

1 A bill to be entitled
2 An act relating to residual market insurers; amending
3 s. 626.913, F.S.; conforming a provision to changes
4 made by the act; amending s. 626.914, F.S.; removing
5 the definition of the term "diligent effort"; amending
6 s. 626.916, F.S.; removing the diligent effort and
7 other requirements for insurance coverage to be
8 eligible for export; providing presumption of being
9 informed and of knowing of certain insurance coverage
10 under specified circumstances; amending ss. 627.4085,
11 627.701, 627.70131, 627.70132, 627.70152, and 627.952,
12 F.S.; removing applicability and nonapplicability to
13 surplus lines insurance of provisions relating to
14 applications for insurance policies and annuity
15 contracts; liability of insureds, coinsurance, and
16 deductibles; insurers' duty to acknowledge
17 communications regarding claims and investigations;
18 notice of property insurance claim; suits arising
19 under a property insurance policy; and risk retention
20 and purchasing group agents, respectively; creating
21 ss. 626.9261, 626.9262, 626.9263, and 626.9264, F.S.;
22 transferring to surplus lines insurance those
23 provisions relating to liability of insureds and
24 deductibles; insurers' duty to acknowledge
25 communications regarding residential property

26 insurance claims and investigations; notice of
27 property insurance claim; suits arising under a
28 property insurance policy; and surplus lines agent
29 licenses and appointments, respectively; creating s.
30 626.9265, F.S.; prohibiting policyholders from
31 assigning post-loss insurance benefits under property
32 insurance policies; creating s. 626.9266, F.S.;
33 requiring settlements or verdicts against insureds as
34 a condition precedent to the accrual or maintenance of
35 causes of actions against liability insurers by
36 persons who are not insureds; providing that insurers
37 are parties for the purpose of recovering taxable
38 costs and attorney fees under certain circumstances;
39 authorizing insurers to insert specified contractual
40 provisions in liability insurance policies;
41 authorizing liability insurers to be joined as party
42 defendants under certain circumstances; prohibiting
43 insurers' presence from being disclosed under certain
44 circumstances; amending s. 626.931, F.S.; removing the
45 requirement that certain surplus lines agents file a
46 specified affidavit; amending s. 626.932, F.S.;
47 revising the timeline of the surplus lines tax
48 remittance by surplus lines agents to the Florida
49 Surplus Lines Service Office; amending s. 627.351,
50 F.S.; revising the requirements for licensed agents

51 appointed by Citizens Property Insurance Corporation
 52 to write and renew certain insurance coverage;
 53 amending ss. 626.918, 626.9325, and 626.9541, F.S.;
 54 conforming cross-references; amending ss. 626.935 and
 55 627.715, F.S.; conforming provisions to changes made
 56 by the act; providing an effective date.

57

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

59

60 **Section 1. Subsection (4) of section 626.913, Florida**
 61 **Statutes, is amended to read:**

62 626.913 Surplus Lines Law; short title; purposes.—

63 (4) ~~Except as may be specifically stated to apply to~~
 64 ~~surplus lines insurers, the provisions of Chapter 627 does de~~
 65 ~~not apply to surplus lines insurance authorized under ss.~~
 66 ~~626.913-626.937, the Surplus Lines Law.~~

67 **Section 2. Subsection (4) of section 626.914, Florida**
 68 **Statutes, is amended to read:**

69 626.914 Definitions.—As used in this Surplus Lines Law,
 70 the term:

71 ~~(4) "Diligent effort" means seeking coverage from and~~
 72 ~~having been rejected by at least three authorized insurers~~
 73 ~~currently writing this type of coverage and documenting these~~
 74 ~~rejections. However, if the residential structure has a dwelling~~
 75 ~~replacement cost of \$700,000 or more, the term means seeking~~

76 | ~~coverage from and having been rejected by at least one~~
 77 | ~~authorized insurer currently writing this type of coverage and~~
 78 | ~~documenting this rejection.~~

79 | **Section 3. Section 626.916, Florida Statutes, is amended**
 80 | **to read:**

81 | 626.916 Eligibility for export.-

82 | (1) No insurance coverage shall be eligible for export
 83 | ~~unless it meets all of the following conditions:~~

84 | ~~(a) The full amount of insurance required must not be~~
 85 | ~~procurable, after a diligent effort has been made by the~~
 86 | ~~producing agent to do so, from among the insurers authorized to~~
 87 | ~~transact and actually writing that kind and class of insurance~~
 88 | ~~in this state, and the amount of insurance exported shall be~~
 89 | ~~only the excess over the amount so procurable from authorized~~
 90 | ~~insurers. Surplus lines agents must verify that a diligent~~
 91 | ~~effort has been made by requiring a properly documented~~
 92 | ~~statement of diligent effort from the retail or producing agent.~~
 93 | ~~However, to be in compliance with the diligent effort~~
 94 | ~~requirement, the surplus lines agent's reliance must be~~
 95 | ~~reasonable under the particular circumstances surrounding the~~
 96 | ~~export of that particular risk. Reasonableness shall be assessed~~
 97 | ~~by taking into account factors which include, but are not~~
 98 | ~~limited to, a regularly conducted program of verification of the~~
 99 | ~~information provided by the retail or producing agent.~~
 100 | ~~Declinations must be documented on a risk-by-risk basis. If it~~

101 ~~is not possible to obtain the full amount of insurance required~~
102 ~~by layering the risk, it is permissible to export the full~~
103 ~~amount.~~

104 ~~(b) The premium rate at which the coverage is exported~~
105 ~~shall not be lower than that rate applicable, if any, in actual~~
106 ~~and current use by a majority of the authorized insurers for the~~
107 ~~same coverage on a similar risk.~~

108 ~~(c) The policy or contract form under which the insurance~~
109 ~~is exported shall not be more favorable to the insured as to the~~
110 ~~coverage or rate than under similar contracts on file and in~~
111 ~~actual current use in this state by the majority of authorized~~
112 ~~insurers actually writing similar coverages on similar risks;~~
113 ~~except that a coverage may be exported under a unique form of~~
114 ~~policy designed for use with respect to a particular subject of~~
115 ~~insurance if a copy of such form is filed with the office by the~~
116 ~~surplus lines agent desiring to use the same and is subject to~~
117 ~~the disapproval of the office within 10 days of filing such form~~
118 ~~exclusive of Saturdays, Sundays, and legal holidays if it finds~~
119 ~~that the use of such special form is not reasonably necessary~~
120 ~~for the principal purposes of the coverage or that its use would~~
121 ~~be contrary to the purposes of this Surplus Lines Law with~~
122 ~~respect to the reasonable protection of authorized insurers from~~
123 ~~unwarranted competition by unauthorized insurers.~~

124 ~~(d) Except as to extended coverage in connection with fire~~
125 ~~insurance policies and except as to windstorm insurance, the~~

126 ~~policy or contract under which the insurance is exported shall~~
127 ~~not provide for deductible amounts, in determining the existence~~
128 ~~or extent of the insurer's liability, other than those available~~
129 ~~under similar policies or contracts in actual and current use by~~
130 ~~one or more authorized insurers.~~

131 ~~(e)~~ the insured has signed or otherwise provided
132 documented acknowledgment of a disclosure in substantially the
133 following form: "You are agreeing to place coverage in the
134 surplus lines market. Coverage may be available in the admitted
135 market. Persons insured by surplus lines carriers are not
136 protected under the Florida Insurance Guaranty Act with respect
137 to any right of recovery for the obligation of an insolvent
138 unlicensed insurer." If the acknowledgment of the disclosure is
139 signed by the insured, the insured is presumed to have been
140 informed and to know that other coverage may be available.

141 ~~(2) The commission may by rule declare eligible for export~~
142 ~~generally, and notwithstanding the provisions of paragraphs (a),~~
143 ~~(b), (c), and (d) of subsection (1), any class or classes of~~
144 ~~insurance coverage or risk for which it finds, after a hearing,~~
145 ~~that there is no reasonable or adequate market among authorized~~
146 ~~insurers. Any such rules shall continue in effect during the~~
147 ~~existence of the conditions upon which predicated, but subject~~
148 ~~to termination by the commission.~~

149 ~~(3)(a) Subsection (1) does not apply to wet marine and~~
150 ~~transportation or aviation risks that are subject to s. 626.917.~~

151 ~~(b) Subsection (1) does not apply to classes of insurance~~
152 ~~which are related to indemnity of deductibles for property~~
153 ~~insurance or are subject to s. 627.062(3)(d)1. These classes may~~
154 ~~be exportable under the following conditions:~~

155 ~~1. The insurance must be placed only by or through a~~
156 ~~surplus lines agent licensed in this state;~~

157 ~~2. The insurer must be made eligible under s. 626.918; and~~

158 ~~3. The insured has complied with paragraph (1)(c). If the~~
159 ~~disclosure is signed by the insured, the insured is presumed to~~
160 ~~have been informed and to know that other coverage may be~~
161 ~~available, and, with respect to the diligent-effort requirement~~
162 ~~under subsection (1), there is no liability on the part of, and~~
163 ~~no cause of action arises against, the retail agent presenting~~
164 ~~the form.~~

165 (2)(4) A reasonable per-policy fee may be charged by the
166 filing surplus lines agent for each policy certified for export.
167 This per-policy fee must be itemized separately to the customer
168 before purchase and enumerated in the policy.

169 (3)(5) A retail agent may charge a reasonable per-policy
170 fee for placement of a surplus lines policy under this section.
171 This per-policy fee must be itemized separately to the customer
172 before purchase.

173 **Section 4. Subsection (2) of section 627.4085, Florida**
174 **Statutes, is amended to read:**

175 627.4085 Insurer name, agent name, and license

176 identification number required on application.-

177 ~~(2) This section does not apply to surplus lines business~~
 178 ~~under the provisions of ss. 626.913-626.937.~~

179 **Section 5. Paragraph (d) of subsection (6) of section**
 180 **627.701, Florida Statutes, is amended to read:**

181 627.701 Liability of insureds; coinsurance; deductibles.-

182 (6)

183 (d) The office shall draft and formally propose as a rule
 184 the form for the certificate of security. The certificate of
 185 security may be issued in any of the following circumstances:

186 1. A mortgage lender or other financial institution may
 187 issue a certificate of security after granting the applicant a
 188 line of credit, secured by equity in real property or other
 189 reasonable security, which line of credit may be drawn on only
 190 to pay for the deductible portion of insured construction or
 191 reconstruction after a hurricane loss. In the sole discretion of
 192 the mortgage lender or other financial institution, the line of
 193 credit may be issued to an applicant on an unsecured basis.

