuity from an insurer,
1127 intermediary, or directly from the consumer.

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1128 (d) "Consumer profile information" means information that
1129 is reasonably appropriate to determine whether a recommendation
1130 addresses the consumer's financial situation, insurance needs
1131 and financial objectives, including, at a minimum, the
1132 following:

- 1133 1. Age.
- 1134 2. Annual income.
- 1135 3. Financial situation and needs, including debts and
1136 other obligations.
- 1137 4. Financial experience.
- 1138 5. Insurance needs.
- 1139 6. Financial objectives.
- 1140 7. Intended use of the annuity.
- 1141 8. Financial time horizon.
- 1142 9. Existing assets or financial products, including
1143 investment, annuity, and insurance holdings.
- 1144 10. Liquidity needs.
- 1145 11. Liquid net worth.
- 1146 12. Risk tolerance, including, but not limited to,
1147 willingness to accept nonguaranteed elements in the annuity.
- 1148 13. Financial resources used to fund the annuity.
- 1149 14. Tax status.

1150 (e)-(e) "FINRA" means the Financial Industry Regulatory
1151 Authority or a succeeding agency.

Amendment No. 1

1152 (f)-(d) "Insurer" has the same meaning as provided in s.
1153 624.03.

1154 (g) "Intermediary" means an entity contracted directly
1155 with an insurer or with another entity contracted with an
1156 insurer to facilitate the sale of the insurer's annuities by
1157 agents.

1158 (h) "Material conflict of interest" means a financial
1159 interest of the agent in the sale of an annuity that a
1160 reasonable person would expect to influence the impartiality of
1161 a recommendation. The term does not include cash compensation or
1162 noncash compensation.

1163 (i) "Noncash compensation" means any form of compensation
1164 that is not cash compensation, including, but not limited to,
1165 health insurance, office rent, office support, and retirement
1166 benefits.

1167 (j) "Nonguaranteed elements" means the premiums, credited
1168 interest rates, including any bonus; benefits; values;
1169 dividends; noninterest based credits; charges; or elements of
1170 formulas used to determine any of these, that are subject to
1171 company discretion and are not guaranteed at issue. An element
1172 is considered nonguaranteed if any of the underlying
1173 nonguaranteed elements are used in its calculation.

1174 (k)-(e) "Recommendation" means advice provided by an
1175 insurer or its agent to an individual a consumer that was
1176 intended to result or does result which would result in a the

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1177 purchase, an exchange, or a replacement of an annuity in
1178 accordance with that advice. The term does not include general
1179 communication to the public, generalized customer services,
1180 assistance or administrative support, general educational
1181 information and tools, prospectuses, or other product and sales
1182 material.

1183 (1)(f) "Replacement" means a transaction in which a new
1184 annuity policy or contract is to be purchased and it is known or
1185 should be known to the proposing insurer or its agent, or to the
1186 proposing insurer whether or not an agent is involved, that by
1187 reason of such transaction an existing annuity or other
1188 insurance policy has been or is to be any of the following or
1189 contract will be:

1190 1. Lapsed, forfeited, surrendered or partially
1191 surrendered, assigned to the replacing insurer, or otherwise
1192 terminated;

1193 2. Converted to reduced paid-up insurance, continued as
1194 extended term insurance, or otherwise reduced in value due to
1195 the use of nonforfeiture benefits or other policy values;

1196 3. Amended so as to effect a reduction in benefits or the
1197 term for which coverage would otherwise remain in force or for
1198 which benefits would be paid;

1199 4. Reissued with a reduction in cash value; or

1200 5. Used in a financed purchase.

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1201 (m) "SEC" means the United States Securities and Exchange
1202 Commission.

1203 ~~(g) "Suitability information" means information related to~~
1204 ~~the consumer which is reasonably appropriate to determine the~~
1205 ~~suitability of a recommendation made to the consumer, including~~
1206 ~~the following:~~

1207 ~~1. Age;~~

1208 ~~2. Annual income;~~

1209 ~~3. Financial situation and needs, including the financial~~
1210 ~~resources used for funding the annuity;~~

1211 ~~4. Financial experience;~~

1212 ~~5. Financial objectives;~~

1213 ~~6. Intended use of the annuity;~~

1214 ~~7. Financial time horizon;~~

1215 ~~8. Existing assets, including investment and life~~
1216 ~~insurance holdings;~~

1217 ~~9. Liquidity needs;~~

1218 ~~10. Liquid net worth;~~

1219 ~~11. Risk tolerance; and~~

1220 ~~12. Tax status.~~

1221 (4) EXEMPTIONS.—Unless otherwise specifically included,
1222 this section does not apply to transactions involving:

1223 (a) Direct-response solicitations where there is no
1224 recommendation based on information collected from the consumer
1225 pursuant to this section;

