

26 | amending s. 628.801, F.S.; updating the source for
27 | requirement and standards for certain insurance
28 | registration and regulation rules; removing obsolete
29 | dates; providing rulemaking authority; creating part I
30 | of ch. 629, F.S., entitled "Reciprocal Insurers";
31 | amending s. 629.011, F.S.; providing definitions;
32 | repealing s. 629.021, F.S., relating to the definition
33 | of "reciprocal insurer"; amending s. 629.051, F.S.;
34 | removing a nonapplicability provision; repealing s.
35 | 629.061, F.S., relating to attorney in fact of
36 | reciprocal insurers; amending s. 629.071, F.S.;
37 | providing requirements for surplus for reciprocal
38 | insurers, rather than requirements for surplus for
39 | domestic reciprocal insurers; amending s. 629.081,
40 | F.S.; providing requirements for applications to
41 | organize domestic reciprocal insurers; requiring the
42 | office to review such applications in accordance with
43 | specified provisions; authorizing a minimum number of
44 | people to apply for a reciprocal certificate of
45 | authority under certain circumstances; revising the
46 | requirements for the declarations for such
47 | applications; requiring application fees; amending s.
48 | 629.091, F.S.; requiring that reciprocal certificates
49 | of authority, rather than certificates of authority,
50 | be issued to certain entities; amending s. 629.101,

51 F.S.; providing additional information that certain
52 powers of attorney must provide; amending s. 629.111,
53 F.S.; conforming a provision to changes made by the
54 act; amending s. 629.121, F.S.; conforming a provision
55 to changes made by the act; increasing the amount of
56 bond that attorneys of reciprocal insurers must file
57 with the office; amending s. 629.161, F.S.;
58 authorizing reciprocal insurers to borrow money for
59 specified purposes; providing construction for loan
60 interests; prohibiting such loans and interests from
61 forming a part of the insurers' legal liabilities;
62 requiring such loans and interests to be shown in
63 financial statements; requiring such loans to be
64 approved by the office; providing requirements for the
65 approval process; requiring the office to disapprove
66 proposed loans and agreements under certain
67 circumstances; providing circumstances under which
68 such loans must be repaid; requiring such repayments
69 to be approved by the office; providing
70 nonapplicability; removing provisions relating to
71 attorneys and other parties advancing funds to
72 domestic reciprocal insurers; amending s. 629.171,
73 F.S.; providing requirements for annual statements of
74 reciprocal insurers to be made and filed; amending s.
75 629.191, F.S.; providing that rights for certain

76 applications, contracts, and memberships are for
77 reciprocal insurers, rather than domestic, foreign and
78 alien reciprocal insurers; amending s. 629.201, F.S.;
79 conforming a provision to changes made by the act;
80 creating s. 629.225, F.S.; prohibiting specified
81 acquisitions of certain voting securities under
82 certain circumstances; providing exceptions; providing
83 requirements for acquisition notices and applications
84 with the office; prohibiting acquiring persons from
85 making material changes during the pendency of the
86 office's review; authorizing requests for proceedings;
87 providing circumstances under which the office may
88 disapprove or approve acquisitions; providing that
89 votes in contravention of specified provisions are not
90 valid; providing that acquisitions contrary to
91 specified provisions are void; authorizing circuit
92 courts to enforce specified provisions under certain
93 circumstances; providing that certain entities are
94 deemed to have submit themselves to the administrative
95 jurisdiction of the office and the jurisdiction of the
96 circuit court under certain circumstances; providing
97 construction; authorizing filing of disclaimers of
98 control; authorizing the office to order certain
99 persons to cease acquisition and divest themselves of
100 stocks and ownership interests under certain

101 | circumstances; providing penalties; creating s.
 102 | 629.227, F.S.; providing requirements for background
 103 | information for applications with the office to
 104 | organize domestic reciprocal insurers or to request
 105 | approval for securities acquisitions; amending s.
 106 | 629.231, F.S.; conforming provisions to changes made
 107 | by the act; authorizing the office to revoke the
 108 | authorization for assessable reciprocal insurers to
 109 | convert to nonassessable reciprocal insurers; amending
 110 | ss. 629.241, 629.251, 629.271, and 629.281; conforming
 111 | provisions to changes made by the act; amending s.
 112 | 629.291, F.S.; conforming provisions to changes made
 113 | by the act; prohibiting domestic stock insurers from
 114 | converting to reciprocal insurers; requiring certain
 115 | merging and conversion plans to be filed on forms
 116 | adopted by the office; authorizing assessable
 117 | reciprocal insurers to convert to nonassessable
 118 | reciprocal insurers under certain circumstances;
 119 | prohibiting insurers from issuing nonassessable
 120 | policies and converting assessable policies to
 121 | nonassessable policies under a specified circumstance;
 122 | providing applicability; amending s. 629.301, F.S.;
 123 | conforming a provision to changes made by the act;
 124 | providing that certain insurers are proceeded against
 125 | in a specified manner under certain circumstances;

126 | repealing ss. 629.401 and 629.520, F.S., relating to
127 | insurance exchange and authority of limited reciprocal
128 | insurer, respectively; creating s. 629.525, F.S.;
129 | providing rulemaking authority; creating part II of
130 | ch. 629, F.S., entitled "Insurance Exchanges";
131 | creating s. 629.601, F.S.; providing purposes for the
132 | creation of one or more insurance exchanges; creating
133 | s. 629.602, F.S.; providing definitions; creating s.
134 | 629.603, F.S.; requiring a committee to be appointed
135 | for a specified purpose; providing membership and
136 | duties of the committee; creating s. 629.604, F.S.;
137 | providing initial Board of Governors and subsequent
138 | Board of Governors; providing memberships; creating s.
139 | 629.605, F.S.; providing the constitution and bylaws
140 | of the exchange; providing the establishment of a
141 | security fund; providing requirements for the security
142 | fund; providing construction; requiring that any
143 | amendments to the constitution and bylaws of the
144 | exchange be approved by the office; creating s.
145 | 629.606, F.S.; providing that certain insurance
146 | exchanges are not subject to taxation; providing
147 | exceptions; creating s. 629.607, F.S.; requiring the
148 | exchange to reimburse the office for certain expenses;
149 | requiring the office and the department to conduct
150 | certain examinations under certain circumstances;

151 providing penalties; creating s. 629.608, F.S.;

152 providing authority of examiners appointed by the

153 office for specified purposes; providing penalties for

154 refusing or failing to testify or for falsely

155 testifying under certain circumstances; providing that

156 certain persons are not exempt from certain

157 prosecution and penalties; authorizing certain persons

158 to expressly waive certain immunity and privilege;

159 providing manners of serving subpoenas service and

160 making proof of service; providing witness fees and

161 mileage; amending s. 629.609, F.S.; requiring the

162 office and its examiners to make written reports of

163 examinations; providing requirements for such reports;

164 requiring that such reports be admissible in evidence;

165 authorizing the office to publish examinations results

166 under certain circumstances; requiring underwriting

167 members to file with the office certain affidavit;

168 providing requirements for such affidavits; creating

169 s. 629.611, F.S.; authorizing the office to employ

170 experts to reconstruct, rewrite, post, and balance

171 accounts and records of examined persons and entities

172 under certain circumstances; creating s. 629.612,

173 F.S.; providing applicability; requiring underwriting

174 members to maintain a minimum policyholder surplus;

175 providing investment requirements for paid-in capitals

176 and such surpluses; requiring underwriting members to
177 be members of the security fund of an exchange;
178 creating s. 629.613, F.S.; providing requirements for
179 the establishment and operation of underwriting
180 members; creating s. 629.614, F.S.; providing
181 requirements for notices of changes in management,
182 ownerships, and assets of underwriting members;
183 providing duties of the office relating to such
184 changes; creating s. 629.615, F.S.; providing
185 requirements for recordkeeping and annual reports for
186 underwriting members; creating s. 629.616, F.S.;
187 providing limitations on coverage written by
188 underwriting members; authorizing the office to
189 establish maximum gross and net annual premiums to be
190 written by underwriting members under certain
191 circumstances; providing a definition; providing
192 construction; creating s. 629.617, F.S.; providing
193 requirements for reserves of underwriting members;
194 providing a definition; creating s. 629.618, F.S.;
195 prohibiting underwriting members from distributing
196 profits in the form of cash or other assets; providing
197 an exception; providing limits on such payments;
198 authorizing payments of stock dividends and lawful
199 dividends under certain circumstances; creating s.
200 629.619, F.S.; authorizing underwriters to borrow

201 money for specified purposes; authorizing limits on
202 interests; prohibiting payments for commission and
203 promotion expenses in connection with the loans;
204 requiring the office's approval of use of surplus notes
205 and repayments; prohibiting such loans and interests
206 to form a part of the underwriting members' legal
207 liabilities; providing an exception; requiring such
208 loans and interests to be included in financial
209 statements; creating s. 629.6201, F.S.; providing
210 construction and applicability of improperly issued
211 policies, riders, endorsements, and contracts;
212 creating s. 629.621, F.S.; providing timeframes for
213 the satisfaction of court judgments and decrees for
214 the recovery of money against underwriting members;
215 authorizing the office to prohibiting underwriting
216 members from transacting business under certain
217 circumstances; providing requirements for proof of
218 satisfaction of court judgments and decrees; creating
219 s. 629.622, F.S.; providing actions that the office
220 may take in cases of insurer insolvency or for
221 rehabilitation and liquidation; creating s. 629.623,
222 F.S.; prohibiting members, associated brokers, and
223 affiliated persons from engaging in certain conduct;
224 providing penalties and fines; providing terms and
225 conditions of such penalties and fines; creating s.

226 | 629.624, F.S.; providing disposition of fines;
227 | requiring members and associate brokers to be
228 | suspended under certain circumstances; creating s.
229 | 629.625, F.S.; requiring suspended members and
230 | associate brokers to be deprived of all rights and
231 | privileges; authorizing the office to proceed against
232 | such persons for offenses committed or to reinstate
233 | such persons; creating s. 629.626, F.S.; requiring the
234 | office to impose the same material obligations,
235 | prohibitions, and restrictions as those imposed by
236 | other states, jurisdictions, and countries upon the
237 | exchanges and the agents and representatives of
238 | exchanges from such states, jurisdictions, and
239 | countries; creating s. 629.627, F.S.; providing
240 | applicability of certain state laws on specified
241 | agents; providing construction and liability for
242 | underwriting members that have assumed risks as to
243 | surplus lines coverage; creating s. 629.628, F.S.;
244 | providing requirements for background information for
245 | notices of changes in management, ownership, or assets
246 | of underwriting members; creating s. 628.629, F.S.;
247 | requiring that actions, requirements, and constraints
248 | imposed by the office reduce and offset similar
249 | actions, requirements, and constraints of exchanges;
250 | creating s. 629.6301, F.S.; restricting member

251 | ownerships; creating s. 629.631, F.S.; prohibiting
 252 | investments in underwriting managers by certain
 253 | persons; creating s. 629.632, F.S.; prohibiting
 254 | underwriting members from accepting reinsurance on an
 255 | assumed basis from certain entities; prohibiting
 256 | broker members and management companies from placing
 257 | reinsurance from such entities with underwriting
 258 | members; creating s. 629.633, F.S.; providing
 259 | rulemaking authority; creating 629.634, F.S.;
 260 | prohibiting Florida state security and guaranty funds
 261 | from covering the performance of the contractual
 262 | obligations of exchanges and their members; amending
 263 | ss. 163.01, 624.45, and 626.9531, F.S.; conforming
 264 | cross-references; providing effective dates for
 265 | certain provisions relating to reciprocal insurer
 266 | surpluses and attorney bonds; providing an effective
 267 | date.

268 |
 269 | Be It Enacted by the Legislature of the State of Florida:

270 |
 271 | Section 1. Paragraph (a) of subsection (10) of section
 272 | 624.424, Florida Statutes, is amended to read:

273 | 624.424 Annual statement and other information.—

274 | (10) (a) Each insurer or insurer group doing business in
 275 | this state shall file on a monthly ~~quarterly~~ basis in

276 conjunction with financial reports required by paragraph (1) (a)
 277 a supplemental report on an individual and group basis on a form
 278 prescribed by the commission with information on personal lines
 279 and commercial lines residential property insurance policies in
 280 this state. The supplemental report shall include separate
 281 information for personal lines property policies and for
 282 commercial lines property policies and totals for each item
 283 specified, including premiums written for each of the property
 284 lines of business as described in ss. 215.555(2) (c) and
 285 627.351(6) (a). The report shall include the following
 286 information for each zip code ~~county on a monthly basis~~:

- 287 1. Total number of policies in force at the end of each
 288 month.
- 289 2. Total number of policies canceled.
- 290 3. Total number of policies nonrenewed.
- 291 4. Number of policies canceled due to hurricane risk.
- 292 5. Number of policies nonrenewed due to hurricane risk.
- 293 6. Number of new policies written.
- 294 7. Total dollar value of structure exposure under policies
 295 that include wind coverage.
- 296 8. Number of policies that exclude wind coverage.
- 297 9. Number of claims open each month.
- 298 10. Number of claims closed each month.
- 299 11. Number of claims pending each month.
- 300 12. Number of claims in which either the insurer or

301 insured invoked any form of alternative dispute resolution, and
 302 specifying which form of alternative dispute resolution was
 303 used.

304 Section 2. Section 624.4305, Florida Statutes, is amended
 305 to read:

306 624.4305 Nonrenewal of residential property insurance
 307 policies.—Any insurer planning to nonrenew more than 10,000
 308 residential property insurance policies in this state within a
 309 12-month period shall give notice in writing to the Office of
 310 Insurance Regulation for informational purposes 90 days before
 311 the issuance of any notices of nonrenewal. The notice provided
 312 to the office must set forth the insurer's reasons for such
 313 action, the effective dates of nonrenewal, and any arrangements
 314 made for other insurers to offer coverage to affected
 315 policyholders. The commission may adopt rules to administer this
 316 section.