194 2. A licensed insurance agent may issue a certificate of
 195 security after obtaining for an applicant a line of credit,
 196 secured by equity in real property or other reasonable security,
 197 which line of credit may be drawn on only to pay for the
 198 deductible portion of insured construction or reconstruction
 199 after a hurricane loss. The Florida Hurricane Catastrophe Fund
 200 shall negotiate agreements creating a financing consortium to

201 | serve as an additional source of lines of credit to secure
 202 | deductibles. Any licensed insurance agent may act as the agent
 203 | of such consortium.

204 | 3. Any person qualified to act as a trustee for any
 205 | purpose may issue a certificate of security secured by a pledge
 206 | of assets, with the restriction that the assets may be drawn on
 207 | only to pay for the deductible portion of insured construction
 208 | or reconstruction after a hurricane loss.

209 | 4. Any insurer, ~~including any admitted insurer or any~~
 210 | ~~surplus lines insurer,~~ may issue a certificate of security after
 211 | issuing the applicant a policy of supplemental insurance that
 212 | will pay for 100 percent of the deductible portion of insured
 213 | construction or reconstruction after a hurricane loss.

214 | 5. Any other method approved by the office upon finding
 215 | that such other method provides a similar level of security as
 216 | the methods specified in this paragraph and that such other
 217 | method has no negative impact on residential property insurance
 218 | catastrophic capacity. The legislative intent of this
 219 | subparagraph is to provide the flexibility needed to achieve the
 220 | public policy of expanding property insurance capacity while
 221 | improving the affordability of property insurance.

222 | **Section 6. Section 626.9261, Florida Statutes, is created**
 223 | **to read:**

224 | 626.9261 Liability of insureds; deductibles.—A surplus
 225 | lines insurer may issue a certificate of security after issuing

226 the applicant a policy of supplemental insurance that will pay
 227 for 100 percent of the deductible portion of insured
 228 construction or reconstruction after a hurricane loss.

229 **Section 7. Subsection (9) of section 627.70131, Florida**
 230 **Statutes, is amended to read:**

231 627.70131 Insurer's duty to acknowledge communications
 232 regarding claims; investigation.—

233 ~~(9) This section also applies to surplus lines insurers~~
 234 ~~and surplus lines insurance authorized under ss. 626.913–626.937~~
 235 ~~providing residential coverage.~~

236 **Section 8. Section 626.9262, Florida Statutes, is created**
 237 **to read:**

238 626.9262 Insurer's duty to acknowledge communications
 239 regarding residential property insurance claims; investigation.—

240 (1) (a) Upon an insurer's receipt of a communication with
 241 respect to a residential property insurance claim, the insurer
 242 shall, within 7 calendar days, review and acknowledge receipt of
 243 such communication unless payment is made within that period of
 244 time or unless the failure to acknowledge is caused by factors
 245 beyond the control of the insurer. If the acknowledgment is not
 246 in writing, a notification indicating acknowledgment shall be
 247 made in the insurer's claim file and dated. A communication made
 248 to or by a representative of an insurer with respect to a claim
 249 constitutes communication to or by the insurer.

250 (b) As used in this subsection, the term "representative"

251 means any person to whom an insurer has granted authority or
252 responsibility to receive or make such communications with
253 respect to claims on behalf of the insurer.

254 (c) This subsection does not apply to claimants
255 represented by counsel beyond those communications necessary to
256 provide forms and instructions.

257 (2) Such acknowledgment must be responsive to the
258 communication. If the communication constitutes a notification
259 of a residential property insurance claim, unless the
260 acknowledgment reasonably advises the claimant that the claim
261 appears not to be covered by the insurer, the acknowledgment
262 must provide necessary claim forms, and instructions, including
263 an appropriate telephone number.

264 (3) (a) Unless otherwise provided by the policy of
265 insurance or by law, within 7 days after an insurer receives
266 proof-of-loss statements, the insurer shall begin such
267 investigation as is reasonably necessary unless the failure to
268 begin such investigation is caused by factors beyond the control
269 of the insurer.

270 (b) If such investigation involves a physical inspection
271 of the property, the licensed adjuster assigned by the insurer
272 must provide the policyholder with a printed or electronic
273 document containing his or her name and state adjuster license
274 number. An insurer must conduct any such physical inspection
275 within 30 days after its receipt of the proof-of-loss

276 statements.

277 (c) Any subsequent communication with the policyholder
278 regarding the residential property insurance claim must also
279 include the name and license number of the adjuster
280 communicating about the claim. Communication of the adjuster's
281 name and license number may be included with other information
282 provided to the policyholder.

283 (d) An insurer may use electronic methods to investigate
284 the loss. Such electronic methods may include any method that
285 provides the insurer with clear, color pictures or video
286 documenting the loss, including, but not limited to, electronic
287 photographs or video recordings of the loss; video conferencing
288 between the adjuster and the policyholder which includes video
289 recording of the loss; and video recordings or photographs of
290 the loss using a drone, driverless vehicle, or other machine
291 that can move independently or through remote control. The
292 insurer also may allow the policyholder to use such methods to
293 assist in the investigation of the loss. An insurer may void the
294 insurance policy if the policyholder or any other person at the
295 direction of the policyholder, with intent to injure, defraud,
296 or deceive any insurer, commits insurance fraud by providing
297 false, incomplete, or misleading information concerning any fact
298 or thing material to a claim using electronic methods. The use
299 of electronic methods to investigate the loss does not prohibit
300 an insurer from assigning a licensed adjuster to physically

301 inspect the property.

302 (e) The insurer must send the policyholder a copy of any
303 detailed estimate of the amount of the loss within 7 days after
304 the estimate is generated by an insurer's adjuster. This
305 paragraph does not require that an insurer create a detailed
306 estimate of the amount of the loss if such estimate is not
307 reasonably necessary as part of the claim investigation.

308 (4) An insurer shall maintain:

309 (a) A record or log of each adjuster who communicates with
310 the policyholder as provided in paragraphs (3)(b) and (c) and
311 provide a list of such adjusters to the insured, office, or
312 department upon request.

313 (b) Claim records, including dates, of all of the
314 following:

315 1. Any claim-related communication made between the
316 insurer and the policyholder or the policyholder's
317 representative.

318 2. The insurer's receipt of the policyholder's proof-of-
319 loss statement.

320 3. Any claim-related request for information made by the
321 insurer to the policyholder or the policyholder's
322 representative.

323 4. Any claim-related inspections of the property made by
324 the insurer, including physical inspections and inspections made
325 by electronic means.

326 5. Any detailed estimate of the amount of the loss
327 generated by the insurer's adjuster.

328 6. The beginning and end of any tolling period provided
329 for in subsection (8).

330 7. The insurer's payment or denial of the claim.

331 (5) For purposes of this section, the term:

332 (a) "Factors beyond the control of the insurer" means:

333 1. Any of the following events that is the basis for the
334 office issuing an order finding that such event renders all or
335 specified residential property insurers reasonably unable to
336 meet the requirements of this section in specified locations and
337 ordering that such insurer or insurers may have additional time
338 as specified by the office to comply with the requirements of
339 this section: a state of emergency declared by the Governor
340 under s. 252.36, a breach of security that must be reported
341 under s. 501.171(3), or an information technology issue. The
342 office may not extend the period for payment or denial of a
343 claim for more than 30 additional days.

344 2. Actions by the policyholder or the policyholder's
345 representative which constitute fraud, lack of cooperation, or
346 intentional misrepresentation regarding the claim for which
347 benefits are owed when such actions reasonably prevent the
348 insurer from complying with any requirement of this section.

349 (b) "Insurer" means an eligible surplus lines insurer that
350 issues residential property policies.

351 (6) (a) When providing a preliminary or partial estimate of
352 damage regarding a residential property insurance claim, an
353 insurer shall include with the estimate the following statement
354 printed in at least 12-point bold, uppercase type: THIS ESTIMATE
355 REPRESENTS OUR CURRENT EVALUATION OF THE COVERED DAMAGES TO YOUR
356 INSURED PROPERTY AND MAY BE REVISED AS WE CONTINUE TO EVALUATE
357 YOUR CLAIM. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL
358 INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT
359 US.

360 (b) When providing a payment on a claim which is not the
361 full and final payment for the claim, an insurer shall include
362 with the payment the following statement printed in at least 12-
363 point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR
364 CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL
365 PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL
366 INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT
367 US.

368 (7) (a) Within 60 days after an insurer receives notice of
369 an initial, reopened, or supplemental property insurance claim
370 from a policyholder, the insurer shall pay or deny such claim or
371 a portion of the claim unless the failure to pay is caused by
372 factors beyond the control of the insurer. The insurer shall
373 provide a reasonable explanation in writing to the policyholder
374 of the basis in the insurance policy, in relation to the facts
375 or applicable law, for the payment, denial, or partial denial of

376 a claim. If the insurer's claim payment is less than specified
377 in any insurer's detailed estimate of the amount of the loss,
378 the insurer must provide a reasonable explanation in writing of
379 the difference to the policyholder. Any payment of an initial or
380 supplemental claim or portion of such claim made 60 days after
381 the insurer receives notice of the claim, or made after the
382 expiration of any additional timeframe provided to pay or deny a
383 claim or a portion of a claim made pursuant to an order of the
384 office finding factors beyond the control of the insurer,
385 whichever is later, bears interest at the rate set forth in s.
386 55.03. Interest begins to accrue from the date the insurer
387 receives notice of the claim. The provisions of this subsection
388 may not be waived, voided, or nullified by the terms of the
389 insurance policy. If there is a right to prejudgment interest,
390 the insured must select whether to receive prejudgment interest
391 or interest under this subsection. Interest is payable when the
392 claim or portion of the claim is paid. Failure to comply with
393 this subsection constitutes a violation of this code. However,
394 failure to comply with this subsection does not form the sole
395 basis for a private cause of action.