Amendment No. 1

- 1226 (b) Contracts used to fund:
- 1227 1. An employee pension or welfare benefit plan that is
- 1228 covered by the federal Employee Retirement and Income Security
- 1229 Act;
- 1230 2. A plan described by s. 401(a), s. 401(k), s. 403(b), s.
- 1231 408(k), or s. 408(p) of the Internal Revenue Code, if
- 1232 established or maintained by an employer;
- 1233 3. A government or church plan defined in s. 414 of the
- 1234 Internal Revenue Code, a government or church welfare benefit
- 1235 plan, or a deferred compensation plan of a state or local
- 1236 government or tax-exempt organization under s. 457 of the
- 1237 Internal Revenue Code; or
- 1238 4. A nonqualified deferred compensation arrangement
- 1239 established or maintained by an employer or plan sponsor;
- 1240 ~~(c)5-~~ Settlements or assumptions of liabilities associated
- 1241 with personal injury litigation or a dispute or claim-resolution
- 1242 process; or
- 1243 ~~(d)6-~~ Formal prepaid funeral contracts.
- 1244 (5) DUTIES OF INSURERS AND AGENTS.—
- 1245 (a) An agent, when making a recommendation of an annuity,
- 1246 shall act in the best interest of the consumer under the
- 1247 circumstances known at the time the recommendation is made,
- 1248 without placing the financial interest of the agent or insurer
- 1249 ahead of the consumer's interest. An agent has acted in the best
- 1250 interest of the consumer if the agent has satisfied the

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1251 following obligations regarding care, disclosure, conflict of
1252 interest, and documentation:

1253 1.a. The agent, in making a recommendation, shall exercise
1254 reasonable diligence, care, and skill to:

1255 (I) Know the financial situation, insurance needs, and
1256 financial objectives of the consumer.

1257 (II) Understand the available options after making a
1258 reasonable inquiry into options available to the agent.

1259 (III) Have a reasonable basis to believe the recommended
1260 option effectively addresses the consumer's financial situation,
1261 insurance needs, and financial objectives over the life of the
1262 product, as evaluated in light of the consumer profile
1263 information.

1264 (IV) Communicate the reason or reasons for the
1265 recommendation.

1266 b. The requirements of subparagraph a. include:

1267 (I) Making reasonable efforts to obtain consumer profile
1268 information from the consumer before the recommendation of an
1269 annuity.

1270 (II) Requiring an agent to consider the types of products
1271 the agent is authorized and licensed to recommend or sell
1272 address the consumer's financial situation, insurance needs, and
1273 financial objectives. This does not require analysis or
1274 consideration of any products outside the authority and license
1275 of the agent or other possible alternative products or

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1276 strategies available in the market at the time of the
1277 recommendation. Agents shall be held to standards applicable to
1278 agents with similar authority and licensure.

1279 (III) Having a reasonable basis to believe the consumer
1280 would benefit from certain features of the annuity, such as
1281 annuitization, death or living benefit or other insurance-
1282 related features.

1283 c. The requirements of this subsection do not create a
1284 fiduciary obligation or relationship and only create a
1285 regulatory obligation as provided in this section.

1286 d. The consumer profile information, characteristics of
1287 the insurer and product costs, rates, benefits and features are
1288 those factors generally relevant in making a determination
1289 whether an annuity effectively addresses the consumer's
1290 financial situation, insurance needs, and financial objectives
1291 but the level of importance of each factor under the care
1292 obligation of this paragraph may vary depending on the facts and
1293 circumstances of a particular case. However, each factor may not
1294 be considered in isolation.

1295 e. The requirements under subparagraph a. apply to the
1296 particular annuity as a whole and the underlying subaccounts to
1297 which funds are allocated at the time of purchase or exchange of
1298 an annuity, and riders and similar product enhancements, if any.

1299 f. Subparagraph a. does not require that the annuity with
1300 the lowest one-time occurrence compensation structure or

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1301 multiple occurrence compensation structure shall necessarily be
1302 recommended.

1303 g. Subparagraph a. does not require the agent to have
1304 ongoing monitoring obligations under the care obligation,
1305 although such an obligation may be separately owed under the
1306 terms of a fiduciary, consulting, investment, advising, or
1307 financial planning agreement between the consumer and the agent.

1308 h. In the case of an exchange or replacement of an
1309 annuity, the agent shall consider the whole transaction, which
1310 includes taking into consideration whether:

1311 (I) The consumer will incur a surrender charge; be subject
1312 to the commencement of a new surrender period; lose existing
1313 benefits, such as death, living or other contractual benefits;
1314 or be subject to increased fees, investment advisory fees, or
1315 charges for riders and similar product enhancements.

1316 (II) The replacing product would substantially benefit the
1317 consumer in comparison to the replaced product over the life of
1318 the product.

1319 (III) The consumer has had another annuity exchange or
1320 replacement and, in particular, an exchange or replacement
1321 within the preceding 60 months.

1322 i. This section does not require an agent to obtain any
1323 license other than an agent license with the appropriate line of
1324 authority to sell, solicit, or negotiate insurance in this
1325 state, including, but not limited to, any securities license, in

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1326 order to fulfill the duties and obligations contained in this
1327 section; provided, the agent does not give advice or provide
1328 services that are otherwise subject to securities laws or engage
1329 in any other activity requiring other professional licenses.

1330 2.a. Before the recommendation or sale of an annuity, the
1331 agent shall prominently disclose to the consumer on a form
1332 substantially similar to that posted on the office website as
1333 Appendix A:

1334 (I) A description of the scope and terms of the
1335 relationship with the consumer and the role of the agent in the
1336 transaction.

1337 (II) An affirmative statement on whether the agent is
1338 licensed and authorized to sell the following products:

1339 (A) Fixed annuities.

1340 (B) Fixed indexed annuities.

1341 (C) Variable annuities.

1342 (D) Life insurance.

1343 (E) Mutual funds.

1344 (F) Stocks and bonds.

1345 (G) Certificates of deposit.