317 Section 3. Subsection (2) of section 626.9201, Florida
 318 Statutes, is amended to read:

319 626.9201 Notice of cancellation or nonrenewal.—

320 (2) An insurer issuing a policy providing coverage for
 321 property, casualty, surety, or marine insurance must give the
 322 named insured written notice of cancellation or termination
 323 other than nonrenewal at least 45 days before the effective date
 324 of the cancellation or termination, including in the written
 325 notice the reasons for the cancellation or termination, except

326 that:

327 (a) If cancellation is for nonpayment of premium, at least
328 10 days' written notice of cancellation accompanied by the
329 reason for cancellation must be given. As used in this
330 paragraph, the term "nonpayment of premium" means the failure of
331 the named insured to discharge when due any of his or her
332 obligations in connection with the payment of premiums on a
333 policy or an installment of such a premium, whether the premium
334 or installment is payable directly to the insurer or its agent
335 or indirectly under any plan for financing premiums or extension
336 of credit or the failure of the named insured to maintain
337 membership in an organization if such membership is a condition
338 precedent to insurance coverage. The term also includes the
339 failure of a financial institution to honor the check of an
340 applicant for insurance which was delivered to a licensed agent
341 for payment of a premium, even if the agent previously delivered
342 or transferred the premium to the insurer. If a correctly
343 dishonored check represents payment of the initial premium, the
344 contract and all contractual obligations are void ab initio
345 unless the nonpayment is cured within the earlier of 5 days
346 after actual notice by certified mail is received by the
347 applicant or 15 days after notice is sent to the applicant by
348 certified mail or registered mail, and, if the contract is void,
349 any premium received by the insurer from a third party shall be
350 refunded to that party in full; ~~and~~

351 (b) If cancellation or termination occurs during the first
352 90 days during which the insurance is in force and if the
353 insurance is canceled or terminated for reasons other than
354 nonpayment, at least 20 days' written notice of cancellation or
355 termination accompanied by the reason for cancellation or
356 termination must be given, except if there has been a material
357 misstatement or misrepresentation or failure to comply with the
358 underwriting requirements established by the insurer; and-

359 (c)1. Upon a declaration of an emergency pursuant to s.
360 252.36 and the filing of an order by the Commissioner of
361 Insurance Regulation, an insurer may not cancel or nonrenew a
362 personal residential or commercial residential property
363 insurance policy covering a dwelling or residential property
364 located in the state which has been damaged as a result of a
365 hurricane or wind loss that is the subject of the declaration of
366 emergency for 90 days after the dwelling or residential property
367 has been repaired. A dwelling or residential property is deemed
368 to be repaired when substantially completed and restored to the
369 extent that the dwelling or residential property is insurable by
370 another insurer that is writing policies in the state.

371 2. However, an insurer or agent may cancel or nonrenew
372 such a policy before the repair of the dwelling or residential
373 property:

374 a. Upon 10 days' notice for nonpayment of premium; or

375 b. Upon 45 days' notice:

376 (I) For a material misstatement or fraud related to the
 377 claim;

378 (II) If the insurer determines that the insured has
 379 unreasonably caused a delay in the repair of the dwelling or
 380 residential property; or

381 (III) If the insurer has paid policy limits.

382 3. If the insurer elects to nonrenew a policy covering a
 383 property that has been damaged, the insurer shall provide at
 384 least 90 days' notice to the insured that the insurer intends to
 385 nonrenew the policy 90 days after the dwelling or residential
 386 property has been repaired.

387 4. This paragraph does not prevent the insurer from
 388 canceling or nonrenewing the policy 90 days after the repair is
 389 completed for the same reasons the insurer would otherwise have
 390 canceled or nonrenewed the policy but for the limitations of
 391 subparagraph 1.

392 5. The Financial Services Commission may adopt rules, and
 393 the Commissioner of Insurance Regulation may issue orders,
 394 necessary to implement this paragraph.

395 Section 4. Paragraph (j) of subsection (2) of section
 396 627.062, Florida Statutes, is amended to read:

397 627.062 Rate standards.—

398 (2) As to all such classes of insurance:

399 (j) With respect to residential property insurance rate
 400 filings, the rate filing:

401 1. Must account for mitigation measures undertaken by
 402 policyholders to reduce hurricane losses and windstorm losses.

403 2. May use a modeling indication that is the weighted or
 404 straight average of two or more hurricane loss projection models
 405 found by the Florida Commission on Hurricane Loss Projection
 406 Methodology to be accurate or reliable pursuant to s. 627.0628.
 407 If an averaged model is used under the authority of this
 408 section:

409 a. The same averaged model must be used throughout the
 410 state; and

411 b. If a weighted average is used, the insurer must provide
 412 the office with a justification for using the weighted average
 413 which shows that the weighted average results in a rate that is
 414 reasonable, adequate, and fair.

415
 416 The provisions of this subsection do not apply to workers'
 417 compensation, employer's liability insurance, and motor vehicle
 418 insurance.

419 Section 5. Paragraph (n) of subsection (6) of section
 420 627.351, Florida Statutes, is amended to read:

421 627.351 Insurance risk apportionment plans.—

422 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

423 (n)1. Rates for coverage provided by the corporation must
 424 be actuarially sound pursuant to s. 627.062 and not competitive
 425 with approved rates charged in the admitted voluntary market so

426 that the corporation functions as a residual market mechanism to
427 provide insurance only when insurance cannot be procured in the
428 voluntary market, except as otherwise provided in this
429 paragraph. The office shall provide the corporation such
430 information as would be necessary to determine whether rates are
431 competitive. The corporation shall file its recommended rates
432 with the office at least annually. The corporation shall provide
433 any additional information regarding the rates which the office
434 requires. The office shall consider the recommendations of the
435 board and issue a final order establishing the rates for the
436 corporation within 45 days after the recommended rates are
437 filed. The corporation may not pursue an administrative
438 challenge or judicial review of the final order of the office.

439 2. In addition to the rates otherwise determined pursuant
440 to this paragraph, the corporation shall impose and collect an
441 amount equal to the premium tax provided in s. 624.509 to
442 augment the financial resources of the corporation.

443 3. After the public hurricane loss-projection model under
444 s. 627.06281 has been found to be accurate and reliable by the
445 Florida Commission on Hurricane Loss Projection Methodology, the
446 model shall be considered when establishing the windstorm
447 portion of the corporation's rates. The corporation may use the
448 public model results in combination with the results of private
449 models to calculate rates for the windstorm portion of the
450 corporation's rates. This subparagraph does not require or allow

451 the corporation to adopt rates lower than the rates otherwise
452 required or allowed by this paragraph.

453 4. The corporation must make a recommended actuarially
454 sound rate filing for each personal and commercial line of
455 business it writes.

456 5. Notwithstanding the board's recommended rates and the
457 office's final order regarding the corporation's filed rates
458 under subparagraph 1., the corporation shall annually implement
459 a rate increase which, except for sinkhole coverage, does not
460 exceed the following for any single policy issued by the
461 corporation, excluding coverage changes and surcharges:

- 462 a. Twelve percent for 2023.
- 463 b. Thirteen percent for 2024.
- 464 c. Fourteen percent for 2025.
- 465 d. Fifteen percent for 2026 and all subsequent years.

466 6. The corporation may also implement an increase to
467 reflect the effect on the corporation of the cash buildup factor
468 pursuant to s. 215.555(5)(b).

469 7. The corporation's implementation of rates as prescribed
470 in subparagraphs 5. and 8. shall cease for any line of business
471 written by the corporation upon the corporation's implementation
472 of actuarially sound rates. Thereafter, the corporation shall
473 annually make a recommended actuarially sound rate filing that
474 is not competitive with approved rates in the admitted voluntary
475 market for each commercial and personal line of business the

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476 corporation writes.

477 8. The ~~following~~ new or renewal personal lines policies
478 written on or after November 1, 2023, which do not cover a
479 primary residence are not subject to the rate increase
480 limitations in subparagraph 5., but may not be charged more than
481 50 percent above, nor less than, the prior year's established
482 rate for the corporation. ~~÷~~

483 ~~a. Policies that do not cover a primary residence;~~

484 ~~b. New policies under which the coverage for the insured~~
485 ~~risk, before the date of application with the corporation, was~~
486 ~~last provided by an insurer determined by the office to be~~
487 ~~unsound or an insurer placed in receivership under chapter 631;~~
488 ~~or~~

489 ~~e. Subsequent renewals of those policies, including the~~
490 ~~new policies in sub-subparagraph b., under which the coverage~~
491 ~~for the insured risk, before the date of application with the~~
492 ~~corporation, was last provided by an insurer determined by the~~
493 ~~office to be unsound or an insurer placed in receivership under~~
494 ~~chapter 631.~~

495 9. As used in this paragraph, the term "primary residence"
496 means the dwelling that is the policyholder's primary home or is
497 a rental property that is the primary home of the tenant, and
498 which the policyholder or tenant occupies for more than 9 months
499 of each year.

500 Section 6. Section 628.011, Florida Statutes, is amended

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501 to read:

502 628.011 Scope of part.—This part applies only to ~~domestic~~
 503 stock insurers, mutual insurers, and captive insurers, except
 504 that s. 628.341(2) applies also as to foreign and alien
 505 insurers.

506 Section 7. Section 628.061, Florida Statutes, is amended
 507 to read:

508 628.061 Investigation of proposed organization.—In
 509 connection with any proposal to organize ~~incorporate~~ a domestic
 510 insurer, the office shall make an investigation of:

511 (1) The character, reputation, financial standing, and
 512 motives of the organizers, incorporators, and subscribers
 513 organizing the proposed insurer.

514 (2) The character, financial responsibility, insurance
 515 experience, and business qualifications of its proposed
 516 officers.

517 (3) The character, financial responsibility, business
 518 experience, and standing of the proposed stockholders and
 519 directors.

520 Section 8. Subsections (1), (2), and (5) of section
 521 628.801, Florida Statutes, are amended to read:

522 628.801 Insurance holding companies; registration;
 523 regulation.—

524 (1) An insurer that is authorized to do business in this
 525 state and that is a member of an insurance holding company

526 shall, on or before April 1 of each year, register with the
527 office and file a registration statement and be subject to
528 regulation with respect to its relationship to the holding
529 company as provided by law or rule. The commission shall adopt
530 rules establishing the information and statement form required
531 for registration and the manner in which registered insurers and
532 their affiliates are regulated. The rules apply to domestic
533 insurers, foreign insurers, and commercially domiciled insurers,
534 except for foreign insurers domiciled in states that are
535 currently accredited by the NAIC. Except to the extent of any
536 conflict with this code, the rules must include all requirements
537 and standards of the Insurance Holding Company System Model
538 Regulation and ss. 4 and 5 of the Insurance Holding Company
539 System Regulatory Act ~~and the Insurance Holding Company System~~
540 ~~Model Regulation~~ of the NAIC, as adopted in December 2020 ~~2010~~.
541 The commission may adopt subsequent amendments thereto if the
542 methodology remains substantially consistent. The rules may
543 include a prohibition on oral contracts between affiliated
544 entities. Material transactions between an insurer and its
545 affiliates shall be filed with the office as provided by rule.

546 (2) ~~Effective January 1, 2015,~~ The ultimate controlling
547 person of every insurer subject to registration shall also file
548 an annual enterprise risk report on or before April 1. As used
549 in this subsection, the term "ultimate controlling person" means
550 a person who is not controlled by any other person. The report,

551 to the best of the ultimate controlling person's knowledge and
552 belief, must identify the material risks within the insurance
553 holding company system that could pose enterprise risk to the
554 insurer. The report shall be filed with the lead state office of
555 the insurance holding company system as determined by the
556 procedures within the Financial Analysis Handbook adopted by the
557 NAIC and is confidential and exempt from public disclosure as
558 provided in s. 624.4212.

559 (a) An insurer may satisfy this requirement by providing
560 the office with the most recently filed parent corporation
561 reports that have been filed with the Securities and Exchange
562 Commission which provide the appropriate enterprise risk
563 information.

564 (b) The term "enterprise risk" means an activity,
565 circumstance, event, or series of events involving one or more
566 affiliates of an insurer which, if not remedied promptly, are
567 likely to have a materially adverse effect upon the financial
568 condition or liquidity of the insurer or its insurance holding
569 company system as a whole, including anything that would cause
570 the insurer's risk-based capital to fall into company action
571 level as set forth in s. 624.4085 or would cause the insurer to
572 be in a hazardous financial condition.

573 (c) The office may adopt rules for filing the annual
574 enterprise risk report in accordance with the Insurance Holding
575 Company System Regulatory Act and the Insurance Holding Company

576 System Model Regulation of the NAIC, as adopted in December
 577 2020.

578 (5) ~~Effective January 1, 2015,~~ The failure to file a
 579 registration statement, or a summary of the registration
 580 statement, or the enterprise risk filing report required by this
 581 section within the time specified for filing is a violation of
 582 this section.

583 Section 9. Part I of chapter 629, Florida Statutes,
 584 consisting of sections 629.011, 629.051, 629.081, 629.091,
 585 629.111, 629.121, 629.161, 629.171, 629.201, 629.225, 629.227,
 586 629.231, 629.241, 629.251, 629.261, 629.281, 629.291, 629.301,
 587 and 629.525. Florida Statutes, is created and entitled
 588 "Reciprocal Insurers."

589 Section 10. Section 629.011, Florida Statutes, is amended
 590 to read:

591 629.011 Definitions ~~"Reciprocal insurance" defined.~~ As
 592 used in this part, the term:

593 (1) "Affiliated person" of another person means:

594 (a) The spouse of the other person;

595 (b) The parents of the other person, and their lineal
 596 descendants, and the parents of the other person's spouse, and
 597 their lineal descendants;

598 (c) A person who directly or indirectly owns or controls,
 599 or holds with power to vote, 10 percent or more of the
 600 outstanding voting securities of the other person;

601 (d) A person who directly or indirectly owns 10 percent or
602 more of the outstanding voting securities that are directly or
603 indirectly owned or controlled, or held with power to vote, by
604 the other person;

605 (e) A person or group of persons who directly or
606 indirectly control, are controlled by, or are under common
607 control with the other person;

608 (f) A director, officer, trustee, partner, owner, manager,
609 joint venturer, employee, or other person performing duties
610 similar to those of persons in such positions, of the other
611 person;

612 (g) If the other person is an investment company, any
613 investment adviser of such company or any member of an advisory
614 board of such company;

615 (h) If the other person is an unincorporated investment
616 company not having a board of directors, the depositor of such
617 company; or

618 (i) A person who has entered into an agreement, written or
619 unwritten, to act in concert with the other person in acquiring,
620 or limiting the disposition of:

621 1. Securities of an attorney or controlling company that
622 is a stock corporation; or

623 2. An ownership interest of an attorney or controlling
624 company that is not a stock corporation.

625 (2) "Attorney" the attorney in fact of a reciprocal

626 insurer. The attorney may be an individual, corporation, or
627 other person.

628 (3) "Controlling company" means a person, corporation,
629 trust, limited liability company, association, or other entity
630 owning, directly or indirectly, 10 percent or more of the voting
631 securities of one or more attorneys that are stock corporations,
632 or 10 percent or more of the ownership interest of one or more
633 attorneys that are not stock corporations.