396 (b) Notwithstanding subsection (5), for purposes of this
397 subsection, the term "claim" means a claim under an insurance
398 policy providing residential coverage as defined in s.
399 627.4025(1).

400 (c) This subsection does not apply to claims under an

401 insurance policy covering structures or contents in more than
 402 one state.

403 (8) The requirements of this section are tolled:

404 (a) During the pendency of any mediation proceeding under
 405 s. 627.7015 or any alternative dispute resolution proceeding
 406 provided for in the insurance contract. The tolling period ends
 407 upon the end of the mediation or alternative dispute resolution
 408 proceeding.

409 (b) Upon the failure of a policyholder or a representative
 410 of the policyholder to provide material claims information
 411 requested by the insurer within 10 days after the request was
 412 received. The tolling period ends upon the insurer's receipt of
 413 the requested information. Tolling under this paragraph applies
 414 only to requests sent by the insurer to the policyholder or a
 415 representative of the policyholder at least 15 days before the
 416 insurer is required to pay or deny the claim or a portion of the
 417 claim under subsection (7).

418 **Section 9. Subsection (2) of section 627.70132, Florida**
 419 **Statutes, is amended to read:**

420 627.70132 Notice of property insurance claim.—

421 (2) A claim or reopened claim, but not a supplemental
 422 claim, under an insurance policy that provides property
 423 insurance, as defined in s. 624.604, ~~including a property~~
 424 ~~insurance policy issued by an eligible surplus lines insurer,~~
 425 for loss or damage caused by any peril is barred unless notice

426 of the claim was given to the insurer in accordance with the
427 terms of the policy within 1 year after the date of loss. A
428 supplemental claim is barred unless notice of the supplemental
429 claim was given to the insurer in accordance with the terms of
430 the policy within 18 months after the date of loss. The time
431 limitations of this subsection are tolled during any term of
432 deployment to a combat zone or combat support posting which
433 materially affects the ability of a named insured who is a
434 servicemember as defined in s. 250.01 to file a claim,
435 supplemental claim, or reopened claim.

436 **Section 10. Section 626.9263, Florida Statutes, is created**
437 **to read:**

438 626.9263 Notice of property insurance claim.-

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

440 (a) "Reopened claim" means a claim that an insurer has
441 previously closed, but that has been reopened upon an insured's
442 request for additional costs for loss or damage previously
443 disclosed to the insurer.

444 (b) "Supplemental claim" means a claim for additional loss
445 or damage from the same peril which the insurer has previously
446 adjusted or for which costs have been incurred while completing
447 repairs or replacement pursuant to an open claim for which
448 timely notice was previously provided to the insurer.

449 (2) A claim or reopened claim, but not a supplemental
450 claim, under an insurance policy that provides property

451 insurance, as defined in s. 624.604, for loss or damage caused
452 by any peril is barred unless notice of the claim was given to
453 the insurer in accordance with the terms of the policy within 1
454 year after the date of loss. A supplemental claim is barred
455 unless notice of the supplemental claim was given to the insurer
456 in accordance with the terms of the policy within 18 months
457 after the date of loss. The time limitations of this subsection
458 are tolled during any term of deployment to a combat zone or
459 combat support posting which materially affects the ability of a
460 named insured who is a servicemember as defined in s. 250.01 to
461 file a claim, supplemental claim, or reopened claim.

462 (3) For claims resulting from hurricanes, tornadoes,
463 windstorms, severe rain, or other weather-related events, the
464 date of loss is the date that the hurricane made landfall or the
465 tornado, windstorm, severe rain, or other weather-related event
466 is verified by the National Oceanic and Atmospheric
467 Administration.

468 (4) This section does not affect any applicable limitation
469 on civil actions provided in s. 95.11 for claims, supplemental
470 claims, or reopened claims timely filed under this section.

471 **Section 11. Subsection (1) of section 627.70152, Florida**
472 **Statutes, is amended to read:**

473 627.70152 Suits arising under a property insurance
474 policy.—

475 (1) APPLICATION.—This section applies exclusively to all

476 suits arising under a residential or commercial property
477 insurance policy, ~~including a residential or commercial property~~
478 ~~insurance policy issued by an eligible surplus lines insurer.~~

479 **Section 12. Section 626.9264, Florida Statutes, is created**
480 **to read:**

481 626.9264 Suits arising under a property insurance policy.-

482 (1) APPLICATION.-This section applies exclusively to all
483 suits arising under a residential or commercial property
484 insurance policy.

485 (2) DEFINITIONS.-As used in this section, the term:

486 (a) "Claimant" means an insured who is filing suit under a
487 residential or commercial property insurance policy.

488 (b) "Disputed amount" means the difference between the
489 claimant's presuit settlement demand, not including attorney
490 fees and costs listed in the demand, and the insurer's presuit
491 settlement offer, not including attorney fees and costs, if part
492 of the offer.

493 (c) "Presuit settlement demand" means the demand made by
494 the claimant in the written notice of intent to initiate
495 litigation as required by paragraph (3) (a). The demand must
496 include the amount of reasonable and necessary attorney fees and
497 costs incurred by the claimant, to be calculated by multiplying
498 the number of hours actually worked on the claim by the
499 claimant's attorney as of the date of the notice by a reasonable
500 hourly rate.

501 (d) "Presuit settlement offer" means the offer made by the
 502 insurer in its written response to the notice specified in
 503 subsection (3).

504 (3) NOTICE.—

505 (a) As a condition precedent to filing a suit under a
 506 property insurance policy, a claimant must provide the
 507 department with written notice of intent to initiate litigation
 508 on a form provided by the department. Such notice must be given
 509 at least 10 business days before filing suit under the policy,
 510 but may not be given before the insurer has made a determination
 511 of coverage under s. 627.70131. Notice to the insurer must be
 512 provided by the department to the e-mail address designated by
 513 the insurer under s. 624.422. The notice must state with
 514 specificity all of the following information:

515 1. That the notice is provided pursuant to this section.

516 2. The alleged acts or omissions of the insurer giving
 517 rise to the suit, which may include a denial of coverage.

518 3. If provided by an attorney or other representative,
 519 that a copy of the notice was provided to the claimant.

520 4. If the notice is provided following a denial of
 521 coverage, an estimate of damages, if known.

522 5. If the notice is provided following acts or omissions
 523 by the insurer other than denial of coverage, both of the
 524 following:

525 a. The presuit settlement demand, which must itemize the

526 damages, attorney fees, and costs.

527 b. The disputed amount.

528

529 Documentation to support the information provided in this
530 paragraph may be provided along with the notice to the insurer.

531 (b) A claimant must serve a notice of intent to initiate
532 litigation within the time limits provided in s. 95.11. However,
533 the notice is not required if the suit is a counterclaim.

534 Service of a notice tolls the time limits provided in s. 95.11
535 for 10 business days if such time limits will expire before the
536 end of the 10-day notice period.

537 (4) INSURER DUTIES.—An insurer must have a procedure for
538 the prompt investigation, review, and evaluation of the dispute
539 stated in the notice and must investigate each claim contained
540 in the notice in accordance with the Florida Insurance Code. An
541 insurer must respond in writing within 10 business days after
542 receiving the notice specified in subsection (3). The insurer
543 must provide the response to the claimant by e-mail if the
544 insured has designated an e-mail address in the notice.

545 (a) If an insurer is responding to a notice served on the
546 insurer following a denial of coverage by the insurer, the
547 insurer must respond by:

548 1. Accepting coverage;

549 2. Continuing to deny coverage; or

550 3. Asserting the right to reinspect the damaged property.

551 If the insurer responds by asserting the right to reinspect the
552 damaged property, it has 14 business days after the response
553 asserting that right to reinspect the property to accept or
554 continue to deny coverage. The time limits provided in s. 95.11
555 are tolled during the reinspection period if such time limits
556 expire before the end of the reinspection period. If the insurer
557 continues to deny coverage, the claimant may file suit without
558 providing additional notice to the insurer.

559 (b) If an insurer is responding to a notice provided to
560 the insurer alleging an act or omission by the insurer other
561 than a denial of coverage, the insurer must respond by making a
562 settlement offer or requiring the claimant to participate in
563 appraisal or another method of alternative dispute resolution.
564 The time limits provided in s. 95.11 are tolled as long as
565 appraisal or other alternative dispute resolution is ongoing if
566 such time limits expire during the appraisal process or dispute
567 resolution process. If the appraisal or alternative dispute
568 resolution has not been concluded within 90 days after the
569 expiration of the 10-day notice of intent to initiate litigation
570 specified in subsection (3), the claimant or claimant's attorney
571 may immediately file suit without providing the insurer
572 additional notice.

573 (5) DISMISSAL OF SUIT.—A court must dismiss without
574 prejudice any claimant's suit relating to a claim for which a
575 notice of intent to initiate litigation was not given as

576 required by this section or if such suit is commenced before the
577 expiration of any time period provided under subsection (4), as
578 applicable.

579 (6) ADMISSIBILITY OF NOTICE AND RESPONSE.—The notice
580 provided pursuant to subsection (3) and, if applicable, the
581 documentation to support the information provided in the notice:

582 (a) Are not admissible as evidence in any proceeding.

583 (b) Do not relieve any obligation that an insured or
584 assignee has to give notice under any other provision of law.

585 (7) TOLLING.—If a claim is not resolved during the presuit
586 notice process and if the time limits provided in s. 95.11
587 expire in the 30 days following the conclusion of the presuit
588 notice process, such time limits are tolled for 30 days.

589 **Section 13. Section 626.9265, Florida Statutes, is created**
590 **to read:**

591 626.9265 Assignment agreements.—A policyholder may not
592 assign, in whole or in part, any post-loss insurance benefit
593 under any residential property insurance policy or under any
594 commercial property insurance policy, as defined in s.
595 627.0625(1) (a). An attempt to assign post-loss property
596 insurance benefits under such a policy is void, invalid, and
597 unenforceable.