1346 (III) An affirmative statement describing the insurers for
1347 which the agent is authorized, contracted or appointed, or
1348 otherwise able to sell insurance products, using the following
1349 descriptions:

1350 (A) From one insurer;

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1351 (B) From two or more insurers; or

1352 (C) From two or more insurers, although primarily
1353 contracted with one insurer.

1354 (IV) A description of the sources and types of cash
1355 compensation and noncash compensation to be received by the
1356 agent, including whether the agent is to be compensated for the
1357 sale of a recommended annuity by commission as part of premium
1358 or other remuneration received from the insurer, intermediary or
1359 other agent, or by fee as a result of a contract for advice or
1360 consulting services; and

1361 (V) A notice of the consumer's right to request additional
1362 information regarding cash compensation described in
1363 subparagraph b.

1364 b. Upon request of the consumer or the consumer's
1365 designated representative, the agent shall disclose:

1366 (I) A reasonable estimate of the amount of cash
1367 compensation to be received by the agent, which may be stated as
1368 a range of amounts or percentages.

1369 (II) Whether the cash compensation is a one-time or
1370 multiple occurrence amount, and if a multiple occurrence amount,
1371 the frequency and amount of the occurrence, which may be stated
1372 as a range of amounts or percentages; and ~~When recommending the~~
1373 ~~purchase or exchange of an annuity to a consumer which results~~
1374 ~~in an insurance transaction or series of insurance transactions,~~
1375 ~~the agent, or the insurer where no agent is involved, must have~~

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1376 ~~reasonable grounds for believing that the recommendation is~~
1377 ~~suitable for the consumer, based on the consumer's suitability~~
1378 ~~information, and that there is a reasonable basis to believe all~~
1379 ~~of the following:~~

1380 c.1. Before or at the time of the recommendation or sale
1381 of an annuity, the agent shall have a reasonable basis to
1382 believe the consumer has been ~~reasonably~~ informed of various
1383 features of the annuity, such as the potential surrender period
1384 and surrender charge; potential tax penalty if the consumer
1385 sells, exchanges, surrenders, or annuitizes the annuity;
1386 mortality and expense fees; any annual fees; investment advisory
1387 fees; potential charges for and features of riders or other
1388 options of the annuity; limitations on interest returns;
1389 potential changes in nonguaranteed elements of the annuity;
1390 insurance and investment components; and market risk.

1391 2. The consumer would benefit from certain features of the
1392 annuity, such as tax-deferred growth, annuitization, or the
1393 death or living benefit.

1394 3. An agent shall identify and avoid or reasonably manage
1395 and disclose material conflicts of interest, including material
1396 conflicts of interest related to an ownership interest.

1397 4. An agent shall at the time of the recommendation or
1398 sale:

1399 a. Make a written record of any recommendation and the
1400 basis for the recommendation, subject to this section.

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1401 b. Obtain a consumer signed statement on a form
1402 substantially similar to that posted on the office website as
1403 Appendix B, documenting:

1404 (I) A consumer's refusal to provide the consumer profile
1405 information, if any.

1406 (II) A consumer's understanding of the ramifications of
1407 not providing his or her consumer profile information or
1408 providing insufficient consumer profile information.

1409 c. Obtain a consumer signed statement on a form
1410 substantially similar to that posted on the office website as
1411 Appendix C, acknowledging the annuity transaction is not
1412 recommended if a consumer decides to enter into an annuity
1413 transaction that is not based on the agent's recommendation.

1414 5. Application of the best interest obligation. Any
1415 requirement applicable to an agent under this subsection shall
1416 apply to every agent who has exercised material control or
1417 influence in the making of a recommendation and has received
1418 direct compensation as a result of the recommendation or sale,
1419 regardless of whether the agent has had any direct contact with
1420 the consumer. Activities such as providing or delivering
1421 marketing or education materials, product wholesaling or other
1422 back office product support, and general supervision of an agent
1423 do not, in and of themselves, constitute material control or
1424 influence.

Amendment No. 1

1425 ~~3. The particular annuity as a whole, the underlying~~
1426 ~~subaccounts to which funds are allocated at the time of purchase~~
1427 ~~or exchange of the annuity, and riders and similar product~~
1428 ~~enhancements, if any, are suitable; and, in the case of an~~
1429 ~~exchange or replacement, the transaction as a whole is suitable~~
1430 ~~for the particular consumer based on his or her suitability~~
1431 ~~information.~~

1432 ~~4. In the case of an exchange or replacement of an~~
1433 ~~annuity, the exchange or replacement is suitable after~~
1434 ~~considering whether the consumer:~~

1435 ~~a. Will incur a surrender charge; be subject to the~~
1436 ~~commencement of a new surrender period; lose existing benefits,~~
1437 ~~such as death, living, or other contractual benefits; or be~~
1438 ~~subject to increased fees, investment advisory fees, or charges~~
1439 ~~for riders and similar product enhancements;~~

1440 ~~b. Would benefit from product enhancements and~~
1441 ~~improvements; and~~

1442 ~~c. Has had another annuity exchange or replacement,~~
1443 ~~including an exchange or replacement within the preceding 36~~
1444 ~~months.~~

1445 ~~(b) Before executing a purchase, exchange, or replacement~~
1446 ~~of an annuity resulting from a recommendation, an insurer or its~~
1447 ~~agent must make reasonable efforts to obtain the consumer's~~
1448 ~~suitability information. The information shall be collected on~~
1449 ~~form DFS-H1-1980, which is hereby incorporated by reference, and~~