634 (4) "Reciprocal insurance" is that resulting from an
635 interexchange among persons, known as "subscribers," of
636 reciprocal agreements of indemnity, the interexchange being
637 effectuated through an "attorney in fact" common to all such
638 persons.

639 (5) "Reciprocal insurer" means a domestic insurer that is
640 an unincorporated aggregation of subscribers domiciled in the
641 state operating individually and collectively through an
642 attorney in fact to provide reciprocal insurance among
643 themselves. The term does not include foreign or alien
644 reciprocal insurers that are licensed and operating in the state
645 under chapter 624. All reciprocal insurers must be licensed as
646 an assessable or nonassessable reciprocal insurer.

647 (a) An assessable reciprocal insurer may require that its
648 subscribers make up any shortfall in capital and surplus to
649 cover claims and expenses, jointly or severally.

650 (b) A nonassessable reciprocal insurer has no recourse

651 against subscribers for any shortfall in capital and surplus to
 652 cover claims and expenses.

653 Section 11. Section 629.021, Florida Statutes, is
 654 repealed.

655 Section 12. Subsection (1) of section 629.051, Florida
 656 Statutes, is amended to read:

657 629.051 Name; suits.—A reciprocal insurer shall:

658 (1) Have and use a business name. The name shall include
 659 the word "reciprocal," or "interinsurer," or "interinsurance,"
 660 or "exchange," or "underwriters," or "underwriting." ~~but this~~
 661 ~~requirement shall not apply as to any insurer holding a~~
 662 ~~certificate of authority to transact insurance in this state~~
 663 ~~immediately prior to the effective date of this code.~~

664 Section 13. Section 629.061, Florida Statutes, is
 665 repealed.

666 Section 14. Section 629.071, Florida Statutes, is amended
 667 to read:

668 629.071 Surplus funds required.—The surplus required of a
 669 reciprocal insurer shall be as required in s. 624.407 as to the
 670 kind or kinds of insurance so proposed.

671 ~~(1) A domestic reciprocal insurer hereunder formed, if it~~
 672 ~~has otherwise complied with the applicable provisions of this~~
 673 ~~code, may be authorized to transact insurance if it has and~~
 674 ~~thereafter maintains surplus funds of not less than \$250,000.~~

675 ~~(2) In addition to the surplus required to be maintained~~

676 ~~under subsection (1), the insurer shall have, when first so~~
677 ~~authorized, an expendable surplus of not less than \$750,000.~~

678 Section 15. Section 629.081, Florida Statutes, is amended
679 to read:

680 629.081 Organization of reciprocal insurer.—

681 (1) Twenty-five or more persons domiciled in this state
682 may file an application with the office for approval to organize
683 a domestic reciprocal insurer and make application to the office
684 pursuant to s. 628.051. The application shall be reviewed in
685 accordance with ss. 628.061 and 628.071 and other relevant
686 provisions of the insurance code ~~for a certificate of authority~~
687 ~~to transact insurance.~~

688 (2) Twenty-five or more persons domiciled in this state
689 who have a valid permit pursuant to this section may file an
690 application with the office for a reciprocal certificate of
691 authority pursuant to s. 624.413.

692 (3)(2) When applying for a reciprocal certificate of
693 authority pursuant to s. 624.413, the proposed attorney ~~shall~~
694 ~~fulfill the requirements of and~~ shall execute and file with the
695 office, ~~when applying for a certificate of authority,~~ a
696 notarized declaration setting forth:

697 (a) The name of the insurer;

698 (b) The location of the insurer's principal office, which
699 shall be the same as that of the attorney and shall be
700 maintained within this state;

- 701 (c) The kinds of insurance proposed to be transacted;
- 702 (d) The names and addresses of the original subscribers;
- 703 (e) The designation and appointment of the proposed
- 704 attorney and a copy of the power of attorney;
- 705 (f) The names and addresses of the officers and directors
- 706 of the attorney, if a corporation, or of its members, if other
- 707 than a corporation;
- 708 (g) The powers of the subscribers' advisory committee, and
- 709 the names and terms of office of the members thereof;
- 710 (h) That all moneys paid to the reciprocal shall, after
- 711 deducting therefrom any sum payable to the attorney, be held in
- 712 the name of the insurer and for the purposes specified in the
- 713 subscribers' agreement;
- 714 (i) A copy of the subscribers' agreement;
- 715 (j) A statement that each of the original subscribers has
- 716 in good faith applied for insurance of a kind proposed to be
- 717 transacted, and that, upon approval from the office to transact
- 718 insurance, the insurer will receive ~~has received~~ from each such
- 719 subscriber the full premium or premium deposit required for the
- 720 policy applied for, for a term of not less than 6 months at an
- 721 adequate rate to be ~~theretofore~~ filed with and approved by the
- 722 office;
- 723 (k) A statement of the financial condition of the insurer,
- 724 a schedule of its assets, and a statement that the surplus as
- 725 required by s. 629.071 is on hand; and

726 (1) A copy of each policy, endorsement, and application
 727 form it then proposes to issue or use.

728 (m) A copy of the bond required under s. 629.121.

729 (3) The filing must be accompanied by the application fee
 730 required under s. 624.501(1)(a).

731
 732 ~~Such declaration shall be acknowledged by the attorney before an~~
 733 ~~officer authorized to take acknowledgments.~~

734 Section 16. Section 629.091, Florida Statutes, is amended
 735 to read:

736 629.091 Reciprocal certificate of authority.—The
 737 reciprocal certificate of authority ~~of a reciprocal insurer~~
 738 shall be issued ~~to its attorney~~ in the name of the reciprocal
 739 insurer to its attorney.

740 Section 17. Paragraphs (c), (d), and (e) of subsection (2)
 741 of section 629.101, Florida Statutes, are redesignated as
 742 paragraphs (d), (e), and (f), respectively, and a new paragraph
 743 (c) is added to subsection (2) of that section to read:

744 629.101 Power of attorney.—

745 (2) The power of attorney must set forth:

746 (c) The place at which the office of the attorney shall be
 747 maintained;

748 Section 18. Section 629.111, Florida Statutes, is amended
 749 to read:

750 629.111 Modifications.—Modifications of the terms of the

751 subscribers' agreement or of the power of attorney of a ~~domestic~~
 752 reciprocal insurer shall be made jointly by the attorney and the
 753 subscribers' advisory committee. No such modification shall be
 754 effective retroactively, nor as to any insurance contract issued
 755 prior thereto.

756 Section 19. Subsections (1) and (2) of section 629.121,
 757 Florida Statutes, are amended to read:

758 629.121 Attorney's bond.—

759 (1) Concurrently with the filing of the declaration
 760 provided for in s. 629.081, the attorney of a ~~domestic~~
 761 reciprocal insurer shall file with the office a bond in favor of
 762 this state for the benefit of all persons damaged as a result of
 763 breach by the attorney of the conditions of his or her bond as
 764 set forth in subsection (2). The bond shall be executed by the
 765 attorney and by an authorized corporate surety and shall be
 766 subject to the approval of the office.

767 (2) The bond shall be in the sum of \$300,000 ~~\$100,000~~,
 768 aggregate in form, the bond conditioned that the attorney will
 769 faithfully account for all moneys and other property of the
 770 insurer coming into his or her hands, and that he or she will
 771 not withdraw or appropriate to his or her own use from the funds
 772 of the insurer any moneys or property to which he or she is not
 773 entitled under the power of attorney.

774 Section 20. Section 629.161, Florida Statutes, is amended
 775 to read:

776 629.161 Contributions to insurer.—

777 (1) A reciprocal insurer may borrow money to defray the
 778 expenses of its organization, to provide itself with surplus
 779 funds, or for any purpose of its business, upon a written
 780 agreement that such money is required to be repaid only out of
 781 the insurer's surplus in excess of that stipulated in the
 782 agreement. Any interest provided for shall or shall not
 783 constitute a liability of the insurer as to its funds other than
 784 such excess of surplus, as stipulated in the agreement. A
 785 commission or promotion expense may not be paid in connection
 786 with any such loan.

787 (2) Money so borrowed, together with the interest thereon
 788 if so stipulated in the agreement, may not form a part of the
 789 insurer's legal liabilities, except as to its surplus in excess
 790 of the amount thereof stipulated in the agreement, or be the
 791 basis of any setoff; but until repaid, financial statements
 792 filed or published by the insurer must show as a footnote
 793 thereto the amount thereof then unpaid together with any
 794 interest thereon accrued but unpaid.

795 (3) Any such loan to a reciprocal insurer is subject to
 796 the approval of the office for the issue and the rate of
 797 interest to be paid. The reciprocal insurer must, in advance of
 798 the loan, file with the office a statement of the purpose of the
 799 loan and a copy of the proposed loan agreement. The office shall
 800 disapprove any proposed loan or agreement if it finds that the

801 loan is unnecessary or excessive for the purpose intended; that
 802 the terms of the loan agreement are not fair and equitable to
 803 the parties and to other similar lenders, if any, to the
 804 reciprocal insurer; or that the information so filed by the
 805 reciprocal insurer is inadequate.

806 (4) Any such loan to a reciprocal insurer, or a
 807 substantial portion thereof, shall be repaid by the reciprocal
 808 insurer when no longer reasonably necessary for the purpose
 809 originally intended. A repayment of such a loan may not be made
 810 by a reciprocal insurer unless approved in advance by the
 811 office.

812 (5) This section does not apply to loans obtained by the
 813 reciprocal insurer in the ordinary course of business from banks
 814 and other financial institutions, nor to loans secured by pledge
 815 or mortgage of assets ~~The attorney or other parties may advance~~
 816 ~~to a domestic reciprocal insurer upon reasonable terms such~~
 817 ~~funds as it may require from time to time in its operations.~~
 818 ~~Sums so advanced shall not be treated as a liability of the~~
 819 ~~insurer and, except upon liquidation of the insurer, shall not~~
 820 ~~be withdrawn or repaid except out of the insurer's realized~~
 821 ~~earned surplus in excess of its minimum required surplus. No~~
 822 ~~such withdrawal or repayment shall be made without the advance~~
 823 ~~approval of the office. This section does not apply as to bank~~
 824 ~~loans or to loans made upon security.~~

825 Section 21. Subsection (1) of section 629.171, Florida

826 Statutes, is amended to read:

827 629.171 Annual statement.—

828 (1) The annual statement of a reciprocal insurer shall be
 829 made and filed by its attorney in the same manner as domestic
 830 stock insurers under s. 624.424.

831 Section 22. Section 629.191, Florida Statutes, is amended
 832 to read:

833 629.191 Who may be subscribers.—Individuals, partnerships,
 834 and corporations of this state may make applications for, enter
 835 into agreements for, and hold policies or contracts in or with,
 836 and be subscribers of, any ~~domestic, foreign, or alien~~
 837 reciprocal insurer.

838 Section 23. Subsection (1) of section 629.201, Florida
 839 Statutes, is amended to read:

840 629.201 Subscribers' advisory committee.—

841 (1) The advisory committee of a ~~domestic~~ reciprocal
 842 insurer exercising the subscribers' rights shall be selected
 843 under such rules as the subscribers adopt.

844 Section 24. Section 629.225, Florida Statutes, is created
 845 to read:

846 629.225 Acquisitions.—

847 (1) A person may not, individually or in conjunction with
 848 any affiliated person of such person, directly or indirectly,
 849 conclude a tender offer or exchange offer for, enter into any
 850 agreement to exchange securities for, or otherwise finally

851 acquire, 10 percent or more of the outstanding voting securities
852 of an attorney which is a stock corporation or of a controlling
853 company of an attorney which is a stock corporation; or conclude
854 an acquisition of, or otherwise finally acquire, 10 percent or
855 more of the ownership interest of an attorney which is not a
856 stock corporation or of a controlling company of an attorney
857 which is not a stock corporation, unless:

858 (a) The person or affiliated person has filed with the
859 office and sent to the principal office of the attorney, and any
860 controlling company of the attorney, a reciprocal a letter of
861 notification regarding the transaction or proposed transaction
862 no later than 5 days after any form of tender offer or exchange
863 offer is proposed, or no later than 5 days after the acquisition
864 of the securities or ownership interest if a tender offer or
865 exchange offer is not involved. The notification must be
866 provided on forms prescribed by the commission containing
867 information determined necessary to understand the transaction
868 and identify all purchasers and owners involved;

869 (b) The person or affiliated person has filed with the
870 office an application signed under oath and prepared on forms
871 prescribed by the commission which contains the information
872 specified in subsection (3). The application must be completed
873 and filed within 30 days after any form of tender offer or
874 exchange offer is proposed, or after the acquisition of the
875 securities if a tender offer or exchange offer is not involved;

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876 and

877 (c) The office has approved the tender offer or exchange
878 offer, or acquisition if a tender offer or exchange offer is not
879 involved.

880 (2) The person or affiliated person filing the required
881 notice in paragraph (1) (a) may additionally request the office
882 to waive the requirements of paragraph (1) (b), provided that
883 there is no change in the ultimate controlling shareholders, and
884 no change in the ownership percentages of the ultimate
885 controlling shareholders, and no unaffiliated parties acquire
886 any direct or indirect interest in the attorney. The office may
887 waive the filing required in paragraph (1) (b) if it determines
888 that in fact there is no change in the ultimate controlling
889 shareholders, and no change in the ownership percentages of the
890 ultimate controlling shareholders, and no unaffiliated parties
891 will acquire any direct or indirect interest in the attorney.

892 (3) The application to be filed with the office and
893 furnished to the attorney must contain the following information
894 and any additional information as the office deems necessary to
895 determine the character, experience, ability, and other
896 qualifications of the person or affiliated person of such person
897 for the protection of the insureds of the insurer and of the
898 public:

899 (a) The identity and background information specified in
900 s. 629.221, of:

901 1. Each person by whom, or on whose behalf, the
 902 acquisition is to be made; and

903 2. Any person who controls, directly or indirectly, such
 904 other person, including each director, officer, trustee,
 905 partner, owner, manager, or joint venturer, or other person
 906 performing duties similar to those of persons in such positions,
 907 for the person.

908 (b) The source and amount of the funds or other
 909 consideration used, or to be used, in making the acquisition.

910 (c) Any plans or proposals which such persons may have
 911 made to liquidate the attorney or controlling company, to sell
 912 any of their assets or merge or consolidate them with any
 913 person, or to make any other major change in their business or
 914 corporate structure or management, and any plans or proposals
 915 which such persons may have made to liquidate any controlling
 916 company of the attorney, to sell any of its assets or merge or
 917 consolidate it with any person, or to make any other major
 918 change in its business or corporate structure or management.