598 **Section 14. Section 626.9266, Florida Statutes, is created**
599 **to read:**

600 626.9266 Nonjoinder of insurers.—

601 (1) It shall be a condition precedent to the accrual or
602 maintenance of a cause of action against a liability insurer by
603 a person who is not an insured under the terms of the liability
604 insurance contract that such person must first obtain a
605 settlement or verdict against a person who is an insured under
606 the terms of such policy for a cause of action which is covered
607 by such policy.

608 (2) Notwithstanding subsection (1), any insurer who pays
609 any taxable costs or attorney fees that would be recoverable by
610 the insured but for the fact that such costs or fees were paid
611 by the insurer shall be considered a party for the purpose of
612 recovering such fees or costs. A person who is not an insured
613 under the terms of a liability insurance policy may not have any
614 interest in such policy, either as a third-party beneficiary or
615 otherwise, before first obtaining a settlement or verdict
616 against a person who is an insured under the terms of such
617 policy for a cause of action which is covered by such policy.

618 (3) Insurers are affirmatively granted the substantive
619 right to insert in liability insurance policies contractual
620 provisions that preclude persons who are not designated as
621 insureds in such policies from joining a liability insurer as a
622 party defendant with its insured before the rendition of a
623 verdict. The contractual provisions authorized in this
624 subsection shall be fully enforceable.

625 (4) When a judgment is entered or a settlement is reached

626 during the pendency of litigation, a liability insurer may be
627 joined as a party defendant for the purposes of entering final
628 judgment or enforcing the settlement by the motion of any party,
629 unless the insurer denied coverage under s. 627.426(2) or
630 defended under a reservation of rights pursuant to s.
631 627.426(2). A copy of the motion to join the insurer shall be
632 served on the insurer by certified mail. If a judgment is
633 reversed or remanded on appeal, the insurer's presence may not
634 be disclosed to the jury in a subsequent trial.

635 **Section 15. Paragraph (b) of subsection (1) of section**
636 **627.952, Florida Statutes, is amended to read:**

637 627.952 Risk retention and purchasing group agents.—

638 (1) Any person offering, soliciting, selling, purchasing,
639 administering, or otherwise servicing insurance contracts,
640 certificates, or agreements for any purchasing group or risk
641 retention group to any resident of this state, either directly
642 or indirectly, by the use of mail, advertising, or other means
643 of communication, shall obtain a license and appointment to act
644 as a resident general lines agent, if a resident of this state,
645 or a nonresident general lines agent if not a resident. Any such
646 person shall be subject to all requirements of the Florida
647 Insurance Code.

648 ~~(b) Any person required to be licensed and appointed under~~
649 ~~this subsection, in order to place business through Florida~~
650 ~~eligible surplus lines carriers, must, if a resident of this~~

651 ~~state, be licensed and appointed as a surplus lines agent. If~~
652 ~~not a resident of this state, such person must be licensed and~~
653 ~~appointed as a surplus lines agent in her or his state of~~
654 ~~residence and be licensed and appointed as a nonresident surplus~~
655 ~~lines agent in this state.~~

656 **Section 16. Section 626.931, Florida Statutes, is amended**
657 **to read:**

658 626.931 ~~Agent affidavit and Insurer reporting~~
659 ~~requirements.—~~

660 ~~(1) Each surplus lines agent that has transacted business~~
661 ~~during a calendar quarter shall on or before the 45th day~~
662 ~~following the calendar quarter file with the Florida Surplus~~
663 ~~Lines Service Office an affidavit, on forms as prescribed and~~
664 ~~furnished by the Florida Surplus Lines Service Office, stating~~
665 ~~that all surplus lines insurance transacted by him or her during~~
666 ~~such calendar quarter has been submitted to the Florida Surplus~~
667 ~~Lines Service Office as required.~~

668 ~~(2) The affidavit of the surplus lines agent shall include~~
669 ~~efforts made to place coverages with authorized insurers and the~~
670 ~~results thereof.~~

671 (1)~~(3)~~ Each foreign insurer accepting premiums shall, on
672 or before the end of the month following each calendar quarter,
673 file with the Florida Surplus Lines Service Office a verified
674 report of all surplus lines insurance transacted by such insurer
675 for insurance risks located in this state during such calendar

676 quarter.

677 (2)~~(4)~~ Each alien insurer accepting premiums shall, on or
 678 before June 30 of each year, file with the Florida Surplus Lines
 679 Service Office a verified report of all surplus lines insurance
 680 transacted by such insurer for insurance risks located in this
 681 state during the preceding calendar year.

682 (3)~~(5)~~ The department may waive the filing requirements
 683 described in subsections (1) ~~(3)~~ and (2) ~~(4)~~.

684 (4)~~(6)~~ Each insurer's report and supporting information
 685 shall be in a computer-readable format as determined by the
 686 Florida Surplus Lines Service Office or shall be submitted on
 687 forms prescribed by the Florida Surplus Lines Service Office and
 688 shall show for each applicable agent:

689 (a) A listing of all policies, certificates, cover notes,
 690 or other forms of confirmation of insurance coverage or any
 691 substitutions thereof or endorsements thereto and the
 692 identifying number; and

693 (b) Any additional information required by the department
 694 or Florida Surplus Lines Service Office.

695 **Section 17. Paragraph (a) of subsection (2) and subsection**
 696 **(6) of section 626.932, Florida Statutes, are amended to read:**

697 626.932 Surplus lines tax.—

698 (2) (a) The surplus lines agent shall make payable to the
 699 department the tax related to each calendar quarter's business
 700 as reported to the Florida Surplus Lines Service Office, and

701 remit the tax to the Florida Surplus Lines Service Office at the
702 same time as the fee required ~~provided for the filing of the~~
703 ~~quarterly affidavit,~~ under s. 626.9325 ~~s. 626.931~~. The Florida
704 Surplus Lines Service Office shall forward to the department the
705 taxes and any interest collected pursuant to paragraph (b)~~,~~
706 within 10 days after ~~of~~ receipt.

707 (6) For the purposes of this section, the term "premium"
708 means the consideration for insurance by whatever name called
709 and includes any assessment, or any membership, policy, survey,
710 inspection, service, or similar fee or charge in consideration
711 for an insurance contract, which items are deemed to be a part
712 of the premium. The per-policy fee authorized by s. 626.916(2)
713 ~~s. 626.916(4)~~ is specifically included within the meaning of the
714 term "premium." However, the service fee imposed pursuant to s.
715 626.9325 is excluded from the meaning of the term "premium."

716 **Section 18. Paragraph (c) of subsection (6) of section**
717 **627.351, Florida Statutes, is amended to read:**

718 627.351 Insurance risk apportionment plans.—

719 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

720 (c) The corporation's plan of operation:

721 1. Must provide for adoption of residential property and
722 casualty insurance policy forms and commercial residential and
723 nonresidential property insurance forms, which must be approved
724 by the office before use. The corporation shall adopt the
725 following policy forms:

726 a. Standard personal lines policy forms that are
727 comprehensive multiperil policies providing full coverage of a
728 residential property equivalent to the coverage provided in the
729 private insurance market under an HO-3, HO-4, or HO-6 policy.

730 b. Basic personal lines policy forms that are policies
731 similar to an HO-8 policy or a dwelling fire policy that provide
732 coverage meeting the requirements of the secondary mortgage
733 market, but which is more limited than the coverage under a
734 standard policy.

735 c. Commercial lines residential and nonresidential policy
736 forms that are generally similar to the basic perils of full
737 coverage obtainable for commercial residential structures and
738 commercial nonresidential structures in the admitted voluntary
739 market.

740 d. Personal lines and commercial lines residential
741 property insurance forms that cover the peril of wind only. The
742 forms are applicable only to residential properties located in
743 areas eligible for coverage by the Florida Windstorm
744 Underwriting Association, as those areas were defined on January
745 1, 2002.

746 e. Commercial lines nonresidential property insurance
747 forms that cover the peril of wind only. The forms are
748 applicable only to nonresidential properties located in areas
749 eligible for coverage by the Florida Windstorm Underwriting
750 Association, as those areas were defined on January 1, 2002.

751 f. The corporation may adopt variations of the policy
752 forms listed in sub-subparagraphs a.-e. which contain more
753 restrictive coverage.

754 g. The corporation shall offer a basic personal lines
755 policy similar to an HO-8 policy with dwelling repair based on
756 common construction materials and methods.

757 2. Must provide that the corporation adopt a program in
758 which the corporation and authorized insurers enter into quota
759 share primary insurance agreements for hurricane coverage, as
760 defined in s. 627.4025(2) (a), for eligible risks, and adopt
761 property insurance forms for eligible risks which cover the
762 peril of wind only.

763 a. As used in this subsection, the term:

764 (I) "Approved surplus lines insurer" means an eligible
765 surplus lines insurer that:

766 (A) Has a financial strength rating of "A-" or higher from
767 A.M. Best Company;

768 (B) Has a personal lines residential risk program that is
769 managed by a Florida resident surplus lines broker;

770 (C) Applies to the office to participate in the take-out
771 process to offer coverage to applicants for new coverage from
772 the corporation or current policyholders of the corporation
773 through a take-out plan approved by the office;

774 (D) Does not, as part of any take-out plan approved by the
775 office, offer coverage on any personal lines residential risk

776 that is a primary residence or has a homestead exemption under
777 chapter 196;

778 (E) Files rates for review as part of a take-out plan with
779 the office. The office shall review whether the premium is more
780 than 20 percent greater than the premium for comparable coverage
781 from the corporation; and

782 (F) Provides data to the office related to coverage and
783 rates in a format promulgated by the commission.

784 (II) "Eligible risks" means personal lines residential and
785 commercial lines residential risks that meet the underwriting
786 criteria of the corporation and are located in areas that were
787 eligible for coverage by the Florida Windstorm Underwriting
788 Association on January 1, 2002.

789 (III) "Primary residence" means the dwelling that is the
790 policyholder's primary home or is a rental property that is the
791 primary home of the tenant, and which the policyholder or tenant
792 occupies for more than 9 months of each year.