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1450 ~~completed and signed by the applicant and agent. Questions~~
1451 ~~requesting this information must be presented in at least 12-~~
1452 ~~point type and be sufficiently clear so as to be readily~~
1453 ~~understandable by both the agent and the consumer. A true and~~
1454 ~~correct executed copy of the form must be provided by the agent~~
1455 ~~to the insurer, or to the person or entity that has contracted~~
1456 ~~with the insurer to perform this function as authorized by this~~
1457 ~~section, within 10 days after execution of the form, and shall~~
1458 ~~be provided to the consumer no later than the date of delivery~~
1459 ~~of the contract or contracts.~~

1460 ~~(c) Except as provided under paragraph (d), an insurer may~~
1461 ~~not issue an annuity recommended to a consumer unless there is a~~
1462 ~~reasonable basis to believe the annuity is suitable based on the~~
1463 ~~consumer's suitability information.~~

1464 ~~(b)(d) 1. Except as provided under subparagraph 2, An~~
1465 ~~insurer's issuance of an annuity must be reasonable based on all~~
1466 ~~the circumstances actually known to the insurer at the time the~~
1467 ~~annuity is issued. However, an insurer or its agent shall not~~
1468 ~~have does not have an obligation to a consumer related to an~~
1469 ~~annuity transaction under paragraph (a)1.(a) or paragraph (c)~~
1470 ~~if:~~

1471 ~~a.1.~~ A recommendation has not been made;

1472 ~~b.2.~~ A recommendation was made and is later found to have
1473 been based on materially inaccurate information provided by the
1474 consumer;

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1475 ~~c.3.~~ A consumer refuses to provide relevant consumer
1476 profile suitability information and the annuity transaction is
1477 not recommended; or

1478 ~~d.4.~~ A consumer decides to enter into an annuity
1479 transaction that is not based on a recommendation of an insurer
1480 or its agent.

1481 2. An insurer's issuance of an annuity subject to
1482 subparagraph 1. shall be reasonable under all the circumstances
1483 actually known to the insurer at the time the annuity is issued.

1484 (c)1. Except as permitted under paragraph (b), an insurer
1485 may not issue an annuity recommended to a consumer unless there
1486 is a reasonable basis to believe the annuity would effectively
1487 address the particular consumer's financial situation, insurance
1488 needs, and financial objectives based on the consumer's consumer
1489 profile information.

1490 ~~(e) At the time of sale, the agent or the agent's~~
1491 ~~representative must:~~

1492 ~~1. Make a record of any recommendation made to the~~
1493 ~~consumer pursuant to paragraph (a);~~

1494 ~~2. Obtain the consumer's signed statement documenting his~~
1495 ~~or her refusal to provide suitability information, if~~
1496 ~~applicable; and~~

1497 ~~3. Obtain the consumer's signed statement acknowledging~~
1498 ~~that an annuity transaction is not recommended if he or she~~

Amendment No. 1

1499 ~~decides to enter into an annuity transaction that is not based~~
1500 ~~on the insurer's or its agent's recommendation, if applicable.~~

1501 ~~(f) Before executing a replacement or exchange of an~~
1502 ~~annuity contract resulting from a recommendation, the agent must~~
1503 ~~provide on form DFS-H1-1981, which is hereby incorporated by~~
1504 ~~reference, information that compares the differences between the~~
1505 ~~existing annuity contract and the annuity contract being~~
1506 ~~recommended in order to determine the suitability of the~~
1507 ~~recommendation and its benefit to the consumer. A true and~~
1508 ~~correct executed copy of this form must be provided by the agent~~
1509 ~~to the insurer, or to the person or entity that has contracted~~
1510 ~~with the insurer to perform this function as authorized by this~~
1511 ~~section, within 10 days after execution of the form, and must be~~
1512 ~~provided to the consumer no later than the date of delivery of~~
1513 ~~the contract or contracts.~~

1514 ~~2.(g)~~ An insurer shall establish and maintain a
1515 supervision system that is reasonably designed to achieve the
1516 insurer's and its agent's compliance with this section
1517 including, but not limited to, the following:

1518 ~~1. Such system must include, but is not limited to:~~

1519 a. The insurer shall establish and maintain Maintaining
1520 reasonable procedures to inform its agents of the requirements
1521 of this section and incorporating those requirements into
1522 relevant agent training manuals.;

Amendment No. 1

1523 b. The insurer shall establish and maintain ~~Establishing~~
1524 standards for agent product training and shall establish and
1525 maintain reasonable procedures to require its agents to comply
1526 with the requirements of subsection (6).~~‡~~

1527 c. The insurer shall provide ~~Providing~~ product-specific
1528 training and training materials that explain all material
1529 features of its annuity products to its agents.~~‡~~

1530 d. The insurer shall establish and maintain ~~Maintaining~~
1531 procedures for the review of each recommendation before issuance
1532 of an annuity which are designed to ensure that there is a
1533 reasonable basis to determine the recommended annuity would
1534 effectively address the particular consumer's financial
1535 situation, insurance needs, and financial objectives ~~for~~
1536 ~~determining that a recommendation is suitable~~. Such review
1537 procedures may use a screening system for identifying selected
1538 transactions for additional review and may be accomplished
1539 electronically or through other means, including, but not
1540 limited to, physical review. Such electronic or other system may
1541 be designed to require additional review only of those
1542 transactions identified for additional review using established
1543 selection criteria.~~‡~~