919 (d) The nature and the extent of the controlling interest
 920 which the person or affiliated person of such person proposes to
 921 acquire, the terms of the proposed acquisition, and the manner
 922 in which the controlling interest is to be acquired of an
 923 attorney or controlling company which is not a stock
 924 corporation.

925 (e) The number of shares or other securities which the

926 person or affiliated person of such person proposes to acquire,
 927 the terms of the proposed acquisition, and the manner in which
 928 the securities are to be acquired.

929 (f) Information as to any contract, arrangement, or
 930 understanding with any party with respect to any of the
 931 securities of the attorney or controlling company, including,
 932 but not limited to, information relating to the transfer of any
 933 of the securities, option arrangements, puts or calls, or the
 934 giving or withholding of proxies, which information names the
 935 party with whom the contract, arrangement, or understanding has
 936 been entered into and gives the details thereof.

937
 938 The filing must be accompanied by the fee required under s.
 939 624.501(1)(a).

940 (4) If any material change occurs in the facts provided in
 941 the application filed with the office pursuant to this section
 942 or the background information required under s. 629.227, an
 943 amendment specifying such changes shall be filed immediately
 944 with the office, and a copy of the amendment shall be sent to
 945 the principal office of the attorney and to the principal office
 946 of the controlling company.

947 (5)(a) The acquisition application shall be reviewed in
 948 accordance with chapter 120. The office may on its own initiate,
 949 or, if requested to do so in writing by a substantially affected
 950 person, shall conduct, a proceeding to consider the

951 appropriateness of the proposed filing. Time periods for
952 purposes of chapter 120 shall be tolled during the pendency of
953 the proceeding. Any written request for a proceeding must be
954 filed with the office within 10 days of the date notice of the
955 filing is given. During the pendency of the proceeding or review
956 period by the office, any person or affiliated person complying
957 with the filing requirements of this section may proceed and
958 take all steps necessary to conclude the acquisition so long as
959 the acquisition becoming final is conditioned upon obtaining
960 office approval. The office shall, however, at any time it finds
961 an immediate danger to the public health, safety, and welfare of
962 the insureds exists, immediately order, pursuant to s.
963 120.569(2)(n), the proposed acquisition disapproved and any
964 further steps to conclude the acquisition ceased.

965 (b) During the pendency of the office's review of any
966 acquisition subject to the provisions of this section, the
967 acquiring person may not make any material change in the
968 operation of the attorney or controlling company unless the
969 office has specifically approved the change, nor shall the
970 acquiring person make any material change in the management of
971 the attorney unless advance written notice of the change in
972 management is furnished to the office. A material change in the
973 operation of the attorney is a transaction which disposes of or
974 obligates 5 percent or more of the capital and surplus of the
975 attorney. A material change in the management of the attorney is

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976 any change in management involving officers or directors of the
977 attorney or any person of the attorney or controlling company
978 having authority to dispose of or obligate 5 percent or more of
979 the attorney's capital or surplus. The office shall approve a
980 material change in operations if it finds the applicable
981 provisions of subsection (7) have been met. The office may
982 disapprove a material change in management if it finds that the
983 applicable provisions of subsection (7) have not been met and in
984 such case the attorney shall promptly change management as
985 acceptable to the office.

986 (c) If a request for a proceeding is filed, the proceeding
987 shall be conducted within 60 days after the date the written
988 request for a proceeding is received by the office. A
989 recommended order shall be issued within 20 days after the date
990 of the close of the proceedings. A final order shall be issued
991 within 20 days after the date of the recommended order or, if
992 exceptions to the recommended order are filed, within 20 days
993 after the date the exceptions are filed.

994 (6) The office may disapprove any acquisition subject to
995 this section by any person or any affiliated person of such
996 person who:

997 (a) Willfully violates this section;

998 (b) In violation of an order of the office issued pursuant
999 to subsection (11), fails to divest himself or herself of any
1000 stock or ownership interest obtained in violation of this

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1001 section or fails to divest himself or herself of any direct or
1002 indirect control of such stock or ownership interest, within 25
1003 days after such order; or

1004 (c) In violation of an order issued by the office pursuant
1005 to subsection (11), acquires an additional stock or ownership
1006 interest in an attorney or controlling company or direct or
1007 indirect control of such stock or ownership interest, without
1008 complying with this section.

1009 (7) The person or persons filing the application required
1010 by this section have the burden of proof. The office shall
1011 approve any such acquisition if it finds, on the basis of the
1012 record made during any proceeding or on the basis of the filed
1013 application if no proceeding is conducted, that:

1014 (a) The financial condition of the acquiring person or
1015 persons will not jeopardize the financial stability of the
1016 attorney or prejudice the interests of the reciprocal insurer's
1017 subscribers or the public.

1018 (b) Any plan or proposal which the acquiring person has,
1019 or acquiring persons have, made:

1020 1. To liquidate the attorney, sell its assets, or merge or
1021 consolidate it with any person, or to make any other major
1022 change in its business or corporate structure or management; or

1023 2. To liquidate any controlling company, sell its assets,
1024 or merge or consolidate it with any person, or to make any major
1025 change in its business or corporate structure or management

1026 which would have an effect upon the attorney,

1027
1028 is fair and free of prejudice to the reciprocal insurer's
1029 subscribers or to the public.

1030 (c) The competence, experience, and integrity of those
1031 persons who will control directly or indirectly the operation of
1032 the attorney indicate that the acquisition is in the best
1033 interest of the reciprocal insurer's subscribers and in the
1034 public interest.

1035 (d) The natural persons for whom background information is
1036 required to be furnished pursuant to this section have such
1037 backgrounds as to indicate that it is in the best interests of
1038 the reciprocal insurer's subscribers and in the public interest
1039 to permit such persons to exercise control over the attorney.

1040 (e) The directors and officers, if such attorney or
1041 controlling company is a stock corporation, or the trustees,
1042 partners, owners, managers, joint venturers, or other persons
1043 performing duties similar to those of persons in such positions,
1044 if such attorney or controlling company is not a stock
1045 corporation, to be employed after the acquisition have
1046 sufficient insurance experience and ability to assure reasonable
1047 promise of successful operation.

1048 (f) The management of the attorney after the acquisition
1049 will be competent, trustworthy, and will possess sufficient
1050 managerial experience so as to make the proposed operation of

1051 the attorney not hazardous to the insurance-buying public.

1052 (g) The management of the attorney after the acquisition
1053 shall not include any person who has directly or indirectly
1054 through ownership, control, reinsurance transactions, or other
1055 insurance or business relations unlawfully manipulated the
1056 assets, accounts, finances, or books of any insurer or otherwise
1057 acted in bad faith with respect thereto.

1058 (h) The acquisition is not likely to be hazardous or
1059 prejudicial to the reciprocal insurer's subscribers or to the
1060 public.

1061 (i) The effect of the acquisition would not substantially
1062 lessen competition in the line of insurance for which the
1063 reciprocal insurer is licensed or certified in this state or
1064 would not tend to create a monopoly therein.

1065 (8) A vote by the stockholder of record, or by any other
1066 person, of any security acquired in contravention of this
1067 section is not valid. Any acquisition contrary to this section
1068 is void. Upon the petition of the attorney, any or the
1069 controlling company, or the reciprocal insurer the circuit court
1070 for the county in which the principal office of the attorney is
1071 located may, without limiting the generality of its authority,
1072 order the issuance or entry of an injunction or other order to
1073 enforce this section. There shall be a private right of action
1074 in favor of the attorney, or controlling company, to enforce
1075 this section. A demand upon the office that it performs its

1076 functions may not be required as a prerequisite to any suit by
1077 the attorney or controlling company against any other person,
1078 and in no case shall the office be deemed a necessary party to
1079 any action by the attorney or controlling company to enforce
1080 this section. Any person who makes or proposes an acquisition
1081 requiring the filing of an application pursuant to this section,
1082 or who files such an application, shall be deemed to have
1083 thereby designated the Chief Financial Officer, or his or her
1084 assistant or deputy or another person in charge of his or her
1085 office, as such person's agent for service of process under this
1086 section and shall thereby be deemed to have submitted himself or
1087 herself to the administrative jurisdiction of the office and to
1088 the jurisdiction of the circuit court.

1089 (9) Any approval by the office under this section does not
1090 constitute a recommendation by the office of the tender offer or
1091 exchange offer, or acquisition, if no tender offer or exchange
1092 offer is involved. It is unlawful for a person to represent that
1093 the office's approval constitutes a recommendation. A person who
1094 violates this subsection commits a felony of the third degree,
1095 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1096 The statute-of-limitations period for the prosecution of an
1097 offense committed under this subsection is 5 years.

1098 (10) A person may rebut a presumption of control by filing
1099 a disclaimer of control with the office on a form prescribed by
1100 the commission. The disclaimer must fully disclose all material

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1101 relationships and bases for affiliation between the person and
1102 the attorney as well as the basis for disclaiming the
1103 affiliation. In lieu of such form, a person or acquiring party
1104 may file with the office a copy of a Schedule 13G filed with the
1105 Securities and Exchange Commission pursuant to Rule 13d-1(b) or
1106 (c), 17 C.F.R. s. 240.13d-1, under the Securities Exchange Act
1107 of 1934, as amended. After a disclaimer has been filed, the
1108 attorney is relieved of any duty to register or report under
1109 this section which may arise out of the attorney's relationship
1110 with the person unless the office disallows the disclaimer.

1111 (11) If the office determines that any person or any
1112 affiliated person of such person has acquired 10 percent or more
1113 of the outstanding voting securities of an attorney or
1114 controlling company which is a stock corporation, or 10 percent
1115 or more of the ownership interest of an attorney or controlling
1116 company which is not a stock corporation, without complying with
1117 this section, the office may order that the person and any
1118 affiliated person of such person cease acquisition of the
1119 attorney or controlling company and, if appropriate, divest
1120 itself of any stock or ownership interest acquired in violation
1121 of this section.

1122 (12) (a) The office shall, if necessary to protect the
1123 public interest, suspend or revoke the reciprocal certificate of
1124 authority of the reciprocal insurer whose attorney or
1125 controlling company is acquired in violation of this section.

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1126 (b) If any reciprocal insurer is subject to suspension or
1127 revocation pursuant to paragraph (a), the attorney shall be
1128 deemed to be in such condition, or to be using or to have been
1129 subject to such methods or practices in the conduct of its
1130 business, as to render its further transaction of insurance
1131 presently or prospectively hazardous to its insureds, creditors,
1132 or stockholders or to the public. In such case, the office may
1133 offer the reciprocal insurer, through its subscriber
1134 representatives, the ability to cure any suspension or
1135 revocation by procuring another attorney acceptable to the
1136 office.

1137 Section 25. Section 629.227, Florida Statutes, is created
1138 to read:

1139 629.227 Background information.—The information as to the
1140 background and identity of each person about whom information is
1141 required to be furnished pursuant to s. 629.081 or s. 629.225
1142 must include, but need not be limited to:

1143 (1) Occupations, positions of employment, and offices held
1144 during the past 10 years, including the principal business and
1145 address of any business, corporation, or organization where each
1146 occupation, position of employment, or office occurred.

1147 (2) Whether the person was, at any time during such 10-
1148 year period, convicted of any crime other than a traffic
1149 violation.

1150 (3) Whether the person has been, during such 10-year

1151 period, the subject of any proceeding for the revocation of any
 1152 license and, if so, the nature of the proceeding and the
 1153 disposition of the proceeding.

1154 (4) Whether, during such 10-year period, the person has
 1155 been the subject of any proceeding under the federal Bankruptcy
 1156 Act.

1157 (5) Whether, during such 10-year period, any person or
 1158 other business or organization in which the person was a
 1159 director, officer, trustee, partner, owner, manager, or other
 1160 official has been subject of any proceeding under the federal
 1161 Bankruptcy Act, either during the time of that person's tenure
 1162 with the business or organization or within 12 months
 1163 thereafter.

1164 (6) Whether, during such 10-year period, the person has
 1165 been enjoined, temporarily or permanently, by a court of
 1166 competent jurisdiction from violating any federal or state law
 1167 regulating the business of insurance, securities, or banking, or
 1168 from carrying out any particular practice or practices in the
 1169 course of the business of insurance, securities, or banking,
 1170 together with details as to any such event.

1171 (7) Fingerprints of each person.

1172 (8) Any additional information as the office deems
 1173 necessary to determine the character, experience, ability, and
 1174 other qualifications of the person or affiliated person of such
 1175 person for the protection of the insureds of the insurer and of

1176 | the public.

1177 | Section 26. Subsection (1) of section 629.231, Florida
 1178 | Statutes, is amended, and subsection (5) is added to that
 1179 | section, to read:

1180 | 629.231 Assessments.—

1181 | (1) Assessments may from time to time be levied upon
 1182 | subscribers of an assessable ~~a domestic~~ reciprocal insurer who
 1183 | are liable therefor under the terms of their policies by the
 1184 | attorney. Any such assessment must have been approved upon
 1185 | ~~approval~~ in advance by the subscribers' advisory committee and
 1186 | the office, or by the department as receiver of the insurer.

1187 | (5) Upon impairment of surplus of a nonassessable
 1188 | reciprocal insurer, the office shall revoke the authorization
 1189 | issued under s. 629.291(5). Such revocation shall not render
 1190 | subject to contingent liability any policy then in force and for
 1191 | the remainder of the period for which the premium has
 1192 | theretofore been paid; but, after such revocation, a policy may
 1193 | not be issued or renewed without providing for contingent
 1194 | assessment liability of the subscriber.

1195 | Section 27. Section 629.241, Florida Statutes, is amended
 1196 | to read:

1197 | 629.241 Time limit for assessments.—Every subscriber of a
 1198 | ~~domestic~~ reciprocal insurer having contingent liability shall be
 1199 | liable for, and shall pay his or her share of, any assessment,
 1200 | as computed and limited in accordance with this chapter, if:

1201 (1) While his or her policy is in force or within 4 years
 1202 after its termination, the subscriber is notified by either the
 1203 attorney or the office of its intentions to levy such
 1204 assessment; or

1205 (2) An order to show cause why a receiver, conservator,
 1206 rehabilitator, or liquidator of the insurer should not be
 1207 appointed is issued while the subscriber's policy is in force or
 1208 within 4 years after its termination.