793 (IV) "Quota share primary insurance" means an arrangement
794 in which the primary hurricane coverage of an eligible risk is
795 provided in specified percentages by the corporation and an
796 authorized insurer. The corporation and authorized insurer are
797 each solely responsible for a specified percentage of hurricane
798 coverage of an eligible risk as set forth in a quota share
799 primary insurance agreement between the corporation and an
800 authorized insurer and the insurance contract. The

801 responsibility of the corporation or authorized insurer to pay
802 its specified percentage of hurricane losses of an eligible
803 risk, as set forth in the agreement, may not be altered by the
804 inability of the other party to pay its specified percentage of
805 losses. Eligible risks that are provided hurricane coverage
806 through a quota share primary insurance arrangement must be
807 provided policy forms that set forth the obligations of the
808 corporation and authorized insurer under the arrangement,
809 clearly specify the percentages of quota share primary insurance
810 provided by the corporation and authorized insurer, and
811 conspicuously and clearly state that the authorized insurer and
812 the corporation may not be held responsible beyond their
813 specified percentage of coverage of hurricane losses.

814 b. The corporation may enter into quota share primary
815 insurance agreements with authorized insurers at corporation
816 coverage levels of 90 percent and 50 percent.

817 c. If the corporation determines that additional coverage
818 levels are necessary to maximize participation in quota share
819 primary insurance agreements by authorized insurers, the
820 corporation may establish additional coverage levels. However,
821 the corporation's quota share primary insurance coverage level
822 may not exceed 90 percent.

823 d. Any quota share primary insurance agreement entered
824 into between an authorized insurer and the corporation must
825 provide for a uniform specified percentage of coverage of

826 hurricane losses, by county or territory as set forth by the
827 corporation board, for all eligible risks of the authorized
828 insurer covered under the agreement.

829 e. Any quota share primary insurance agreement entered
830 into between an authorized insurer and the corporation is
831 subject to review and approval by the office. However, such
832 agreement shall be authorized only as to insurance contracts
833 entered into between an authorized insurer and an insured who is
834 already insured by the corporation for wind coverage.

835 f. For all eligible risks covered under quota share
836 primary insurance agreements, the exposure and coverage levels
837 for both the corporation and authorized insurers shall be
838 reported by the corporation to the Florida Hurricane Catastrophe
839 Fund. For all policies of eligible risks covered under such
840 agreements, the corporation and the authorized insurer must
841 maintain complete and accurate records for the purpose of
842 exposure and loss reimbursement audits as required by fund
843 rules. The corporation and the authorized insurer shall each
844 maintain duplicate copies of policy declaration pages and
845 supporting claims documents.

846 g. The corporation board shall establish in its plan of
847 operation standards for quota share agreements which ensure that
848 there is no discriminatory application among insurers as to the
849 terms of the agreements, pricing of the agreements, incentive
850 provisions if any, and consideration paid for servicing policies

851 or adjusting claims.

852 h. The quota share primary insurance agreement between the
853 corporation and an authorized insurer must set forth the
854 specific terms under which coverage is provided, including, but
855 not limited to, the sale and servicing of policies issued under
856 the agreement by the insurance agent of the authorized insurer
857 producing the business, the reporting of information concerning
858 eligible risks, the payment of premium to the corporation, and
859 arrangements for the adjustment and payment of hurricane claims
860 incurred on eligible risks by the claims adjuster and personnel
861 of the authorized insurer. Entering into a quota sharing
862 insurance agreement between the corporation and an authorized
863 insurer is voluntary and at the discretion of the authorized
864 insurer.

865 3. May provide that the corporation may employ or
866 otherwise contract with individuals or other entities to provide
867 administrative or professional services that may be appropriate
868 to effectuate the plan. The corporation may borrow funds by
869 issuing bonds or by incurring other indebtedness, and shall have
870 other powers reasonably necessary to effectuate the requirements
871 of this subsection, including, without limitation, the power to
872 issue bonds and incur other indebtedness in order to refinance
873 outstanding bonds or other indebtedness. The corporation may
874 seek judicial validation of its bonds or other indebtedness
875 under chapter 75. The corporation may issue bonds or incur other

876 indebtedness, or have bonds issued on its behalf by a unit of
877 local government pursuant to subparagraph (q)2. in the absence
878 of a hurricane or other weather-related event, upon a
879 determination by the corporation, subject to approval by the
880 office, that such action would enable it to efficiently meet the
881 financial obligations of the corporation and that such
882 financings are reasonably necessary to effectuate the
883 requirements of this subsection. The corporation may take all
884 actions needed to facilitate tax-free status for such bonds or
885 indebtedness, including formation of trusts or other affiliated
886 entities. The corporation may pledge assessments, projected
887 recoveries from the Florida Hurricane Catastrophe Fund, other
888 reinsurance recoverables, policyholder surcharges and other
889 surcharges, and other funds available to the corporation as
890 security for bonds or other indebtedness. In recognition of s.
891 10, Art. I of the State Constitution, prohibiting the impairment
892 of obligations of contracts, it is the intent of the Legislature
893 that no action be taken whose purpose is to impair any bond
894 indenture or financing agreement or any revenue source committed
895 by contract to such bond or other indebtedness.

896 4. Must require that the corporation operate subject to
897 the supervision and approval of a board of governors consisting
898 of nine individuals who are residents of this state and who are
899 from different geographical areas of the state, one of whom is
900 appointed by the Governor and serves solely to advocate on

901 | behalf of the consumer. The appointment of a consumer
902 | representative by the Governor is deemed to be within the scope
903 | of the exemption provided in s. 112.313(7)(b) and is in addition
904 | to the appointments authorized under sub-subparagraph a.

905 | a. The Governor, the Chief Financial Officer, the
906 | President of the Senate, and the Speaker of the House of
907 | Representatives shall each appoint two members of the board. At
908 | least one of the two members appointed by each appointing
909 | officer must have demonstrated expertise in insurance and be
910 | deemed to be within the scope of the exemption provided in s.
911 | 112.313(7)(b). The Chief Financial Officer shall designate one
912 | of the appointees as chair. All board members serve at the
913 | pleasure of the appointing officer. All members of the board are
914 | subject to removal at will by the officers who appointed them.
915 | All board members, including the chair, must be appointed to
916 | serve for 3-year terms beginning annually on a date designated
917 | by the plan. However, for the first term beginning on or after
918 | July 1, 2009, each appointing officer shall appoint one member
919 | of the board for a 2-year term and one member for a 3-year term.
920 | A board vacancy shall be filled for the unexpired term by the
921 | appointing officer. The Chief Financial Officer shall appoint a
922 | technical advisory group to provide information and advice to
923 | the board in connection with the board's duties under this
924 | subsection. The executive director and senior managers of the
925 | corporation shall be engaged by the board and serve at the

926 | pleasure of the board. Any executive director appointed on or
927 | after July 1, 2006, is subject to confirmation by the Senate.
928 | The executive director is responsible for employing other staff
929 | as the corporation may require, subject to review and
930 | concurrence by the board.

931 | b. The board shall create a Market Accountability Advisory
932 | Committee to assist the corporation in developing awareness of
933 | its rates and its customer and agent service levels in
934 | relationship to the voluntary market insurers writing similar
935 | coverage.

936 | (I) The members of the advisory committee consist of the
937 | following 11 persons, one of whom must be elected chair by the
938 | members of the committee: four representatives, one appointed by
939 | the Florida Association of Insurance Agents, one by the Florida
940 | Association of Insurance and Financial Advisors, one by the
941 | Professional Insurance Agents of Florida, and one by the Latin
942 | American Association of Insurance Agencies; three
943 | representatives appointed by the insurers with the three highest
944 | voluntary market share of residential property insurance
945 | business in the state; one representative from the Office of
946 | Insurance Regulation; one consumer appointed by the board who is
947 | insured by the corporation at the time of appointment to the
948 | committee; one representative appointed by the Florida
949 | Association of Realtors; and one representative appointed by the
950 | Florida Bankers Association. All members shall be appointed to

951 3-year terms and may serve for consecutive terms.

952 (II) The committee shall report to the corporation at each
953 board meeting on insurance market issues which may include rates
954 and rate competition with the voluntary market; service,
955 including policy issuance, claims processing, and general
956 responsiveness to policyholders, applicants, and agents; and
957 matters relating to depopulation.

958 5. Must provide a procedure for determining the
959 eligibility of a risk for coverage, as follows:

960 a. Subject to s. 627.3517, with respect to personal lines
961 residential risks that are primary residences, if the risk is
962 offered coverage from an authorized insurer at the insurer's
963 approved rate under a standard policy including wind coverage
964 or, if consistent with the insurer's underwriting rules as filed
965 with the office, a basic policy including wind coverage, for a
966 new application to the corporation for coverage, the risk is not
967 eligible for any policy issued by the corporation unless the
968 premium for coverage from the authorized insurer is more than 20
969 percent greater than the premium for comparable coverage from
970 the corporation. Whenever an offer of coverage for a personal
971 lines residential risk that is a primary residence is received
972 for a policyholder of the corporation at renewal from an
973 authorized insurer, if the offer is equal to or less than the
974 corporation's renewal premium for comparable coverage, the risk
975 is not eligible for coverage with the corporation for policies

976 that renew before April 1, 2023; for policies that renew on or
977 after that date, the risk is not eligible for coverage with the
978 corporation unless the premium for coverage from the authorized
979 insurer is more than 20 percent greater than the corporation's
980 renewal premium for comparable coverage. If the risk is not able
981 to obtain such offer, the risk is eligible for a standard policy
982 including wind coverage or a basic policy including wind
983 coverage issued by the corporation; however, if the risk could
984 not be insured under a standard policy including wind coverage
985 regardless of market conditions, the risk is eligible for a
986 basic policy including wind coverage unless rejected under
987 subparagraph 8. The corporation shall determine the type of
988 policy to be provided on the basis of objective standards
989 specified in the underwriting manual and based on generally
990 accepted underwriting practices. A policyholder removed from the
991 corporation through an assumption agreement does not remain
992 eligible for coverage from the corporation after the end of the
993 policy term. However, any policy removed from the corporation
994 through an assumption agreement remains on the corporation's
995 policy forms through the end of the policy term. This sub-
996 subparagraph applies only to risks that are primary residences.