1544 e. The insurer shall establish and maintain ~~Maintaining~~
1545 reasonable procedures to detect recommendations that are not in
1546 compliance with paragraphs (a), (b), (d), and (e). This may
1547 include, but is not limited to ~~suitable, such as~~ confirmation of

Amendment No. 1

1548 consumer profile information, systematic customer surveys, agent
1549 and consumer interviews, confirmation letters, agent statements
1550 or attestations, and internal monitoring programs. This sub-
1551 subparagraph does not prevent an insurer from using sampling
1552 procedures or from confirming the consumer profile suitability
1553 information after the issuance or delivery of the annuity.; and

1554 f. The insurer shall establish and maintain reasonable
1555 procedures to assess, prior to, or upon issuance or delivery of,
1556 an annuity, whether an agent has provided to the consumer the
1557 information required to be provided under this subsection.

1558 g. The insurer shall establish and maintain reasonable
1559 procedures to identify and address suspicious consumer refusals
1560 to provide consumer profile information.

1561 h. The insurer shall establish and maintain reasonable
1562 procedures to identify and eliminate any sales contests, sales
1563 quotas, bonuses, and noncash compensation that are based on the
1564 sales of specific annuities within a limited period of time. The
1565 requirements of this subparagraph are not intended to prohibit
1566 the receipt of health insurance, office rents, office support,
1567 retirement benefits, or other employee benefits by employees as
1568 long as those benefits are not based upon the volume of sales of
1569 a specific annuity within a limited period of time.

1570 i.f. The insurer shall annually provide ~~providing~~ a
1571 written report to senior managers, including the senior manager
1572 who is responsible for audit functions, which details a review,

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1573 along with appropriate testing, which is reasonably designed to
1574 determine the effectiveness of the supervision system, the
1575 exceptions found, and corrective action taken or recommended, if
1576 any.

1577 ~~3.2.~~ An insurer is not required to include in its
1578 supervision system:

1579 a. Agent recommendations to consumers of products other
1580 than the annuities offered by the insurer;

1581 b. Consideration of or comparison to options available to
1582 the agent or compensation relating to those options other than
1583 annuities or other products offered by the insurer.

1584 ~~4.3.~~ An insurer may contract for performance of a
1585 function, including maintenance of procedures, required under
1586 subparagraph 1.

1587 a. An insurer's supervision system under this subsection
1588 shall include supervision of contractual performance under this
1589 subsection ~~If an insurer contracts for the performance of a~~
1590 ~~function, the insurer must include the supervision of~~
1591 ~~contractual performance as part of those procedures listed in~~
1592 ~~subparagraph 1.~~ These include, but are not limited to:

1593 (I) Monitoring and, as appropriate, conducting audits to
1594 ensure that the contracted function is properly performed; and

1595 (II) Annually obtaining a certification from a senior
1596 manager who has responsibility for the contracted function that
1597 the manager has a reasonable basis to represent, and does not

Amendment No. 1

1598 ~~represent for representing~~ that the function is being properly
1599 performed.

1600 b. An insurer is responsible for taking appropriate
1601 corrective action and may be subject to sanctions and penalties
1602 pursuant to subsection (8) ~~(7)~~ regardless of whether the insurer
1603 contracts for performance of a function and regardless of the
1604 insurer's compliance with sub-subparagraph a.

1605 ~~(d)(h)~~ Neither an agent nor an insurer shall may not
1606 dissuade, or attempt to dissuade, a consumer from:

- 1607 1. Truthfully responding to an insurer's request for
1608 confirmation of consumer profile suitability information;
1609 2. Filing a complaint; or
1610 3. Cooperating with the investigation of a complaint.

1611 ~~(e)1.(i)~~ Recommendations and sales made in compliance with
1612 comparable standards shall FINRA requirements pertaining to the
1613 suitability and supervision of annuity transactions satisfy the
1614 requirements of this section. This applies to all
1615 recommendations and FINRA broker-dealer sales of variable
1616 annuities made by financial professionals in compliance with
1617 business rules, controls, and procedures that satisfy a
1618 comparable standard even if such standard would not otherwise
1619 apply to the product or recommendation at issue and fixed
1620 annuities if the suitability and supervision is similar to those
1621 applied to variable annuity sales. However, this paragraph does
1622 not limit the ability of the office or the department to

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1623 investigate and enforce, including investigate, the provisions
1624 of this section.

1625 2. Subparagraph 1. shall not limit the insurer's
1626 obligation to comply with subsection (5) (c)1., although the
1627 insurer may base its analysis on information received from
1628 either the financial professional or the entity supervising the
1629 financial professional.

1630 3. For this paragraph to apply, an insurer shall must:

1631 a.1. Monitor relevant conduct of the financial
1632 professional seeking to rely on subparagraph 1. or the entity
1633 responsible for supervising the financial professional, such as
1634 the financial professional's broker-dealer or an investment
1635 adviser registered under federal or state securities law, the
1636 FINRA member broker-dealer using information collected in the
1637 normal course of an insurer's business; and

1638 b.2. Provide to the entity responsible for supervising the
1639 financial professional seeking to rely on subparagraph 1., such
1640 as the financial professional's broker dealer or investment
1641 adviser registered under federal or state securities laws, FINRA
1642 member broker-dealer information and reports that are reasonably
1643 appropriate to assist such entity the FINRA member broker-dealer
1644 in maintaining its supervision system.