1209 Section 28. Section 629.251, Florida Statutes, is amended
 1210 to read:

1211 629.251 Aggregate liability.—No one policy or subscriber
 1212 as to such policy shall be assessed or charged with an aggregate
 1213 of contingent liability as to obligations incurred by a ~~domestic~~
 1214 reciprocal insurer in any one calendar year in excess of the
 1215 amount provided for in the power of attorney or in the
 1216 subscribers' agreement, computed solely upon premium earned on
 1217 such policy during that year.

1218 Section 29. Subsection (2) of section 629.271, Florida
 1219 Statutes, is amended to read:

1220 629.271 Distribution of savings.—

1221 (2) In addition to the option provided in subsection (1),
 1222 a ~~domestic~~ reciprocal insurer may, upon the prior written
 1223 approval of the office, pay to its subscribers a portion of
 1224 unassigned funds of up to 10 percent of surplus, with
 1225 distribution limited to 50 percent of net income from the

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1226 previous calendar year. Such distribution may not unfairly
1227 discriminate between classes of risks or policies, or between
1228 subscribers, but may vary as to classes of subscribers based on
1229 the experience of the classes.

1230 Section 30. Section 629.281, Florida Statutes, is amended
1231 to read:

1232 629.281 Subscribers' share in assets.—Upon the liquidation
1233 of an assessable ~~a domestic~~ reciprocal insurer, its assets
1234 remaining after discharge of its indebtedness and policy
1235 obligations, the return of any contributions of the attorney or
1236 other persons to its surplus made as provided in s. 629.161, and
1237 the return of any unused premium, savings, or credits then
1238 standing on subscribers' accounts shall be distributed to its
1239 subscribers who were such within the 12 months prior to the last
1240 termination of its reciprocal certificate of authority,
1241 according to such reasonable formula as the office approves.

1242 Section 31. Section 629.291, Florida Statutes, is amended
1243 to read:

1244 629.291 Merger or conversion.—

1245 (1) A ~~domestic~~ reciprocal insurer, upon affirmative vote
1246 of not less than two-thirds of its subscribers who vote on such
1247 merger pursuant to due notice, and subject to the approval by ~~of~~
1248 the office of the terms therefor, may merge with another
1249 reciprocal insurer or be converted to a stock or mutual insurer,
1250 to be thereafter governed by the applicable sections of the

1251 insurance code. However, a domestic stock insurer may not
1252 convert to a reciprocal insurer.

1253 (2) A plan to merge a reciprocal insurer with another
1254 reciprocal insurer or for conversion of the reciprocal insurer
1255 to a stock or mutual insurer shall be filed on forms adopted by
1256 the office ~~Such a stock or mutual insurer shall be subject to~~
1257 ~~the same capital or surplus requirements and shall have the same~~
1258 ~~rights as a like domestic insurer transacting like kinds of~~
1259 ~~insurance.~~

1260 (3) The office shall not approve any plan for such merger
1261 or conversion which is inequitable to subscribers or which, if
1262 for conversion to a stock insurer, does not give each subscriber
1263 preferential right to acquire stock of the proposed insurer
1264 proportionate to his or her interest in the reciprocal insurer,
1265 as determined in accordance with s. 629.281, and a reasonable
1266 length of time within which to exercise such right.

1267 (4) Reinsurance of all or substantially all of the
1268 insurance in force of a domestic reciprocal insurer in another
1269 insurer shall be deemed to be a merger for the purposes of this
1270 section.

1271 (5) (a) An assessable reciprocal insurer may convert to a
1272 nonassessable reciprocal insurer if:

1273 1. The subscriber's advisory committee approves the
1274 application for conversion;

1275 2. The attorney submits the application on the required

1276 application form; and
 1277 3. The office finds that the application meets the minimum
 1278 statutory requirements.
 1279 (b) If the office approves the application, the assessable
 1280 reciprocal insurer may convert to a nonassessable reciprocal
 1281 insurer by:
 1282 1. Extinguishing the contingent liability of subscribers
 1283 under all policies then in force in this state;
 1284 2. Omitting contingent liability provisions in all
 1285 policies delivered or issued in this state after the conversion;
 1286 and
 1287 3. Otherwise extinguishing the contingent liability of all
 1288 of its subscribers. However, if the reciprocal insurer is
 1289 transacting insurance as an authorized insurer in another state
 1290 and that state's laws require the insurer to issue policies with
 1291 contingent liability provisions, the insurer may issue
 1292 contingent liability policies in that other state.
 1293 (c) If the surplus of the reciprocal insurer becomes
 1294 impaired, the insurer may no longer issue nonassessable policies
 1295 or convert assessable policies to nonassessable policies, and
 1296 the provisions of s. 629.301 shall apply.
 1297 Section 32. Subsections (1) and (2) of section 629.301,
 1298 Florida Statutes, are amended to read:
 1299 629.301 Impaired reciprocal insurers.—
 1300 (1) If the assets of a ~~domestic~~ reciprocal insurer are at

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1301 any time insufficient to discharge its liabilities, other than
1302 any liability on account of funds contributed by the attorney or
1303 others, and to maintain the required surplus, its attorney shall
1304 forthwith make up the deficiency or levy an assessment upon the
1305 subscribers for the amount needed to make up the deficiency, but
1306 subject to the limitation set forth in the power of attorney or
1307 policy.

1308 (2) If the attorney fails to make up such deficiency or to
1309 make the assessment within 30 days after the office orders him
1310 or her to do so, or if the deficiency is not fully made up
1311 within 60 days after the date the assessment was made, the
1312 insurer shall be deemed insolvent and shall be proceeded against
1313 in the same manner as any other domestic insurer under chapter
1314 631 and the insurance ~~as authorized by this~~ code.

1315 Section 33. Section 629.401, Florida Statutes, is
1316 repealed.

1317 Section 34. Section 629.520, Florida Statutes, is
1318 repealed.

1319 Section 35. Section 629.525, Florida Statutes, is created
1320 to read:

1321 629.525 Rulemaking authority.—The commission shall adopt,
1322 amend, or repeal rules necessary to implement this part.

1323 Section 36. Part II of chapter 629, Florida Statutes,
1324 consisting of sections 629.601, 629.602, 629.603, 629.604,
1325 629.605, 629.606, 629.607, 629.608, 629.609, 629.611, 629.612,

1326 629.613, 629.614, 629.615, 629.616, 629.617, 629.618, 629.619,
 1327 629.6201, 629.621, 629.622, 629.623, 629.624, 629.625, 629.626,
 1328 629.627, 629.628, 629.629, 629.6301, 629.631, 629.632, 629.633,
 1329 and 629.634, Florida Statutes, is created and entitled
 1330 "Insurance Exchanges."

1331 Section 37. Section 629.601, Florida Statutes, is created
 1332 to read:

1333 629.601 Purposes.—

1334 (1) There may be created one or more insurance exchanges,
 1335 with one or more offices each, subject to such rules as are
 1336 adopted by the commission. For the purposes of this part, the
 1337 term "exchange" applies to any such insurance exchange proposed
 1338 or created under this part. The purposes of the exchange are:

1339 (a) To provide a facility for the underwriting of:

1340 1. Reinsurance of all kinds of insurance.

1341 2. Direct insurance of all kinds on risks located entirely
 1342 outside the United States.

1343 3. Surplus lines insurance for risks located in this state
 1344 eligible for export under s. 626.916 or s. 626.917 and placed
 1345 through a licensed Florida surplus lines agent subject to
 1346 compliance with the provisions of ss. 626.921, 626.922, 626.923,
 1347 626.924, 626.929, 626.9295, 626.930, and 626.931. With respect
 1348 to compliance with s. 626.924, the required legend may refer to
 1349 any coverage provided for by a security fund.

1350 4. Surplus lines insurance in any other state subject to

1351 the applicable surplus lines laws of such other state for risks
1352 located entirely outside of this state.

1353 (b) To manage the facility authorized by this section, in
1354 accordance with rules adopted by the commission.

1355 (2) In no event shall the exchange be considered to be an
1356 underwriter or broker with respect to any contract of insurance
1357 or reinsurance written by a member of the exchange, and the
1358 exchange may not incur any liability therefor.

1359 Section 38. Section 629.602, Florida Statutes, is created
1360 to read:

1361 629.602 Definitions.—As used in this part, the term:

1362 (1) "Affiliated person" of another person has the same
1363 meaning as in s. 629.011.

1364 (2) "Controlling company" means a corporation, trust, or
1365 association owning, directly or indirectly, 25 percent or more
1366 of the voting securities of one or more underwriting members.

1367 (3) "Premium" means the consideration for insurance, by
1368 whatever name called. The term includes an assessment or a
1369 membership, policy, survey, inspection, service fee or charge,
1370 or similar fee or charge in consideration for an insurance
1371 contract.

1372 (4) "Underwriting manager" means a person, partnership,
1373 corporation, or organization providing any of the following
1374 services to underwriting members of the exchange:

1375 (a) Office management and allied services, including

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1376 correspondence and secretarial services.

1377 (b) Accounting services, including bookkeeping and
1378 financial report preparation.

1379 (c) Investment and banking consultations and services.

1380 (d) Underwriting functions and services, including the
1381 acceptance, rejection, placement, and marketing of risk.

1382 (5) "Underwriting member" means any entity that is a
1383 member of the exchange and is licensed or authorized to
1384 underwrite insurance, including, but not limited to, domestic,
1385 foreign, and alien insurers. The term includes underwriting
1386 syndicates.

1387 Section 39. Section 629.603, Florida Statutes, is created
1388 to read:

1389 629.603 Formation of exchanges.—

1390 (1) The operation of this part becomes effective with
1391 respect to any exchange only after a determination by the office
1392 that the exchange may operate in an economic and beneficial
1393 manner. A committee shall be appointed to write the constitution
1394 and bylaws of the proposed exchange, to make such other
1395 recommendations as may be necessary to ensure maximum
1396 coordination of the operations of the exchange with existing
1397 insurance industry operations, and to ensure maximum economic
1398 benefits to the state from the operations of the exchange.

1399 (2) The committee shall consist of 13 members, 6 to be
1400 appointed by the Chief Financial Officer, 2 each to be appointed

1401 by the Speaker of the House of Representatives and the President
 1402 of the Senate, 1 each to be appointed by the Minority Leader of
 1403 the House of Representatives and the Minority Leader of the
 1404 Senate, and 1 to be appointed the Chief Financial Officer or his
 1405 or her designated representative. The chair shall be elected by
 1406 a majority of the committee.

1407 (3) The committee shall transmit such proposed
 1408 constitution and bylaws and such other recommendations to the
 1409 office and to the Legislature no later than 5 days before the
 1410 adjournment of a regular annual legislative session or no later
 1411 than 5 days before the commencement of any special or
 1412 organizational legislative session. Subject to the disapproval
 1413 of the constitution and bylaws by either house of the
 1414 Legislature by resolution before the end of such legislative
 1415 session, the exchange shall have full authority to function
 1416 pursuant to its constitution and bylaws 60 days after the end of
 1417 the session.

1418 Section 40. Section 629.604, Florida Statutes, is created
 1419 to read:

1420 629.604 Board of Governors of the exchange.-

1421 (1) The initial Board of Governors of the exchange shall
 1422 consist of 14 members, 3 of whom shall be appointed by the Chief
 1423 Financial Officer, 3 by the Speaker of the House of
 1424 Representatives, 3 by the President of the Senate, 1 by the
 1425 Minority Leader of the House of Representatives, 1 by the

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1426 Minority Leader of the Senate, and 3 by the Governor, to serve
1427 until the first election pursuant to the constitution or bylaws.
1428 These appointments shall be made no later than 30 days after the
1429 end of the legislative session referenced in s. 629.603(3).

1430 (2) All subsequent Boards of Governors shall consist of 13
1431 members:

1432 (a) Seven of whom shall be appointed by and serve at the
1433 pleasure of the Chief Financial Officer. Of these members:

1434 1. Five must not be members of the exchange.

1435 2. One of the two remaining members must be a broker
1436 member, and the other must be a representative of an
1437 underwriting member.

1438 (b) Six of whom shall be elected by the members of the
1439 exchange in accordance with the constitution and bylaws, except
1440 that at least five members shall be elected by the underwriting
1441 members of the exchange.

1442 Section 41. Section 629.605, Florida Statutes, is created
1443 to read:

1444 629.605 Constitution and bylaws of the exchange.—The
1445 constitution and bylaws of the exchange shall provide for, but
1446 shall not be limited to:

1447 (1) The selection and election of 13 governors, as
1448 required by s. 629.604(2).

1449 (2) The location of the principal offices of the exchange
1450 and the principal offices of its members to be within this state

1451 for the purpose of the transaction of the type of business
1452 described in s. 629.601. A principal office shall be one where
1453 officers and qualified personnel who are engaged in the
1454 administration, underwriting, claims, policyholders' service,
1455 marketing, accounting, recordkeeping, and all supportive
1456 services shall be located.

1457 (3) The submission by members and all applicants for
1458 membership on the exchange of such financial information as may
1459 be required by the office.

1460 (4) The establishment by the exchange of a security fund
1461 in such form and amount as approved by the office. With respect
1462 to contracts of insurance written or renewed on or after July 2,
1463 1987:

1464 (a) The security fund shall pay that amount of each
1465 covered claim which is determined to be payable in accordance
1466 with the constitution and bylaws and is in excess of \$300 and
1467 less than \$750,000 except that the fund shall not be obligated
1468 to a policyholder or claimant in an amount in excess of the
1469 obligation of the insolvent underwriting member under the policy
1470 from which the claim arises.

1471 (b) The security fund shall have no obligation and shall
1472 make no payment of any obligation arising under any such
1473 contract or with respect to any contract of reinsurance written
1474 or renewed on or after July 2, 1987, to the extent the payment
1475 or payments exceed, either individually or in the aggregate, 10

1476 percent of the insolvent underwriting member's surplus as to
1477 policyholders as reflected on the most recent sworn annual
1478 statement of the insolvent underwriting member filed with the
1479 office prior to issuance of such contract.

1480 (c) For the purposes of this subsection, each reinsurance
1481 treaty and each contract of insurance inuring to the benefit of
1482 multiple parties shall constitute only one contract, and covered
1483 claims include unpaid claims, including claims of unearned
1484 premiums, which arise out of and are within the coverage and are
1485 not in excess of the applicable limits of an insurance policy
1486 issued by an insolvent underwriting member through the
1487 facilities of the exchange.

1488 (5) The voting power of underwriting members.

1489 (6) The voting power and other rights granted under the
1490 provisions of the not-for-profit corporation law, chapter 617,
1491 to participate in the conduct and management of the affairs of
1492 the exchange, by brokers, agents, and intermediaries transacting
1493 business on the exchange, each of whom shall be considered
1494 members only under the provisions of such law.