997 (I) If the risk accepts an offer of coverage through the
998 market assistance plan or through a mechanism established by the
999 corporation other than a plan established by s. 627.3518, before
1000 a policy is issued to the risk by the corporation or during the

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1001 first 30 days of coverage by the corporation, and the producing
1002 agent who submitted the application to the plan or to the
1003 corporation is not currently appointed by the insurer, the
1004 insurer shall:

1005 (A) Pay to the producing agent of record of the policy for
1006 the first year, an amount that is the greater of the insurer's
1007 usual and customary commission for the type of policy written or
1008 a fee equal to the usual and customary commission of the
1009 corporation; or

1010 (B) Offer to allow the producing agent of record of the
1011 policy to continue servicing the policy for at least 1 year and
1012 offer to pay the agent the greater of the insurer's or the
1013 corporation's usual and customary commission for the type of
1014 policy written.

1015

1016 If the producing agent is unwilling or unable to accept
1017 appointment, the new insurer shall pay the agent in accordance
1018 with sub-sub-sub-subparagraph (A).

1019 (II) If the corporation enters into a contractual
1020 agreement for a take-out plan, the producing agent of record of
1021 the corporation policy is entitled to retain any unearned
1022 commission on the policy, and the insurer shall:

1023 (A) Pay to the producing agent of record, for the first
1024 year, an amount that is the greater of the insurer's usual and
1025 customary commission for the type of policy written or a fee

1026 equal to the usual and customary commission of the corporation;
 1027 or

1028 (B) Offer to allow the producing agent of record to
 1029 continue servicing the policy for at least 1 year and offer to
 1030 pay the agent the greater of the insurer's or the corporation's
 1031 usual and customary commission for the type of policy written.

1032
 1033 If the producing agent is unwilling or unable to accept
 1034 appointment, the new insurer shall pay the agent in accordance
 1035 with sub-sub-sub-subparagraph (A).

1036 b. Subject to s. 627.3517, with respect to personal lines
 1037 residential risks that are not primary residences, if the risk
 1038 is offered coverage from an authorized insurer at the insurer's
 1039 approved rate or from an approved surplus lines insurer at the
 1040 rate approved by the office as part of such surplus lines
 1041 insurer's take-out plan for a new application to the corporation
 1042 for coverage, the risk is not eligible for any policy issued by
 1043 the corporation unless the premium for coverage from the
 1044 authorized insurer or approved surplus lines insurer is more
 1045 than 20 percent greater than the premium for comparable coverage
 1046 from the corporation. Whenever an offer of coverage for a
 1047 personal lines residential risk that is not a primary residence
 1048 is received for a policyholder of the corporation at renewal
 1049 from an authorized insurer at the insurer's approved rate or an
 1050 approved surplus lines insurer at the rate approved by the

1051 office as part of such insurer's take-out plan, the risk is not
1052 eligible for coverage with the corporation unless the premium
1053 for coverage from the authorized insurer or approved surplus
1054 lines insurer is more than 20 percent greater than the
1055 corporation's renewal premium for comparable coverage for
1056 policies that renew on or after July 1, 2024. If the risk is not
1057 able to obtain such offer, the risk is eligible for a standard
1058 policy including wind coverage or a basic policy including wind
1059 coverage issued by the corporation. If the risk could not be
1060 insured under a standard policy including wind coverage
1061 regardless of market conditions, the risk is eligible for a
1062 basic policy including wind coverage unless rejected under
1063 subparagraph 8. The corporation shall determine the type of
1064 policy to be provided on the basis of objective standards
1065 specified in the underwriting manual and based on generally
1066 accepted underwriting practices. A policyholder removed from the
1067 corporation through an assumption agreement does not remain
1068 eligible for coverage from the corporation after the end of the
1069 policy term. However, any policy removed from the corporation
1070 through an assumption agreement remains on the corporation's
1071 policy forms through the end of the policy term.

1072 (I) If the risk accepts an offer of coverage through the
1073 market assistance plan or through a mechanism established by the
1074 corporation other than a plan established by s. 627.3518, before
1075 a policy is issued to the risk by the corporation or during the

1076 first 30 days of coverage by the corporation, and the producing
 1077 agent who submitted the application to the plan or to the
 1078 corporation is not currently appointed by the insurer, the
 1079 insurer must:

1080 (A) Pay to the producing agent of record of the policy,
 1081 for the first year, an amount that is the greater of the
 1082 insurer's usual and customary commission for the type of policy
 1083 written or a fee equal to the usual and customary commission of
 1084 the corporation; or

1085 (B) Offer to allow the producing agent of record of the
 1086 policy to continue servicing the policy for at least 1 year and
 1087 offer to pay the agent the greater of the insurer's or the
 1088 corporation's usual and customary commission for the type of
 1089 policy written.

1090
 1091 If the producing agent is unwilling or unable to accept
 1092 appointment, the new insurer must pay the agent in accordance
 1093 with sub-sub-sub-subparagraph (A).

1094 (II) If the corporation enters into a contractual
 1095 agreement for a take-out plan, the producing agent of record of
 1096 the corporation policy is entitled to retain any unearned
 1097 commission on the policy, and the insurer must:

1098 (A) Pay to the producing agent of record, for the first
 1099 year, an amount that is the greater of the insurer's usual and
 1100 customary commission for the type of policy written or a fee

1101 equal to the usual and customary commission of the corporation;
1102 or

1103 (B) Offer to allow the producing agent of record to
1104 continue servicing the policy for at least 1 year and offer to
1105 pay the agent the greater of the insurer's or the corporation's
1106 usual and customary commission for the type of policy written.

1107
1108 If the producing agent is unwilling or unable to accept
1109 appointment, the new insurer shall pay the agent in accordance
1110 with sub-sub-sub-subparagraph (A).

1111 c. With respect to commercial lines residential risks, for
1112 a new application to the corporation for coverage, if the risk
1113 is offered coverage under a policy including wind coverage from
1114 an authorized insurer at its approved rate, the risk is not
1115 eligible for a policy issued by the corporation unless the
1116 premium for coverage from the authorized insurer is more than 20
1117 percent greater than the premium for comparable coverage from
1118 the corporation. Whenever an offer of coverage for a commercial
1119 lines residential risk is received for a policyholder of the
1120 corporation at renewal from an authorized insurer, the risk is
1121 not eligible for coverage with the corporation unless the
1122 premium for coverage from the authorized insurer is more than 20
1123 percent greater than the corporation's renewal premium for
1124 comparable coverage. If the risk is not able to obtain any such
1125 offer, the risk is eligible for a policy including wind coverage

1126 | issued by the corporation. A policyholder removed from the
1127 | corporation through an assumption agreement remains eligible for
1128 | coverage from the corporation until the end of the policy term.
1129 | However, any policy removed from the corporation through an
1130 | assumption agreement remains on the corporation's policy forms
1131 | through the end of the policy term.

1132 | (I) If the risk accepts an offer of coverage through the
1133 | market assistance plan or through a mechanism established by the
1134 | corporation other than a plan established by s. 627.3518, before
1135 | a policy is issued to the risk by the corporation or during the
1136 | first 30 days of coverage by the corporation, and the producing
1137 | agent who submitted the application to the plan or the
1138 | corporation is not currently appointed by the insurer, the
1139 | insurer shall:

1140 | (A) Pay to the producing agent of record of the policy,
1141 | for the first year, an amount that is the greater of the
1142 | insurer's usual and customary commission for the type of policy
1143 | written or a fee equal to the usual and customary commission of
1144 | the corporation; or

1145 | (B) Offer to allow the producing agent of record of the
1146 | policy to continue servicing the policy for at least 1 year and
1147 | offer to pay the agent the greater of the insurer's or the
1148 | corporation's usual and customary commission for the type of
1149 | policy written.

1150 |

1151 If the producing agent is unwilling or unable to accept
 1152 appointment, the new insurer shall pay the agent in accordance
 1153 with sub-sub-sub-subparagraph (A).

1154 (II) If the corporation enters into a contractual
 1155 agreement for a take-out plan, the producing agent of record of
 1156 the corporation policy is entitled to retain any unearned
 1157 commission on the policy, and the insurer shall:

1158 (A) Pay to the producing agent of record, for the first
 1159 year, an amount that is the greater of the insurer's usual and
 1160 customary commission for the type of policy written or a fee
 1161 equal to the usual and customary commission of the corporation;
 1162 or

1163 (B) Offer to allow the producing agent of record to
 1164 continue servicing the policy for at least 1 year and offer to
 1165 pay the agent the greater of the insurer's or the corporation's
 1166 usual and customary commission for the type of policy written.

1167
 1168 If the producing agent is unwilling or unable to accept
 1169 appointment, the new insurer shall pay the agent in accordance
 1170 with sub-sub-sub-subparagraph (A).

1171 d. For purposes of determining comparable coverage under
 1172 sub-subparagraphs a., b., and c., the comparison must be based
 1173 on those forms and coverages that are reasonably comparable. The
 1174 corporation may rely on a determination of comparable coverage
 1175 and premium made by the producing agent who submits the

1176 application to the corporation, made in the agent's capacity as
1177 the corporation's agent. For purposes of comparing the premium
1178 for comparable coverage under sub-subparagraphs a., b., and c.,
1179 premium includes any surcharge or assessment that is actually
1180 applied to such policy. A comparison may be made solely of the
1181 premium with respect to the main building or structure only on
1182 the following basis: the same Coverage A or other building
1183 limits; the same percentage hurricane deductible that applies on
1184 an annual basis or that applies to each hurricane for commercial
1185 residential property; the same percentage of ordinance and law
1186 coverage, if the same limit is offered by both the corporation
1187 and the authorized insurer or the approved surplus lines
1188 insurer; the same mitigation credits, to the extent the same
1189 types of credits are offered both by the corporation and the
1190 authorized insurer or the approved surplus lines insurer; the
1191 same method for loss payment, such as replacement cost or actual
1192 cash value, if the same method is offered both by the
1193 corporation and the authorized insurer in accordance with
1194 underwriting rules; and any other form or coverage that is
1195 reasonably comparable as determined by the board. If an
1196 application is submitted to the corporation for wind-only
1197 coverage on a risk that is located in an area eligible for
1198 coverage by the Florida Windstorm Underwriting Association, as
1199 that area was defined on January 1, 2002, the premium for the
1200 corporation's wind-only policy plus the premium for the ex-wind

1201 policy that is offered by an authorized insurer to the applicant
1202 must be compared to the premium for multiperil coverage offered
1203 by an authorized insurer, subject to the standards for
1204 comparison specified in this subparagraph. If the corporation or
1205 the applicant requests from the authorized insurer or the
1206 approved surplus lines insurer a breakdown of the premium of the
1207 offer by types of coverage so that a comparison may be made by
1208 the corporation or its agent and the authorized insurer or the
1209 approved surplus lines insurer refuses or is unable to provide
1210 such information, the corporation may treat the offer as not
1211 being an offer of coverage from an authorized insurer at the
1212 insurer's approved rate.