1645 4. For purposes of this paragraph, the term:

1646 a. "Comparable standards" means:

Amendment No. 1

1647 (I) With respect to broker-dealers and registered
1648 representatives of broker-dealers, applicable SEC and FINRA
1649 rules pertaining to best interest obligations and supervision of
1650 annuity recommendations and sales including, but not limited to,
1651 Regulation Best Interest, 17 C.F.R. s. 240.151-1, and any
1652 amendments or successor regulations thereto;

1653 (II) With respect to investment advisers registered under
1654 federal or state securities laws or investment adviser
1655 representatives, the fiduciary duties and all other requirements
1656 imposed on such investment advisers or investment adviser
1657 representatives by contract or under the Investment Advisers Act
1658 of 1940 or applicable state securities laws, including, but not
1659 limited to, Form ADV and interpretations; and

1660 (III) With respect to plan fiduciaries or fiduciaries, the
1661 duties, obligations, prohibitions and all other requirements
1662 attendant to such status under ERISA, or the IRC and any
1663 amendments or successor statutes thereto.

1664 b. "Financial professional" means an agent that is
1665 regulated and acting as:

1666 (I) A broker dealer registered under federal or state
1667 securities laws or a registered representative of a broker-
1668 dealer;

1669 (II) An investment adviser registered under federal or
1670 state securities laws or an investment adviser representative

Amendment No. 1

1671 associated with the federal or state registered investment
1672 adviser; or

1673 (III) A plan fiduciary under Section 3(21) of the Employee
1674 Retirement Income Security Act of 1974 (ERISA) or fiduciary
1675 under Section 4975(e)(3) of the Internal Revenue Code (IRC) or
1676 any amendments or successor statutes thereto.

1677 (6) AGENT TRAINING.—

1678 (a) An agent shall not solicit the sale of an annuity
1679 product unless the agent has adequate knowledge of the product
1680 to recommend the annuity and the agent is in compliance with the
1681 insurer's standards for product training. An agent may rely on
1682 insurer-provided product-specific training standards and
1683 materials to comply with this subsection.

1684 (b)1.a. An agent who engages in the sale of annuity
1685 products shall complete a one-time 4 hour training course. This
1686 requirement is not part of an agent's continuing education
1687 requirement in s. 626.2815; however, if a course provider
1688 submits and receives approval from the Department of Financial
1689 Services, then the course could also be eligible for continuing
1690 education credit pursuant to s. 626.2815.

1691 b. Agents who hold a life insurance line of authority on
1692 the effective date of this act and who desire to sell annuities
1693 shall complete the requirements of this subsection within 6
1694 months after the effective date of this act. Individuals who
1695 obtain a life insurance line of authority after the effective

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1696 date of this act may not engage in the sale of annuities until
1697 the annuity training course required under this subsection has
1698 been completed.

1699 2. The minimum length of the training required under this
1700 subsection is 4 hours.

1701 3. The training required under this subsection shall
1702 include information on the following topics:

1703 a. The types of annuities and various classifications of
1704 annuities.

1705 b. Identification of the parties to an annuity.

1706 c. How product-specific annuity contract features affect
1707 consumers.

1708 d. The application of income taxation of qualified and
1709 nonqualified annuities.

1710 e. The primary uses of annuities.

1711 f. Appropriate standard of conduct, sales practices,
1712 replacement, and disclosure requirements.

1713 4. Providers of courses intended to comply with this
1714 subsection shall cover all topics listed in the prescribed
1715 outline and shall not present any marketing information or
1716 provide training on sales techniques or provide specific
1717 information about a particular insurer's products. Additional
1718 topics may be offered in conjunction with and in addition to the
1719 required outline.

Amendment No. 1

1720 5. An agent who has completed an annuity training course
1721 prior to the effective date of this act shall, within 6 months
1722 after the effective date of this act, complete either:

1723 a. A new 4-hour training course; or

1724 b. An additional one-hour training course on appropriate
1725 sales practices, replacement, and disclosure requirements under
1726 this section.

1727 6. Annuity training courses may be conducted and completed
1728 by classroom or self-study methods.

1729 7. Providers of annuity training shall issue certificates
1730 of completion.

1731 8. The satisfaction of the training requirements of
1732 another state that are substantially similar to the provisions
1733 of this subsection shall be deemed to satisfy the training
1734 requirements of this subsection in this state.

1735 9. The satisfaction of the training requirements of any
1736 course or courses with components substantially similar to the
1737 provisions of this subsection shall be deemed to satisfy the
1738 training requirements of this subsection in this state.

1739 10. An insurer shall verify that an agent has completed
1740 the annuity training course required under this subsection
1741 before allowing the agent to sell an annuity product for that
1742 insurer.

1743 (7)-(6) RECORDKEEPING.-

Amendment No. 1

1744 (a) Insurers and agents must maintain or be able to make
1745 available to the office or department records of the information
1746 collected from the consumer and other information used in making
1747 the recommendations that were the basis for insurance
1748 transactions for 5 years after the insurance transaction is
1749 completed by the insurer. An insurer may maintain the
1750 documentation on behalf of its agent.

1751 (b) Records required to be maintained under this
1752 subsection may be maintained in paper, photographic,
1753 microprocess, magnetic, mechanical, or electronic media, or by
1754 any process that accurately reproduces the actual document.