1495 (7) The rights and duties of exchange members, which may
1496 include, but shall not be limited to, the manner and form of
1497 conducting business, financial stability, dues, membership fees,
1498 mandatory arbitration, and all other matters necessary or
1499 appropriate to conduct any business permitted herein.

1500

1501 Any amendments to the constitution and bylaws are subject to the
 1502 approval of the office.

1503 Section 42. Section 629.606, Florida Statutes, is created
 1504 to read:

1505 629.606 Taxation.—Any insurance exchange formed under this
 1506 part is not subject to any state or local taxes or fees measured
 1507 by income, premiums, or gross receipts; except that for purposes
 1508 of taxation under s. 624.509, direct premiums written, procured,
 1509 or received by a member or members through the exchange on risks
 1510 located in this state shall be construed to be written,
 1511 procured, or received by the exchange, and the premium tax due
 1512 on said premium shall be reported and paid by the exchange.

1513 Section 43. Section 629.607, Florida Statutes, is created
 1514 to read:

1515 629.607 Expenses.—The exchange shall reimburse the office
 1516 for any expenses incurred by the office relating to the
 1517 regulation of the exchange and its members. Each person or
 1518 entity examined by the office shall pay the exchange for the
 1519 expenses incurred in such examination.

1520 (1) The office shall examine the affairs, transactions,
 1521 accounts, records, and assets of any security fund, exchange,
 1522 members, and associate brokers as often as it deems advisable.
 1523 The examination may be conducted by the accredited examiners of
 1524 the office at the offices of the entity or person being
 1525 examined. The office shall examine in like manner each

1526 prospective member or associate broker applying for membership
 1527 in an exchange.

1528 (2) If the department has reason to believe that any
 1529 agent, as defined in s. 626.015 or s. 626.914, has violated or
 1530 is violating any provision of the insurance law, or upon receipt
 1531 of a written complaint signed by any interested person
 1532 indicating that any such violation may exist, the department
 1533 shall conduct such examination as it deems necessary of the
 1534 accounts, records, documents, and transactions pertaining to or
 1535 affecting the insurance affairs of such agent.

1536 (3) Any person or entity that willfully obstructs the
 1537 office or its examiner in an examination commits a misdemeanor
 1538 of the second degree, punishable as provided in s. 775.082 or s.
 1539 775.083.

1540 Section 44. Section 629.608, Florida Statutes, is created
 1541 to read:

1542 629.608 Powers of examiners; subpoenas and testimony.—

1543 (1) Any examiner appointed by the office, as to the
 1544 subject of any examination, investigation, or hearing being
 1545 conducted by him or her, may administer oaths, examine and
 1546 cross-examine witnesses, and receive oral and documentary
 1547 evidence, and shall have the power to subpoena witnesses, compel
 1548 their attendance and testimony, and require by subpoena the
 1549 production of books, papers, records, files, correspondence,
 1550 documents, or other evidence which the examiner deems relevant

1551 to the inquiry. If any person refuses to comply with any such
1552 subpoena or to testify as to any matter concerning which he or
1553 she may be lawfully interrogated, the Circuit Court of Leon
1554 County or the circuit court of the county wherein such
1555 examination, investigation, or hearing is being conducted, or of
1556 the county wherein such person resides, on the office's
1557 application may issue an order requiring such person to comply
1558 with the subpoena and to testify; and any failure to obey such
1559 an order of the court may be punished by the court as a contempt
1560 thereof.

1561 (2) Any person who refuses or fails, without lawful cause,
1562 to testify relative to the affairs of a member, associate
1563 broker, or other person when subpoenaed and requested by the
1564 office to so testify, as provided in subsection (1), commits a
1565 misdemeanor of the second degree, punishable as provided in s.
1566 775.082 or s. 775.083, in addition to the penalty provided in
1567 subsection (1).

1568 (3) Any person willfully testifying falsely under oath as
1569 to any matter material to any examination, investigation, or
1570 hearing shall upon conviction thereof be guilty of perjury and
1571 shall be punished accordingly.

1572 (4)(a) If any person asks to be excused from attending or
1573 testifying or from producing any books, papers, records,
1574 contracts, documents, or other evidence in connection with any
1575 examination, hearing, or investigation being conducted by the

1576 office or its examiner, on the ground that the testimony or
1577 evidence required of the person may tend to incriminate him or
1578 her or subject him or her to a penalty or forfeiture, and the
1579 person notwithstanding is directed to give such testimony or
1580 produce such evidence, he or she shall, if so directed by the
1581 office and the Department of Legal Affairs, nonetheless comply
1582 with such direction; but the person may not thereafter be
1583 prosecuted or subjected to any penalty or forfeiture for or on
1584 account of any transaction, matter, or thing concerning which he
1585 or she may have so testified or produced evidence, and no
1586 testimony so given or evidence so produced shall be received
1587 against him or her upon any criminal action, investigation, or
1588 proceeding; except that such person so testifying is not exempt
1589 from prosecution or punishment for any perjury committed by him
1590 or her in such testimony, and the testimony or evidence so given
1591 or produced shall be admissible against him or her upon any
1592 criminal action, investigation, or proceeding concerning such
1593 perjury, nor shall he or she be exempt from the refusal,
1594 suspension, or revocation of any license, permission, or
1595 authority conferred, or to be conferred, pursuant to the
1596 insurance law.

1597 (b) Any such individual may execute, acknowledge, and file
1598 with the office a statement expressly waiving such immunity or
1599 privilege in respect to any transaction, matter, or thing
1600 specified in such statement, and thereupon the testimony of such

1601 individual or such evidence in relation to such transaction,
 1602 matter, or thing may be received or produced before any judge or
 1603 justice, court, tribunal, grand jury, or otherwise; and if such
 1604 testimony or evidence is so received or produced, such
 1605 individual shall not be entitled to any immunity or privileges
 1606 on account of any testimony so given or evidence so produced.

1607 (5) Subpoenas shall be served, and proof of such service
 1608 made, in the same manner as if issued by a circuit court.

1609 (6) Witness fees and mileage, if claimed, shall be allowed
 1610 the same as for testimony in a circuit court.

1611 Section 45. Section 629.609, Florida Statutes, is created
 1612 to read:

1613 629.609 Written examination reports.-

1614 (1) The office or its examiner shall make a full and true
 1615 written report of any examination. The report must contain only
 1616 information obtained from examination of the records, accounts,
 1617 files, and documents of or relative to the person or entity
 1618 examined or from testimony of individuals under oath, together
 1619 with relevant conclusions and recommendations of the examiner
 1620 based thereon. The office shall furnish a copy of the report to
 1621 the person or entity examined not less than 30 days prior to
 1622 filing the report in its office. If such person or entity so
 1623 requests in writing within such 30-day period, the office shall
 1624 grant a hearing with respect to the report and shall not file
 1625 the report until after the hearing and after such modifications

1626 have been made therein as the office deems proper.

1627 (2) The report of an examination when filed shall be
1628 admissible in evidence in any action or proceeding brought by
1629 the office against the person or entity examined, or against his
1630 or her or its officers, employees, or agents. The office or its
1631 examiners may at any time testify and offer other proper
1632 evidence as to information secured or matters discovered during
1633 the course of an examination, whether or not a written report of
1634 the examination has been either made, furnished, or filed in the
1635 office.

1636 (3) After an examination report has been filed, the office
1637 may publish the results of any such examination in one or more
1638 newspapers published in this state, or on its website, whenever
1639 it deems it to be in the public interest.

1640 (4) After the examination report of an underwriting member
1641 has been filed, an affidavit shall be filed with the office, not
1642 more than 30 days after the report has been filed, on a form
1643 furnished by the office and signed by the person or a
1644 representative of any entity examined, stating that the report
1645 has been read and that the recommendations made in the report
1646 will be considered within a reasonable time.

1647 Section 46. Section 629.611, Florida Statutes, is created
1648 to read:

1649 629.611 Correction and reconstruction of records.—If the
1650 office finds any accounts or records to be inadequate, or

1651 inadequately kept or posted, it may employ experts to
 1652 reconstruct, rewrite, post, or balance them at the expense of
 1653 the person or entity being examined if such person or entity has
 1654 failed to maintain, complete, or correct such records or
 1655 accounts after the office has given him or her or it notice and
 1656 reasonable opportunity to do so.

1657 Section 47. Section 629.612, Florida Statutes, is created
 1658 to read:

1659 629.612 Underwriting members of the exchange. -

1660 (1) The provisions of ss. 625.012, 625.031, and 625.302-
 1661 625.338 shall be applicable to the underwriting members of an
 1662 exchange in the same manner as those sections apply to domestic
 1663 insurers authorized to do business in this state.

1664 (2) All underwriting members must maintain a minimum
 1665 policyholder surplus of \$5 million to write insurance. Except
 1666 for that portion of the paid-in capital and surplus which shall
 1667 be maintained in a security fund of an exchange, the paid-in
 1668 capital and surplus shall be invested by an underwriting member
 1669 in a manner consistent with ss. 625.301-625.340. The portion of
 1670 the paid-in capital and surplus in any security fund of an
 1671 exchange shall be invested in a manner limited to investments
 1672 for life insurance companies under the Florida insurance laws.

1673 (3) All underwriting members must be members of the
 1674 security fund of any exchange.

1675 Section 48. Section 629.613, Florida Statutes, is created

1676 to read:

1677 629.613 Establishment of underwriting members.-

1678 (1) An underwriting member may not commence operation
 1679 without the approval of the office. Before commencing operation,
 1680 an underwriting member must provide a written application on a
 1681 form adopted by the commission which contains:

1682 (a) The name, type, and purpose of the underwriting
 1683 member. An underwriting member may not be formed or authorized
 1684 to transact insurance in this state under a name that is the
 1685 same as that of any authorized insurer or is so nearly similar
 1686 thereto as to cause or tend to cause confusion or under a name
 1687 that would tend to mislead as to the type of organization of the
 1688 insurer. Before incorporating under or using any name, the
 1689 underwriting syndicate or proposed underwriting syndicate must
 1690 submit its name or proposed name to the office for the approval
 1691 of the office.

1692 (b) The name, residence address, business background, and
 1693 qualifications of each person associated or to be associated in
 1694 the formation or financing of the underwriting member.

1695 (c) A full disclosure of the terms of all understandings
 1696 and agreements existing or proposed among persons so associated
 1697 relative to the underwriting member, or the formation or
 1698 financing thereof, accompanied by a copy of each such agreement
 1699 or understanding.

1700 (d) A full disclosure of the terms of all understandings

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1701 and agreements existing or proposed for management or exclusive
1702 agency contracts.

1703 (2) In connection with any proposal to establish an
1704 underwriting member, the office shall investigate:

1705 (a) The character, reputation, financial standing, and
1706 motives of the organizers, incorporators, or subscribers
1707 organizing the proposed underwriting member.

1708 (b) The character, financial responsibility, insurance
1709 experience, and business qualifications of its proposed
1710 officers.

1711 (c) The character, financial responsibility, business
1712 experience, and standing of the proposed stockholders and
1713 directors, or owners.

1714 Section 49. Section 629.614, Florida Statutes, is created
1715 to read:

1716 629.614 Notice of changes in management, ownership, or
1717 assets.—

1718 (1) An underwriting member shall promptly give the office
1719 written notice of any change among the directors or principal
1720 officers of the underwriting member within 30 days after such
1721 change. The office shall investigate the new directors or
1722 principal officers of the underwriting member. The office's
1723 investigation shall include an investigation of the character,
1724 financial responsibility, insurance experience, and business
1725 qualifications of any new directors or principal officers. As a

1726 result of the investigation, the office may require the
1727 underwriting member to replace any new directors or principal
1728 officers.

1729 (2) A person may not conclude a tender offer or an
1730 exchange offer or otherwise acquire 5 percent or more of the
1731 outstanding voting securities of an underwriting member or
1732 controlling company or purchase 5 percent or more of the
1733 ownership of an underwriting member or controlling company
1734 unless such person has filed with, and obtained the approval of,
1735 the office and sent to such underwriting member a statement, on
1736 a form adopted by the commission, providing:

1737 (a) The identity of, and background information on, each
1738 person by whom, or on whose behalf, the acquisition is to be
1739 made; and, if the acquisition is to be made by or on behalf of a
1740 corporation, association, or trust, the identity of and
1741 background information on each director, officer, trustee, or
1742 other natural person performing duties similar to those of a
1743 director, officer, or trustee for the corporation, association,
1744 or trust.

1745 (b) The source and amount of the funds or other
1746 consideration used, or to be used, in making the acquisition.

1747 (c) Any plan or proposal which such person may have to
1748 liquidate such member, to sell its assets, or to merge or
1749 consolidate it.

1750 (d) The percentage of ownership which such person proposes

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1751 to acquire and the terms of the offer or exchange, as the case
1752 may be.

1753 (e) Information as to any contracts, arrangements, or
1754 understandings with any party with respect to any securities of
1755 such member or controlling company, including, but not limited
1756 to, information relating to the transfer of any securities,
1757 option arrangements, or puts or calls or the giving or
1758 withholding of proxies, naming the party with whom such
1759 contract, arrangements, or understandings have been entered and
1760 giving the details thereof.

1761 (3) The office may disapprove any acquisition subject to
1762 this section by any person or any affiliated person of such
1763 person who:

1764 (a) Willfully violates this section;

1765 (b) In violation of an order of the office issued pursuant
1766 to (8), fails to divest himself or herself of any stock obtained
1767 in violation of this section, or fails to divest himself or
1768 herself of any direct or indirect control of such stock, within
1769 25 days after such order; or

1770 (c) In violation of an order issued by the office pursuant
1771 to (8), acquires additional stock of the underwriting member or
1772 controlling company, or direct or indirect control of such
1773 stock, without complying with this subsection.

1774 (4) The person or persons filing the statements required
1775 by this section have the burden of proof.