1213 6. Must include rules for classifications of risks and
1214 rates.

1215 7. Must provide that if premium and investment income for
1216 the Citizens account, which are attributable to a particular
1217 calendar year, are in excess of projected losses and expenses
1218 for the Citizens account attributable to that year, such excess
1219 shall be held in surplus in the Citizens account. Such surplus
1220 must be available to defray deficits in the Citizens account as
1221 to future years and used for that purpose before assessing
1222 assessable insurers and assessable insureds as to any calendar
1223 year.

1224 8. Must provide objective criteria and procedures to be
1225 uniformly applied to all applicants in determining whether an

1226 individual risk is so hazardous as to be uninsurable. In making
 1227 this determination and in establishing the criteria and
 1228 procedures, the following must be considered:

1229 a. Whether the likelihood of a loss for the individual
 1230 risk is substantially higher than for other risks of the same
 1231 class; and

1232 b. Whether the uncertainty associated with the individual
 1233 risk is such that an appropriate premium cannot be determined.

1234
 1235 The acceptance or rejection of a risk by the corporation shall
 1236 be construed as the private placement of insurance, and the
 1237 provisions of chapter 120 do not apply.

1238 9. Must provide that the corporation make its best efforts
 1239 to procure catastrophe reinsurance at reasonable rates, to cover
 1240 its projected 100-year probable maximum loss as determined by
 1241 the board of governors. If catastrophe reinsurance is not
 1242 available at reasonable rates, the corporation need not purchase
 1243 it, but the corporation shall include the costs of reinsurance
 1244 to cover its projected 100-year probable maximum loss in its
 1245 rate calculations even if it does not purchase catastrophe
 1246 reinsurance.

1247 10. ~~The policies issued by the corporation~~ Must provide in
 1248 the corporation policies that if the corporation or the market
 1249 assistance plan obtains an offer from an authorized insurer to
 1250 cover the risk at its approved rates, the risk is no longer

1251 eligible for renewal through the corporation, except as
1252 otherwise provided in this subsection.

1253 11. ~~Corporation policies and applications~~ Must include in
1254 the corporation policies and applications a notice that the
1255 corporation policy could, under this section, be replaced with a
1256 policy issued by an authorized insurer which does not provide
1257 coverage identical to the coverage provided by the corporation.
1258 The notice must also specify that acceptance of corporation
1259 coverage creates a conclusive presumption that the applicant or
1260 policyholder is aware of this potential.

1261 12. May establish, subject to approval by the office,
1262 different eligibility requirements and operational procedures
1263 for any line or type of coverage for any specified county or
1264 area if the board determines that such changes are justified due
1265 to the voluntary market being sufficiently stable and
1266 competitive in such area or for such line or type of coverage
1267 and that consumers who, in good faith, are unable to obtain
1268 insurance through the voluntary market through ordinary methods
1269 continue to have access to coverage from the corporation. If
1270 coverage is sought in connection with a real property transfer,
1271 the requirements and procedures may not provide an effective
1272 date of coverage later than the date of the closing of the
1273 transfer as established by the transferor, the transferee, and,
1274 if applicable, the lender.

1275 13. Must provide that the corporation appoint as its

1276 licensed agents only those agents who throughout such
1277 appointments also hold an appointment as defined in s. 626.015
1278 by at least three insurers who are authorized to write and are
1279 actually writing or renewing personal lines residential property
1280 coverage, commercial residential property coverage, or
1281 commercial nonresidential property coverage within the state.
1282 For purposes of agents writing or renewing commercial
1283 residential property coverage or commercial nonresidential
1284 property coverage, an agent may satisfy the requirement for any
1285 one or more of the three direct appointments by providing to the
1286 corporation a signed attestation confirming that they have
1287 access through a broker to an authorized insurer or eligible
1288 surplus lines insurer authorized to write and actually writing
1289 or renewing commercial residential property coverage or
1290 commercial nonresidential property coverage.

1291 14. Must provide a premium payment plan option to its
1292 policyholders which, at a minimum, allows for quarterly and
1293 semiannual payment of premiums. A monthly payment plan may, but
1294 is not required to, be offered.

1295 15. Must limit coverage on mobile homes or manufactured
1296 homes built before 1994 to actual cash value of the dwelling
1297 rather than replacement costs of the dwelling.

1298 16. Must provide coverage for manufactured or mobile home
1299 dwellings. Such coverage must also include the following
1300 attached structures:

- 1301 a. Screened enclosures that are aluminum framed or
 1302 screened enclosures that are not covered by the same or
 1303 substantially the same materials as those of the primary
 1304 dwelling;
- 1305 b. Carports that are aluminum or carports that are not
 1306 covered by the same or substantially the same materials as those
 1307 of the primary dwelling; and
- 1308 c. Patios that have a roof covering that is constructed of
 1309 materials that are not the same or substantially the same
 1310 materials as those of the primary dwelling.

1311

1312 The corporation shall make available a policy for mobile homes
 1313 or manufactured homes for a minimum insured value of at least
 1314 \$3,000.

1315 17. May provide such limits of coverage as the board
 1316 determines, consistent with the requirements of this subsection.

1317 18. May require commercial property to meet specified
 1318 hurricane mitigation construction features as a condition of
 1319 eligibility for coverage.

1320 19. Must provide that new or renewal policies issued by
 1321 the corporation on or after January 1, 2012, which cover
 1322 sinkhole loss do not include coverage for any loss to
 1323 appurtenant structures, driveways, sidewalks, decks, or patios
 1324 that are directly or indirectly caused by sinkhole activity. The
 1325 corporation shall exclude such coverage using a notice of

1326 coverage change, which may be included with the policy renewal,
1327 and not by issuance of a notice of nonrenewal of the excluded
1328 coverage upon renewal of the current policy.

1329 20.a. Must require that the agent obtain from an applicant
1330 for coverage from the corporation an acknowledgment signed by
1331 the applicant, which includes, at a minimum, the following
1332 statement:

1333 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

1334 AND ASSESSMENT LIABILITY:

1335 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
1336 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS
1337 A DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER
1338 REASON, MY POLICY COULD BE SUBJECT TO SURCHARGES AND
1339 ASSESSMENTS, WHICH WILL BE DUE AND PAYABLE UPON RENEWAL,
1340 CANCELLATION, OR TERMINATION OF THE POLICY, AND THAT THE
1341 SURCHARGES AND ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT
1342 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1343 FLORIDA LEGISLATURE.

1344 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
1345 SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY
1346 PREMIUM, BY OBTAINING COVERAGE FROM A PRIVATE MARKET
1347 INSURER AND THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I
1348 MUST FIRST TRY TO OBTAIN PRIVATE MARKET COVERAGE BEFORE
1349 APPLYING FOR OR RENEWING COVERAGE WITH CITIZENS. I
1350 UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES ARE

1351 REGULATED AND APPROVED BY THE STATE.

1352 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY

1353 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER

1354 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY

1355 THE FLORIDA LEGISLATURE.

1356 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE

1357 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT

1358 OF THE STATE OF FLORIDA.

1359 b. The corporation shall maintain, in electronic format or

1360 otherwise, a copy of the applicant's signed acknowledgment and

1361 provide a copy of the statement to the policyholder as part of

1362 the first renewal after the effective date of sub-subparagraph

1363 a.

1364 c. The signed acknowledgment form creates a conclusive

1365 presumption that the policyholder understood and accepted his or

1366 her potential surcharge and assessment liability as a

1367 policyholder of the corporation.

1368 21. Must provide that the income of the corporation may

1369 not inure to the benefit of any private person.

1370 **Section 19. Subsection (5) of section 626.918, Florida**

1371 **Statutes, is amended to read:**

1372 626.918 Eligible surplus lines insurers.—

1373 (5) When it appears that any particular insurance risk

1374 which is eligible for export, but on which insurance coverage,

1375 in whole or in part, is not procurable from the eligible surplus

1376 lines insurers, after a search of eligible surplus lines
1377 insurers, then the surplus lines agent may file a supplemental
1378 signed statement setting forth such facts and advising the
1379 office that such part of the risk as shall be unprocurable, as
1380 aforesaid, is being placed with named unauthorized insurers, in
1381 the amounts and percentages set forth in the statement. Such
1382 named unauthorized insurer shall, however, before accepting any
1383 risk in this state, deposit with the department cash or
1384 securities acceptable to the office and department of the market
1385 value of \$50,000 for each individual risk, contract, or
1386 certificate, which deposit shall be held by the department for
1387 the benefit of Florida policyholders only; and the surplus lines
1388 agent shall procure from such unauthorized insurer and file with
1389 the office a certified copy of its statement of condition as of
1390 the close of the last calendar year. If such statement reveals,
1391 including both capital and surplus, net assets of at least that
1392 amount required for licensure of a domestic insurer, then the
1393 surplus lines agent may proceed to consummate such contract of
1394 insurance. Whenever any insurance risk, or any part thereof, is
1395 placed with an unauthorized insurer, as provided herein, the
1396 policy, binder, or cover note shall contain a statement signed
1397 by the insured and the agent with the following notation: "The
1398 insured is aware that certain insurers participating in this
1399 risk have not been approved to transact business in Florida nor
1400 have they been declared eligible as surplus lines insurers by

1401 the Office of Insurance Regulation of Florida. The placing of
1402 such insurance by a duly licensed surplus lines agent in Florida
1403 shall not be construed as approval of such insurer by the Office
1404 of Insurance Regulation of Florida. Consequently, the insured is
1405 aware that the insured has severely limited the assistance
1406 available under the insurance laws of Florida. The insured is
1407 further aware that he or she may be charged a reasonable per
1408 policy fee, as provided in s. 626.916(2) ~~s. 626.916(4)~~, Florida
1409 Statutes, for each policy certified for export." All other
1410 provisions of this code shall apply to such placement the same
1411 as if such risks were placed with an eligible surplus lines
1412 insurer.