1755 ~~(8)(7)~~ COMPLIANCE MITIGATION; PENALTIES.-

1756 (a) An insurer is responsible for compliance with this
1757 section. If a violation occurs because of the action or inaction
1758 of the insurer or its agent which results in harm to a consumer,
1759 the office may order the insurer to take reasonably appropriate
1760 corrective action for the consumer and may impose appropriate
1761 penalties and sanctions.

1762 (b) The department may order:

1763 1. An ~~insurance~~ agent to take reasonably appropriate
1764 corrective action for a consumer harmed by a violation of this
1765 section by the ~~insurance~~ agent, including monetary restitution
1766 of penalties or fees incurred by the consumer, and impose
1767 appropriate penalties and sanctions.

Amendment No. 1

1768 2. A managing general agency or insurance agency that
1769 employs or contracts with an ~~insurance~~ agent to sell or solicit
1770 the sale of annuities to consumers to take reasonably
1771 appropriate corrective action for a consumer harmed by a
1772 violation of this section by the ~~insurance~~ agent.

1773 (c) In addition to any other penalty authorized under
1774 chapter 626, the department shall order an insurance agent to
1775 pay restitution to a consumer who has been deprived of money by
1776 the agent's misappropriation, conversion, or unlawful
1777 withholding of moneys belonging to the consumer in the course of
1778 a transaction involving annuities. The amount of restitution
1779 required to be paid may not exceed the amount misappropriated,
1780 converted, or unlawfully withheld. This paragraph does not limit
1781 or restrict a person's right to seek other remedies as provided
1782 by law.

1783 (d) Any applicable penalty under the Florida Insurance
1784 Code for a violation of this section shall be reduced or
1785 eliminated according to a schedule adopted by the office or the
1786 department, as appropriate, if corrective action for the
1787 consumer was taken promptly after a violation was discovered.

1788 (e) A violation of this section does not create or imply a
1789 private cause of action.

1790 ~~(9)-(8)~~ PROHIBITED CHARGES.—An annuity contract issued to a
1791 senior consumer age 65 or older may not contain a surrender or
1792 deferred sales charge for a withdrawal of money from an annuity

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1793 exceeding 10 percent of the amount withdrawn. The charge shall
1794 be reduced so that no surrender or deferred sales charge exists
1795 after the end of the 10th policy year or 10 years after the date
1796 of each premium payment if multiple premiums are paid, whichever
1797 is later. This subsection does not apply to annuities purchased
1798 by an accredited investor, as defined in Regulation D as adopted
1799 by the United States Securities and Exchange Commission, or to
1800 those annuities specified in paragraph (4) (b) .

1801 ~~(10)~~(9) RULES.—The department and the commission may adopt
1802 rules to administer this section.

1803 (11) The Department is authorized to adopt by rulemaking
1804 the three forms prescribed in Appendix A through C of the
1805 National Association of Insurance Commissioners Suitability in
1806 Annuity Transactions Model Regulation as follows:
1807 INSURANCE AGENT (PRODUCER) DISCLOSURE FOR ANNUITIES;
1808 CONSUMER REFUSAL TO PROVIDE INFORMATION; and
1809 Consumer Decision to Purchase an Annuity NOT Based on a
1810 Recommendation.

1811 Section 18. Paragraph (b) of subsection (8) of section
1812 634.041, Florida Statutes, is amended to read:

1813 634.041 Qualifications for license.—To qualify for and
1814 hold a license to issue service agreements in this state, a
1815 service agreement company must be in compliance with this part,
1816 with applicable rules of the commission, with related sections

Amendment No. 1

1817 of the Florida Insurance Code, and with its charter powers and
1818 must comply with the following:

1819 (8)

1820 (b) A service agreement company does not have to establish
1821 and maintain an unearned premium reserve if it secures and
1822 maintains contractual liability insurance in accordance with the
1823 following:

1824 1. Coverage of 100 percent of the claim exposure is
1825 obtained from an insurer approved by the office, which holds a
1826 certificate of authority under s. 624.401 to do business within
1827 this state, or secured through a risk retention group, which is
1828 authorized to do business within this state under s. 627.943 or
1829 s. 627.944. Such insurer or risk retention group must maintain a
1830 surplus as regards policyholders of at least \$15 million.

1831 2. If the service agreement company does not meet its
1832 contractual obligations, the contractual liability insurance
1833 policy binds its issuer to pay or cause to be paid to the
1834 service agreement holder all legitimate claims and cancellation
1835 refunds for all service agreements issued by the service
1836 agreement company while the policy was in effect. This
1837 requirement also applies to those service agreements for which
1838 no premium has been remitted to the insurer.

1839 3. If the issuer of the contractual liability policy is
1840 fulfilling the service agreements covered by the contractual
1841 liability policy and the service agreement holder cancels the

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1842 service agreement, the issuer must make a full refund of
1843 unearned premium to the consumer, subject to the cancellation
1844 fee provisions of s. 634.121(3). The sales representative and
1845 agent must refund to the contractual liability policy issuer
1846 their unearned pro rata commission.

1847 4. The policy may not be canceled, terminated, or
1848 nonrenewed by the insurer or the service agreement company
1849 unless a 90-day written notice thereof has been given to the
1850 office by the insurer before the date of the cancellation,
1851 termination, or nonrenewal.

1852 5. The service agreement company must provide the office
1853 with the claims statistics.