1776 (5) The office shall approve any such acquisition if it
1777 finds, on the basis of the record made during any proceeding or
1778 on the basis of the filed statement if no proceeding is
1779 conducted, that:

1780 (a) Upon completion of the acquisition, the underwriting
1781 member will be able to satisfy the requirements for the approval
1782 to write the line or lines of insurance for which it is
1783 presently approved;

1784 (b) The financial condition of the acquiring person or
1785 persons will not jeopardize the financial stability of the
1786 underwriting member or prejudice the interests of its
1787 policyholders or the public;

1788 (c) Any plan or proposal of the acquiring party is fair
1789 and free of prejudice to the policyholders of the underwriting
1790 member and the public, if the plan or proposal will:

1791 1. Liquidate the insurer, sell its assets, or merge or
1792 consolidate it with any person, or to make any other major
1793 change in its business or corporate structure or management; or

1794 2. Liquidate any controlling company, sell its assets, or
1795 merge or consolidate it with any person, or to make any major
1796 change in its business or corporate structure or management
1797 which would have an effect upon the underwriting member;

1798 (d) The competence, experience, and integrity of those
1799 persons who will control directly or indirectly the operation of
1800 the underwriting member indicate that the acquisition is in the

1801 best interest of the policyholders of the underwriting member
1802 and in the public interest;

1803 (e) The natural persons for whom background information is
1804 required to be furnished pursuant to this section have such
1805 backgrounds as to indicate that it is in the best interests of
1806 the policyholders of the underwriting member, and in the public
1807 interest, to permit such persons to exercise control over such
1808 underwriting member;

1809 (f) The officers and directors to be employed after the
1810 acquisition have sufficient insurance experience and ability to
1811 assure reasonable promise of successful operation;

1812 (g) The management of the underwriting member after the
1813 acquisition will be competent and trustworthy and will possess
1814 sufficient managerial experience so as to make the proposed
1815 operation of the underwriting member not hazardous to the
1816 insurance-buying public;

1817 (h) The management of the underwriting member after the
1818 acquisition will not include any person who has directly or
1819 indirectly through ownership, control, reinsurance transactions,
1820 or other insurance or business relations unlawfully manipulated
1821 the assets, accounts, finances, or books of any insurer or
1822 underwriting member or otherwise acted in bad faith with respect
1823 thereto;

1824 (i) The acquisition is not likely to be hazardous or
1825 prejudicial to the underwriting member's policyholders or the

1826 public; and

1827 (j) The effect of the acquisition of control would not
1828 substantially lessen competition in insurance in this state or
1829 would not tend to create a monopoly therein.

1830 (6) A vote by the stockholder of record, or by any other
1831 person, of any security acquired in contravention of this
1832 section is not valid. Any acquisition of any security contrary
1833 to this section is void. Upon the petition of the underwriting
1834 member or controlling company, the circuit court for the county
1835 in which the principal office of such underwriting member is
1836 located may, without limiting the generality of its authority,
1837 order the issuance or entry of an injunction or other order to
1838 enforce this section. There shall be a private right of action
1839 in favor of the underwriting member or controlling company to
1840 enforce this subsection. A demand upon the office that it
1841 performs its functions may not be required as a prerequisite to
1842 any suit by the underwriting member or controlling company
1843 against any other person, and in no case shall the office be
1844 deemed a necessary party to any action by such underwriting
1845 member or controlling company to enforce this section. Any
1846 person who makes or proposes an acquisition requiring the filing
1847 of a statement pursuant to this section, or who files such a
1848 statement, shall be deemed to have thereby designated the Chief
1849 Financial Officer as such person's agent for service of process
1850 under this section and shall thereby be deemed to have submitted

1851 himself or herself to the administrative jurisdiction of the
1852 office and to the jurisdiction of the circuit court.

1853 (7) Any approval by the office under this section does not
1854 constitute a recommendation by the office for an acquisition,
1855 tender offer, or exchange offer. It is unlawful for a person to
1856 represent that the office's approval constitutes a
1857 recommendation. A person who violates the provisions of this
1858 section commits a felony of the third degree, punishable as
1859 provided in s. 775.082, s. 775.083, or s. 775.084. The statute-
1860 of-limitations period for the prosecution of an offense
1861 committed under this section is 5 years.

1862 (8) Upon notification to the office by the underwriting
1863 member or a controlling company that any person or any
1864 affiliated person of such person has acquired 5 percent or more
1865 of the outstanding voting securities of the underwriting member
1866 or controlling company without complying with this section, the
1867 office shall order that the person and any affiliated person of
1868 such person cease acquisition of any further securities of the
1869 underwriting member or controlling company; however, the person
1870 or any affiliated person of such person may request a
1871 proceeding, which proceeding shall be convened within 7 days
1872 after the rendering of the order for the sole purpose of
1873 determining whether the person, individually or in connection
1874 with any affiliated person of such person, has acquired 5
1875 percent or more of the outstanding voting securities of an

1876 underwriting member or controlling company. Upon the failure of
1877 the person or affiliated person to request a hearing within 7
1878 days, or upon a determination at a hearing convened pursuant to
1879 this subsection that the person or affiliated person has
1880 acquired voting securities of an underwriting member or
1881 controlling company in violation of this section, the office may
1882 order the person and affiliated person to divest themselves of
1883 any voting securities so acquired.

1884 (9) The office shall, if necessary to protect the public
1885 interest, suspend or revoke the certificate of authority of any
1886 underwriting member or controlling company:

1887 (a) The control of which is acquired in violation of this
1888 section;

1889 (b) That is controlled, directly or indirectly, by any
1890 person or any affiliated person of such person who, in violation
1891 of this section, has obtained control of an underwriting member
1892 or controlling company; or

1893 (c) That is controlled, directly or indirectly, by any
1894 person who, directly or indirectly, controls any other person
1895 who, in violation of this section, acquires control of an
1896 underwriting member or controlling company.

1897 (10) If any underwriting member is subject to suspension
1898 or revocation pursuant to subsection (9), the underwriting
1899 member shall be deemed to be in such condition, or to be using
1900 or to have been subject to such methods or practices in the

1901 conduct of its business, as to render its further transaction of
 1902 insurance presently or prospectively hazardous to its
 1903 policyholders, creditors, or stockholders or to the public.

1904 Section 50. Section 629.615, Florida Statutes, is created
 1905 to read:

1906 629.615 Recordkeeping and annual report.-

1907 (1) Each underwriting member shall have and maintain its
 1908 principal place of business in this state and shall keep therein
 1909 complete records of its assets, transactions, and affairs in
 1910 accordance with such methods and systems as are customary for or
 1911 suitable to the kind or kinds of insurance transacted.

1912 (2) Each underwriting member shall file with the office a
 1913 full and true statement of its financial condition,
 1914 transactions, and affairs. The statement shall be filed on or
 1915 before March 1 of each year, or within such extension of time as
 1916 the office for good cause grants and shall be for the preceding
 1917 calendar year. The statement shall contain information generally
 1918 included in insurer financial statements prepared in accordance
 1919 with generally accepted insurance accounting principles and
 1920 practices and in a form generally used by insurers for financial
 1921 statements, sworn to by at least two executive officers of the
 1922 underwriting member. The form of the financial statements shall
 1923 be the approved form of the National Association of Insurance
 1924 Commissioners or its successor organization. The commission may
 1925 by rule require each insurer to submit any part of the

1926 information contained in the financial statement in a computer-
1927 readable form compatible with the office's electronic data
1928 processing system. In addition to information furnished in
1929 connection with its annual statement, an underwriting member
1930 must furnish to the office as soon as reasonably possible such
1931 information about its transactions or affairs as the office
1932 requests in writing. All information furnished pursuant to the
1933 office's request must be verified by the oath of two executive
1934 officers of the underwriting member.

1935 Section 51. Section 629.616, Florida Statutes, is created
1936 to read:

1937 629.616 Limitations on coverage written by underwriting
1938 members.—

1939 (1) An underwriting member may not expose itself to any
1940 loss on any one risk in an amount exceeding 10 percent of its
1941 surplus to policyholders. Any risk or portion of any risk which
1942 shall have been reinsured in an assuming reinsurer authorized or
1943 approved to do such business in this state shall be deducted in
1944 determining the limitation of risk prescribed in this section.

1945 (2) If the office has reason to believe that the
1946 underwriting member's ratio of actual or projected annual gross
1947 written premiums to policyholder surplus exceeds 8 to 1 or the
1948 underwriting member's ratio of actual or projected annual net
1949 premiums to policyholder surplus exceeds 4 to 1, the office may
1950 establish maximum gross or net annual premiums to be written by

1951 the underwriting member consistent with maintaining the ratios
 1952 specified in this sub-subparagraph.

1953 (a) Projected annual net or gross premiums shall be based
 1954 on the actual writings to date for the underwriting member's
 1955 current calendar year, its writings for the previous calendar
 1956 year, or both. Ratios shall be computed on an annualized basis.

1957 (b) For purposes of this subsection, the term "gross
 1958 written premiums" means direct premiums written and reinsurance
 1959 assumed.

1960 (3) For the purpose of determining the limitation on
 1961 coverage written, surplus as to policyholders shall be deemed to
 1962 include any voluntary reserves, or any part thereof, which are
 1963 not required by or pursuant to law and shall be determined from
 1964 the last sworn statement of such underwriting member with the
 1965 office, or by the last report or examination filed by the
 1966 office, whichever is more recent at the time of assumption of
 1967 such risk.

1968 Section 52. Section 629.617, Florida Statutes, is created
 1969 to read:

1970 629.617 Reserves of underwriting members.-

1971 (1) An underwriting member must at all times maintain an
 1972 unearned premium reserve equal to 50 percent of the net written
 1973 premiums of the subscribers on policies having 1 year or less to
 1974 run, and pro rata on those for longer periods, except that all
 1975 premiums on any marine or transportation insurance trip risk

1976 shall be deemed unearned until the trip is terminated. For the
 1977 purpose of this subparagraph, the term "net written premiums"
 1978 means the premium payments made by subscribers plus the premiums
 1979 due from subscribers, after deducting the amounts specifically
 1980 provided in the subscribers' agreements for expenses, including
 1981 reinsurance costs and fees paid to the attorney in fact,
 1982 provided that the power of attorney agreement contains an
 1983 explicit provision requiring the attorney in fact to refund any
 1984 unearned subscribers fees on a pro-rata basis for canceled
 1985 policies. If there is no such provision, the unearned premium
 1986 reserve shall be calculated without any adjustment for fees paid
 1987 to the attorney in fact. If the unearned premium reserves at any
 1988 time do not amount to \$100,000, there shall be maintained on
 1989 deposit at the exchange at all times additional funds in cash or
 1990 eligible securities which, together with the unearned premium
 1991 reserves, equal \$100,000. In calculating the foregoing reserves,
 1992 the amount of the attorney's bond, as filed with the office and
 1993 as required by s. 629.121, shall be included in such reserves.
 1994 If at any time the unearned premium reserves are less than the
 1995 foregoing requirements, the subscribers, or the attorney in
 1996 fact, shall advance funds to make up the deficiency. Such
 1997 advances shall only be repaid out of the surplus of the exchange
 1998 and only after receiving written approval from the office.

1999 (2) All underwriting members of an exchange shall maintain
 2000 loss reserves, including a reserve for incurred but not reported

2001 claims. The reserves shall be subject to review by the office,
 2002 and, if loss experience shows that an underwriting member's loss
 2003 reserves are inadequate, the office shall require the
 2004 underwriting member to maintain loss reserves in such additional
 2005 amount as is needed to make them adequate.

2006 Section 53. Section 629.618, Florida Statutes, is created
 2007 to read:

2008 629.618 Dividends and profits.-

2009 (1) An underwriting member may not distribute any profits
 2010 in the form of cash or other assets to owners except out of that
 2011 part of its available and accumulated surplus funds which is
 2012 derived from realized net operating profits on its business and
 2013 realized capital gains. In any one year such payments to owners
 2014 may not exceed 30 percent of such surplus as of December 31 of
 2015 the immediately preceding year, unless otherwise approved by the
 2016 office. No distribution of profits shall be made that would
 2017 render an underwriting member impaired or insolvent.

2018 (2) A stock dividend may be paid by an underwriting member
 2019 out of any available surplus funds in excess of the aggregate
 2020 amount of surplus advanced to the underwriting member under s.
 2021 629.619.

2022 (3) A dividend otherwise lawful may be payable out of an
 2023 underwriting member's earned surplus even though the total
 2024 surplus of the underwriting member is then less than the
 2025 aggregate of its past contributed surplus resulting from

2026 issuance of its capital stock at a price in excess of the par
2027 value thereof.

2028 Section 54. Section 629.619, Florida Statutes, is created
2029 to read:

2030 629.619 Borrowing of money by underwriting members.-

2031 (1) An underwriting member may borrow money to defray the
2032 expenses of its organization, provide it with surplus funds, or
2033 for any purpose of its business, upon a written agreement that
2034 such money is required to be repaid only out of the underwriting
2035 member's surplus in excess of that stipulated in such agreement.
2036 The agreement may provide for interest not exceeding 15 percent
2037 simple interest per annum. The interest shall or shall not
2038 constitute a liability of the underwriting member as to its
2039 funds other than such excess of surplus, as stipulated in the
2040 agreement. A commission or promotion expense may not be paid in
2041 connection with any such loan. The use of any surplus note and
2042 any repayments thereof shall be subject to the approval of the
2043 office.

2044 (2) Money so borrowed, together with any interest thereon
2045 if so stipulated in the agreement, may not form a part of the
2046 underwriting member's legal liabilities except as to its surplus
2047 in excess of the amount thereof stipulated in the agreement, nor
2048 be the basis of any setoff; but until repayment, financial
2049 statements filed or published by an underwriting member shall
2050 show as a footnote thereto the amount thereof then unpaid,

2051 together with any interest thereon accrued but unpaid.

2052 Section 55. Section 629.6201, Florida Statutes, is created
 2053 to read:

2054 629.6201 Improperly issued contracts, riders, and
 2055 endorsements.-

2056 (1) Any insurance policy, rider, or endorsement issued by
 2057 an underwriting member and otherwise valid which contains any
 2058 condition or provision not in compliance with the requirements
 2059 of this part may not be thereby rendered invalid, except as
 2060 provided in s. 627.415, but shall be construed and applied in
 2061 accordance with such conditions and provisions as would have
 2062 applied had such policy, rider, or endorsement been in full
 2063 compliance with this part. In the event an underwriting member
 2064 issues or delivers any policy for an amount which exceeds any
 2065 limitations otherwise provided in this part, the underwriting
 2066 member shall be liable to the insured or his or her beneficiary
 2067 for the full amount stated in the policy in addition to any
 2068 other penalties that may be imposed.

2069 (2) Any insurance contract delivered or issued for
 2070 delivery in this state governing a subject or subjects of
 2071 insurance resident, located, or to be performed in this state
 2072 which, pursuant to the provisions of this part, the underwriting
 2073 member may not lawfully insure under such a contract shall be
 2074 cancelable at any time by the underwriting member, any provision
 2075 of the contract to the contrary notwithstanding; and the

2076 underwriting member shall promptly cancel the contract in
 2077 accordance with the request of the office therefor. No such
 2078 illegality or cancellation shall be deemed to relieve the
 2079 underwriting syndicate of any liability incurred by it under the
 2080 contract while in force or to prohibit the underwriting
 2081 syndicate from retaining the pro rata earned premium thereon.
 2082 This provision does not relieve the underwriting syndicate from
 2083 any penalty otherwise incurred by the underwriting syndicate.