1413 **Section 20. Subsection (6) of section 626.9325, Florida**
1414 **Statutes, is amended to read:**

1415 626.9325 Service fee.—

1416 (6) For the purposes of this section, the term "premium"
1417 means the consideration for insurance by whatever name called
1418 and includes any assessment, or any membership, policy, survey,
1419 inspection, service, or similar fee or charge in consideration
1420 for an insurance contract, which items are deemed to be a part
1421 of the premium. The per-policy fee authorized by s. 626.916(2)
1422 ~~s. 626.916(4)~~ is specifically included within the meaning of the
1423 term "premium."

1424 **Section 21. Paragraph (o) of subsection (1) of section**
1425 **626.9541, Florida Statutes, is amended to read:**

1426 626.9541 Unfair methods of competition and unfair or
 1427 deceptive acts or practices defined.—

1428 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
 1429 ACTS.—The following are defined as unfair methods of competition
 1430 and unfair or deceptive acts or practices:

1431 (o) Illegal dealings in premiums; excess or reduced
 1432 charges for insurance.—

1433 1. Knowingly collecting any sum as a premium or charge for
 1434 insurance, which is not then provided, or is not in due course
 1435 to be provided, subject to acceptance of the risk by the
 1436 insurer, by an insurance policy issued by an insurer as
 1437 permitted by this code.

1438 2. Knowingly collecting as a premium or charge for
 1439 insurance any sum in excess of or less than the premium or
 1440 charge applicable to such insurance, in accordance with the
 1441 applicable classifications and rates as filed with and approved
 1442 by the office, and as specified in the policy; or, in cases when
 1443 classifications, premiums, or rates are not required by this
 1444 code to be so filed and approved, premiums and charges collected
 1445 from a Florida resident in excess of or less than those
 1446 specified in the policy and as fixed by the insurer.

1447 Notwithstanding any other provision of law, this provision shall
 1448 not be deemed to prohibit the charging and collection, by
 1449 surplus lines agents licensed under part VIII of this chapter,
 1450 of the amount of applicable state and federal taxes, or fees as

1451 authorized by s. 626.916(2) ~~s. 626.916(4)~~, in addition to the
1452 premium required by the insurer or the charging and collection,
1453 by licensed agents, of the exact amount of any discount or other
1454 such fee charged by a credit card facility in connection with
1455 the use of a credit card, as authorized by subparagraph (q)3.,
1456 in addition to the premium required by the insurer. This
1457 subparagraph shall not be construed to prohibit collection of a
1458 premium for a universal life or a variable or indeterminate
1459 value insurance policy made in accordance with the terms of the
1460 contract.

1461 3.a. Imposing or requesting an additional premium for a
1462 policy of motor vehicle liability, personal injury protection,
1463 medical payment, or collision insurance or any combination
1464 thereof or refusing to renew the policy solely because the
1465 insured was involved in a motor vehicle accident unless the
1466 insurer's file contains information from which the insurer in
1467 good faith determines that the insured was substantially at
1468 fault in the accident.

1469 b. An insurer which imposes and collects such a surcharge
1470 or which refuses to renew such policy shall, in conjunction with
1471 the notice of premium due or notice of nonrenewal, notify the
1472 named insured that he or she is entitled to reimbursement of
1473 such amount or renewal of the policy under the conditions listed
1474 below and will subsequently reimburse him or her or renew the
1475 policy, if the named insured demonstrates that the operator

1476 involved in the accident was:

1477 (I) Lawfully parked;

1478 (II) Reimbursed by, or on behalf of, a person responsible
1479 for the accident or has a judgment against such person;

1480 (III) Struck in the rear by another vehicle headed in the
1481 same direction and was not convicted of a moving traffic
1482 violation in connection with the accident;

1483 (IV) Hit by a "hit-and-run" driver, if the accident was
1484 reported to the proper authorities within 24 hours after
1485 discovering the accident;

1486 (V) Not convicted of a moving traffic violation in
1487 connection with the accident, but the operator of the other
1488 automobile involved in such accident was convicted of a moving
1489 traffic violation;

1490 (VI) Finally adjudicated not to be liable by a court of
1491 competent jurisdiction;

1492 (VII) In receipt of a traffic citation which was dismissed
1493 or nolle prossed; or

1494 (VIII) Not at fault as evidenced by a written statement
1495 from the insured establishing facts demonstrating lack of fault
1496 which are not rebutted by information in the insurer's file from
1497 which the insurer in good faith determines that the insured was
1498 substantially at fault.

1499 c. In addition to the other provisions of this
1500 subparagraph, an insurer may not fail to renew a policy if the

1501 insured has had only one accident in which he or she was at
1502 fault within the current 3-year period. However, an insurer may
1503 nonrenew a policy for reasons other than accidents in accordance
1504 with s. 627.728. This subparagraph does not prohibit nonrenewal
1505 of a policy under which the insured has had three or more
1506 accidents, regardless of fault, during the most recent 3-year
1507 period.

1508 4. Imposing or requesting an additional premium for, or
1509 refusing to renew, a policy for motor vehicle insurance solely
1510 because the insured committed a noncriminal traffic infraction
1511 as described in s. 318.14 unless the infraction is:

1512 a. A second infraction committed within an 18-month
1513 period, or a third or subsequent infraction committed within a
1514 36-month period.

1515 b. A violation of s. 316.183, when such violation is a
1516 result of exceeding the lawful speed limit by more than 15 miles
1517 per hour.

1518 5. Upon the request of the insured, the insurer and
1519 licensed agent shall supply to the insured the complete proof of
1520 fault or other criteria which justifies the additional charge or
1521 cancellation.

1522 6. No insurer shall impose or request an additional
1523 premium for motor vehicle insurance, cancel or refuse to issue a
1524 policy, or refuse to renew a policy because the insured or the
1525 applicant is a handicapped or physically disabled person, so

1526 | long as such handicap or physical disability does not
 1527 | substantially impair such person's mechanically assisted driving
 1528 | ability.

1529 | 7. No insurer may cancel or otherwise terminate any
 1530 | insurance contract or coverage, or require execution of a
 1531 | consent to rate endorsement, during the stated policy term for
 1532 | the purpose of offering to issue, or issuing, a similar or
 1533 | identical contract or coverage to the same insured with the same
 1534 | exposure at a higher premium rate or continuing an existing
 1535 | contract or coverage with the same exposure at an increased
 1536 | premium.

1537 | 8. No insurer may issue a nonrenewal notice on any
 1538 | insurance contract or coverage, or require execution of a
 1539 | consent to rate endorsement, for the purpose of offering to
 1540 | issue, or issuing, a similar or identical contract or coverage
 1541 | to the same insured at a higher premium rate or continuing an
 1542 | existing contract or coverage at an increased premium without
 1543 | meeting any applicable notice requirements.

1544 | 9. No insurer shall, with respect to premiums charged for
 1545 | motor vehicle insurance, unfairly discriminate solely on the
 1546 | basis of age, sex, marital status, or scholastic achievement.

1547 | 10. Imposing or requesting an additional premium for motor
 1548 | vehicle comprehensive or uninsured motorist coverage solely
 1549 | because the insured was involved in a motor vehicle accident or
 1550 | was convicted of a moving traffic violation.

1551 11. No insurer shall cancel or issue a nonrenewal notice
1552 on any insurance policy or contract without complying with any
1553 applicable cancellation or nonrenewal provision required under
1554 the Florida Insurance Code.

1555 12. No insurer shall impose or request an additional
1556 premium, cancel a policy, or issue a nonrenewal notice on any
1557 insurance policy or contract because of any traffic infraction
1558 when adjudication has been withheld and no points have been
1559 assessed pursuant to s. 318.14(9) and (10). However, this
1560 subparagraph does not apply to traffic infractions involving
1561 accidents in which the insurer has incurred a loss due to the
1562 fault of the insured.

1563 **Section 22. Paragraph (d) of subsection (1) of section**
1564 **626.935, Florida Statutes, is amended to read:**

1565 626.935 Suspension, revocation, or refusal of surplus
1566 lines agent's license.—

1567 (1) The department shall deny an application for, suspend,
1568 revoke, or refuse to renew the appointment of a surplus lines
1569 agent and all other licenses and appointments held by the
1570 licensee under this code, on any of the following grounds:

1571 (d) Failure to make and file his or her ~~affidavit or~~
1572 reports when due as required by s. 626.931.

1573 **Section 23. Subsection (4) of section 627.715, Florida**
1574 **Statutes, is amended to read:**

1575 627.715 Flood insurance.—An authorized insurer may issue

1576 an insurance policy, contract, or endorsement providing personal
1577 lines residential coverage for the peril of flood or excess
1578 coverage for the peril of flood on any structure or the contents
1579 of personal property contained therein, subject to this section.
1580 This section does not apply to commercial lines residential or
1581 commercial lines nonresidential coverage for the peril of flood.
1582 An insurer may issue flood insurance policies, contracts,
1583 endorsements, or excess coverage on a standard, preferred,
1584 customized, flexible, or supplemental basis.

1585 (4) An agent may export a contract or an endorsement
1586 providing flood coverage to an eligible surplus lines insurer
1587 ~~without making a diligent effort to seek such coverage from~~
1588 ~~three or more authorized insurers under s. 626.916 s-~~
1589 ~~626.916(1)(a).~~

1590 **Section 24.** This act shall take effect July 1, 2025.