1854 6. A policy issued in compliance with this subparagraph
1855 may either pay 100 percent of claims as they are incurred, or
1856 100 percent of claims due in the event of the failure of the
1857 service agreement company to pay such claims when due.

1858
1859 All funds or premiums remitted to an insurer by a motor vehicle
1860 service agreement company under this part shall remain in the
1861 care, custody, and control of the insurer and shall be counted
1862 as an asset of the insurer; provided, however, this requirement
1863 does not apply when the insurer and the motor vehicle service
1864 agreement company are affiliated companies and members of an
1865 insurance holding company system. If the motor vehicle service
1866 agreement company chooses to comply with this paragraph but also

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

1867 maintains a reserve to pay claims, such reserve shall only be
1868 considered an asset of the covered motor vehicle service
1869 agreement company and may not be simultaneously counted as an
1870 asset of any other entity.

1871 Section 19. Paragraphs (d), (e), and (f) of subsection
1872 (17) of section 634.401, Florida Statutes, are amended to read:

1873 634.401 Definitions.—As used in this part, the term:

1874 (17) "Manufacturer" means any entity or its affiliate
1875 which:

1876 ~~(d) Maintains outstanding debt obligations, if any, rated~~
1877 ~~in the top four rating categories by a recognized rating~~
1878 ~~service;~~

1879 (d)-(e) Has and maintains at all times, a minimum net worth
1880 of at least \$100 ~~\$10~~ million as evidenced by certified financial
1881 statements prepared by an independent certified public
1882 accountant in accordance with generally accepted accounting
1883 principles; and

1884 (e)-(f) Is authorized to do business in this state.

1885 Section 20. The Division of Law Revision is directed to
1886 replace the phrase "the effective date of this act" wherever it
1887 occurs in this act with the date this act becomes a law.

1888 Section 21. Except as otherwise expressly provided, this
1889 act shall take effect July 1, 2023.

1890

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247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

Amendment No. 1

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

Remove everything before the enacting clause and insert:

An act relating to consumer protection; amending s. 494.001, F.S.; revising the definition of the term "branch office"; defining the term "remote location"; authorizing a licensee under ch. 494, F.S., to allow loan originators to work from remote locations if specified conditions are met; amending s. 494.0067, F.S.; specifying that mortgage lenders may transact business from branch offices and remote locations; providing a requirement for operating remote locations; creating s. 501.2042, F.S.; defining terms; providing requirements for organizers of crowd-funding campaigns related to disasters and for crowd-funding platforms; amending s. 520.23, F.S.; revising disclosure requirements for agreements governing the sale or lease of a distributed energy generation system; amending s. 626.551, F.S.; revising the timeframe in which an insurance representative must notify the Department of Financial Services of certain changes in information; amending s. 626.602, F.S.; providing applicability of provisions relating to the disapproval of insurance agency names to adjusting firms; revising grounds on which such names may be disapproved by the department; providing for repeal of a provision upon becoming obsolete; amending s. 626.854, F.S.; revising the definition of "public adjuster"; prohibiting public adjusters from contracting

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1185 (2023)

Amendment No. 1

1917 | with anyone other than the named insured without the insured's
1918 | written consent; specifying a penalty for noncompliance;
1919 | specifying timeframes in which an insured or a claimant may
1920 | cancel a public adjuster's contract without penalty or contract
1921 | under certain circumstances; revising requirements for public
1922 | adjuster's contracts; specifying requirements for public
1923 | adjusters if the insurer, within a certain timeframe, pays or
1924 | commits in writing to pay to the insured the policy limit of the
1925 | policy; specifying the commission a public adjuster receives
1926 | under certain circumstances; amending s. 626.860, F.S.;
1927 | providing that an attorney's exemption from public adjuster
1928 | licensure requirements do not apply to certain persons; amending
1929 | s. 626.875, F.S.; revising recordkeeping requirements for
1930 | appointed independent adjusters and licensed public adjusters;
1931 | amending s. 626.8796, F.S.; revising requirements for public
1932 | adjuster contracts; specifying requirements for and prohibitions
1933 | on public adjusters relating to such contracts; providing
1934 | construction; authorizing the department to adopt rules;
1935 | amending s. 626.8797, F.S.; revising a fraud statement
1936 | requirement in proof-of-loss statements; amending s. 626.9541,
1937 | F.S.; adding a unfair or deceptive insurance act relating to
1938 | health insurance contracts; amending s. 627.4025, F.S.; revising
1939 | the definition of the term "hurricane," and defining the term
1940 | "hurricane deductible," as used in policies providing
1941 | residential coverage; amending s. 627.4133, F.S.; revising the

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1185 (2023)

Amendment No. 1

1942 | timeframe after which certain insurers may not cancel policies
1943 | except for specified reasons; amending s. 627.4554, F.S.;
1944 | revising legislative purpose; revising applicability; revising
1945 | and defining terms; revising and specifying duties of insurers
1946 | and agents relating to the recommendation and sale of annuity
1947 | investments; specifying comparable standards that comply with
1948 | such requirements; specifying agent training requirements;
1949 | providing and revising construction; amending s. 634.041, F.S.;
1950 | specifying authorized methods of paying claims for motor vehicle
1951 | service agreements; amending s. 634.401, F.S.; revising the
1952 | definition of the term "manufacturer"; providing a directive to
1953 | the Division of Law Revision; providing an effective date.
1954 |

247623 - h1185-strike.docx

Published On: 3/20/2023 9:21:22 PM