2084 Section 56. Section 629.621, Florida Statutes, is created
 2085 to read:

2086 629.621 Satisfaction of judgments.-

2087 (1) Every judgment or decree for the recovery of money
 2088 heretofore or hereafter entered in any court of competent
 2089 jurisdiction against any underwriting member shall be fully
 2090 satisfied within 60 days from and after the entry thereof or, in
 2091 the case of an appeal from such judgment or decree, within 60
 2092 days from and after the affirmance of the judgment or decree by
 2093 the appellate court.

2094 (2) If the judgment or decree is not satisfied as required
 2095 under subsection (1) and the office has received official
 2096 documentation of that failure to satisfy the judgement or
 2097 decree, the office shall forthwith prohibit the underwriting
 2098 member from transacting business. The office may not permit such
 2099 underwriting member to write any new business until the judgment
 2100 or decree, as well as any associated expenses and fees, is

2101 wholly paid and satisfied and proof thereof is filed. The proof
 2102 filed must include official documentation from the clerk of the
 2103 court where the judgment was entered, showing that the judgment
 2104 or decree, expenses, and fees are satisfied.

2105 Section 57. Section 629.622, Florida Statutes, is created
 2106 to read:

2107 629.622 Liquidation, rehabilitation, and restrictions.—The
 2108 office, upon a showing that a member or associate broker of an
 2109 exchange has met one or more of the grounds contained in part I
 2110 of chapter 631, may restrict sales by type of risk, policy or
 2111 contract limits, premium levels, or policy or contract
 2112 provisions; increase surplus or capital requirements of
 2113 underwriting members; issue cease and desist orders; suspend or
 2114 restrict a member's or associate broker's right to transact
 2115 business; place an underwriting member under conservatorship or
 2116 rehabilitation; or seek an order of liquidation as authorized by
 2117 part I of chapter 631.

2118 Section 58. Section 629.623, Florida Statutes, is created
 2119 to read:

2120 629.623 Prohibited conduct; penalties.—

2121 (1) The following acts by a member, associate broker, or
 2122 affiliated person constitute prohibited conduct:

2123 (a) Fraud.

2124 (b) Fraudulent or dishonest acts committed by a member or
 2125 associate broker before admission to an exchange, if the facts

2126 and circumstances were not disclosed to the office upon
2127 application to become a member or associate broker.

2128 (c) Conduct detrimental to the welfare of an exchange.

2129 (d) Unethical or improper practices or conduct,
2130 inconsistent with just and equitable principles of trade as set
2131 forth in, but not limited to, ss. 626.951-626.9641 and 626.973.

2132 (e) Failure to use due diligence to ascertain the
2133 insurance needs of a client or a principal.

2134 (f) Misstatements made under oath or upon an application
2135 for membership on an exchange.

2136 (g) Failure to testify or produce documents when requested
2137 by the office.

2138 (h) Willful violation of any law of this state.

2139 (i) Failure of an officer or principal to testify under
2140 oath concerning a member, associate broker, or other person's
2141 affairs as they relate to the operation of an exchange.

2142 (j) Violation of the constitution and bylaws of the
2143 exchange.

2144 (2)(a) The office may order the suspension of further
2145 transaction of business on the exchange of any member or
2146 associate broker found to have engaged in prohibited conduct. In
2147 addition, any member or associate broker found to have engaged
2148 in prohibited conduct may be subject to reprimand, censure, or a
2149 fine not exceeding \$75,000 imposed by the office.

2150 (b) Any member that has an affiliated person who is found

2151 to have engaged in prohibited conduct shall be subject to
 2152 involuntary withdrawal or in addition thereto may be subject to
 2153 suspension, reprimand, censure, or a fine not exceeding \$75,000.

2154 (3) Any suspension, reprimand, censure, or fine may be
 2155 remitted or reduced by the office on such terms and conditions
 2156 as are deemed fair and equitable.

2157 Section 59. Section 629.624, Florida Statutes, is created
 2158 to read:

2159 629.624 Fines.-

2160 (1) Fines imposed under this part shall be remitted to the
 2161 office and shall be deposited into the Insurance Regulatory
 2162 Trust Fund.

2163 (2) When a member or associate broker has failed to pay a
 2164 fine for 15 days after the fine becomes payable, the member or
 2165 associate broker shall be suspended, unless the office has
 2166 granted an extension of time to pay the fine.

2167 Section 60. Section 629.625, Florida Statutes, is created
 2168 to read:

2169 629.625 Suspension.-

2170 (1) A member or associate broker that is suspended shall
 2171 be deprived, during the period of suspension, of all rights and
 2172 privileges of a member or of an associate broker and may be
 2173 proceeded against by the office for any offense committed before
 2174 or after the date of suspension.

2175 (2) A member or associate broker that is suspended may be

2176 reinstated at any time on such terms and conditions as the
2177 office may specify.

2178 Section 61. Section 629.626, Florida Statutes, is created
2179 to read:

2180 629.626 Retaliation.-

2181 (1) When by or pursuant to the laws of any other state or
2182 foreign country any taxes, licenses, or other fees, in the
2183 aggregate, and any fines, penalties, deposit requirements, or
2184 other material obligations, prohibitions, or restrictions are or
2185 would be imposed upon an exchange or upon the agents or
2186 representatives of such exchange which are in excess of such
2187 taxes, licenses, and other fees, in the aggregate, or which are
2188 in excess of such fines, penalties, deposit requirements, or
2189 other obligations, prohibitions, or restrictions directly
2190 imposed upon similar exchanges or upon the agents or
2191 representatives of such exchanges of such other state or country
2192 under the statutes of this state, so long as such laws of such
2193 other state or country continue in force or are so applied, the
2194 same taxes, licenses, and other fees, in the aggregate, or
2195 fines, penalties, deposit requirements, or other material
2196 obligations, prohibitions, or restrictions of whatever kind
2197 shall be imposed by the office upon the exchanges, or upon the
2198 agents or representatives of such exchanges, of such other state
2199 or country doing business or seeking to do business in this
2200 state.

2201 (2) Any tax, license, or other obligation imposed by any
 2202 city, county, or other political subdivision or agency of a
 2203 state, jurisdiction, or foreign country on an exchange, or on
 2204 the agents or representatives on an exchange, shall be deemed to
 2205 be imposed by such state, jurisdiction, or foreign country
 2206 within the meaning of subsection (1).

2207 Section 62. Section 629.627, Florida Statutes, is created
 2208 to read:

2209 629.627 Agents.—

2210 (1) Agents as defined in ss. 626.015 and 626.914 who are
 2211 broker members or associate broker members of an exchange shall
 2212 be allowed only to place on an exchange the same kind or kinds
 2213 of business that the agent is licensed to place pursuant to
 2214 Florida law. Direct Florida business as defined in s. 626.916 or
 2215 s. 626.917 shall be written through a broker member who is a
 2216 surplus lines agent as defined in s. 626.914. The activities of
 2217 each broker member or associate broker with regard to an
 2218 exchange shall be subject to all applicable provisions of the
 2219 insurance laws of this state, and all such activities shall
 2220 constitute transactions under his or her license as an insurance
 2221 agent for purposes of the Florida insurance law.

2222 (2) If an underwriting member has assumed the risk as to a
 2223 surplus lines coverage and if the premium therefor has been
 2224 received by the surplus lines agent who placed such insurance,
 2225 then in all questions thereafter arising under the coverage as

2226 between the underwriting member and the insured, the
2227 underwriting member shall be deemed to have received the premium
2228 due to it for such coverage; and the underwriting member shall
2229 be liable to the insured as to losses covered by such insurance,
2230 and for unearned premiums which may become payable to the
2231 insured upon cancellation of such insurance, whether or not in
2232 fact the surplus lines agent is indebted to the underwriting
2233 member with respect to such insurance or for any other cause.

2234 Section 63. Section 629.628, Florida Statutes, is created
2235 to read:

2236 629.628 Background information.—The information as to the
2237 background and identity of each person about whom information is
2238 required to be furnished pursuant to s. 629.614 must include,
2239 but need not be limited to:

2240 (1) Such person's occupations, positions of employment,
2241 and offices held during the past 10 years.

2242 (2) The principal business and address of any business,
2243 corporation, or other organization in which each such office was
2244 held or in which such occupation or position of employment was
2245 carried on.

2246 (3) Whether, at any time during such 10-year period, such
2247 person was convicted of any crime other than a traffic
2248 violation.

2249 (4) Whether, during such 10-year period, such person has
2250 been the subject of any proceeding for the revocation of any

2251 license and, if so, the nature of such proceeding and the
 2252 disposition thereof.

2253 (5) Whether, during such 10-year period, such person has
 2254 been the subject of any proceeding under the federal Bankruptcy
 2255 Act or whether, during such 10-year period, any corporation,
 2256 partnership, firm, trust, or association in which such person
 2257 was a director, officer, trustee, partner, or other official has
 2258 been subject to any such proceeding, either during the time in
 2259 which such person was a director, officer, trustee, partner, or
 2260 other official, or within 12 months thereafter.

2261 (6) Whether, during such 10-year period, such person has
 2262 been enjoined, temporarily or permanently, by a court of
 2263 competent jurisdiction from violating any federal or state law
 2264 regulating the business of insurance, securities, or banking, or
 2265 from carrying out any particular practice or practices in the
 2266 course of the business of insurance, securities, or banking,
 2267 together with details of any such event.

2268 Section 64. Section 628.629, Florida Statutes, is created
 2269 to read:

2270 628.629 Offsets.—Any action, requirement, or constraint
 2271 imposed by the office shall reduce or offset similar actions,
 2272 requirements, or constraints of any exchange.

2273 Section 65. Section 629.6301, Florida Statutes, is created
 2274 to read:

2275 629.6301 Restriction on member ownership.—The investment

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2276 in any underwriting member by brokers, agents, or intermediaries
2277 transacting business on the exchange, and the investment in any
2278 such broker, agent, or intermediary by any underwriting member,
2279 directly or indirectly, shall in each case be limited in the
2280 aggregate to less than 5 percent of the total investment in such
2281 underwriting member, broker, agent, or intermediary.

2282 Section 66. Section 629.631, Florida Statutes, is created
2283 to read:

2284 629.631 Prohibition of underwriting manager investment.—
2285 Any direct or indirect investment in any underwriting manager by
2286 a broker member or any affiliated person of a broker member or
2287 any direct or indirect investment in a broker member by an
2288 underwriting manager or any affiliated person of an underwriting
2289 manager is prohibited.

2290 Section 67. Section 629.632, Florida Statutes, is created
2291 to read:

2292 629.632 Limitations on reinsurance.—An underwriting member
2293 may not accept reinsurance on an assumed basis from an affiliate
2294 or a controlling company, nor may a broker member or management
2295 company place reinsurance from its affiliate or controlling
2296 company with an underwriting member.

2297 Section 68. Section 629.633, Florida Statutes, is created
2298 to read:

2299 629.633 Rulemaking authority.—The commission shall adopt,
2300 amend, or repeal rules necessary to implement this part.

2301 Section 69. Section 629.634, Florida Statutes, is created
 2302 to read:

2303 629.634 Liability.—The performance of the contractual
 2304 obligations of the exchange or its members entered into pursuant
 2305 to this part may not be covered by any of the Florida state
 2306 security or guaranty funds.

2307 Section 70. Paragraph (h) of subsection (3) of section
 2308 163.01, Florida Statutes, is amended to read:

2309 163.01 Florida Interlocal Cooperation Act of 1969.—

2310 (3) As used in this section:

2311 (h) "Local government liability pool" means a reciprocal
 2312 insurer as defined in s. 629.011 ~~s. 629.021~~ or any self-
 2313 insurance program created pursuant to s. 768.28(16), formed and
 2314 controlled by counties or municipalities of this state to
 2315 provide liability insurance coverage for counties,
 2316 municipalities, or other public agencies of this state, which
 2317 pool may contract with other parties for the purpose of
 2318 providing claims administration, processing, accounting, and
 2319 other administrative facilities.

2320 Section 71. Subsection (2) of section 624.45, Florida
 2321 Statutes, is amended to read:

2322 624.45 Participation of financial institutions in
 2323 reinsurance and in insurance exchanges.—Subject to applicable
 2324 laws relating to financial institutions and to any other
 2325 applicable provision of the Florida Insurance Code, any

2326 financial institution or aggregation of such institutions may:
 2327 (2) Participate, directly or indirectly, as an
 2328 underwriting member or as an investor in an underwriting member
 2329 of any insurance exchange ~~authorized in accordance with s.~~
 2330 ~~629.401~~, which underwriting member transacts only aggregate or
 2331 specific excess insurance over underlying self-insurance
 2332 coverage for self-insurance organizations authorized under the
 2333 Florida Insurance Code, for multiple-employer welfare
 2334 arrangements, or for workers' compensation self-insurance
 2335 trusts, in addition to any reinsurance the underwriting member
 2336 may transact.

2337
 2338 Nothing in this section shall be deemed to prohibit a financial
 2339 institution from engaging in any presently authorized insurance
 2340 activity.

2341 Section 72. Subsection (3) of section 626.9531, Florida
 2342 Statutes, is amended to read:

2343 626.9531 Identification of insurers, agents, and insurance
 2344 contracts.—

2345 (3) For the purposes of this section, the term "risk
 2346 bearing entity" means a reciprocal insurer as defined in s.
 2347 629.011 ~~s. 629.021~~, a commercial self-insurance fund as defined
 2348 in s. 624.462, a group self-insurance fund as defined in s.
 2349 624.4621, a local government self-insurance fund as defined in
 2350 s. 624.4622, a self-insured public utility as defined in s.

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2351 624.46225, or an independent educational institution self-
2352 insurance fund as defined in s. 624.4623. For the purposes of
2353 this section, the term "risk bearing entity" does not include an
2354 authorized insurer as defined in s. 624.09.

2355 Section 73. Reciprocal insurers licensed before July 1,
2356 2025, shall have until January 1, 2026, to increase their
2357 required surpluses as required by the changes to s. 629.071,
2358 Florida Statutes. The attorneys of reciprocal insurers licensed
2359 before July 1, 2025, shall have until January 1, 2026, to
2360 increase their bonds, or deposits in lieu of bonds, as required
2361 by the changes to ss. 629.121 and 629.131, Florida Statutes.

2362 Section 74. This act shall take effect July 1, 2025.