

1                   A bill to be entitled  
2           An act relating to insurance; amending s. 624.307,  
3           F.S.; specifying certain persons are not consumers for  
4           purposes of calculating complaint ratios; amending s.  
5           625.151, F.S.; providing an exception from valuation  
6           rules for stocks in subsidiaries for certain foreign  
7           insurers under certain conditions; amending s.  
8           625.325, F.S.; exempting foreign insurers from  
9           investment requirements relating to subsidiaries and  
10          corporations under certain conditions; amending s.  
11          626.914, F.S.; revising the definition of the term  
12          "diligent effort" to decrease the replacement cost  
13          threshold for a residential structure for purposes of  
14          proving rejection of coverage by authorized insurers;  
15          amending s. 626.918, F.S.; increasing the amount of  
16          capital and surplus required for an insurer to waive a  
17          requirement to be an eligible surplus lines insurer;  
18          amending s. 626.932, F.S.; deleting a provision  
19          relating to a surplus lines tax threshold; amending s.  
20          626.9651, F.S.; revising requirements for rules  
21          adopted by the Department of Financial Services and  
22          the Financial Services Commission relating to the  
23          privacy of certain consumer information; amending s.  
24          626.9891, F.S.; authorizing, rather than requiring, an  
25          insurer to report certain data; amending s. 627.4136,

26 F.S.; providing applicability; amending s. 627.7015,  
27 F.S.; authorizing insurers to participate in  
28 mediations requested by third parties; revising  
29 terminology; revising the definition of the term  
30 "claim" to specify that any material issue of fact  
31 must relate to a loss arising from a declared state of  
32 emergency; amending s. 627.728, F.S.; providing that  
33 an Intelligent Mail barcode or a similar United States  
34 Postal Service tracking method are sufficient proof of  
35 notice for certain motor vehicle insurance notices;  
36 amending s. 627.748, F.S.; revising circumstances in  
37 which insurers may exclude coverage for owners or  
38 operators of transportation network company vehicles;  
39 amending s. 628.8015, F.S.; revising the type of  
40 documents that are confidential; amending s. 636.044,  
41 F.S.; providing an exemption from licensing  
42 requirements for a person who sells certain prepaid  
43 limited health service contracts; providing an  
44 effective date.

45  
46 Be It Enacted by the Legislature of the State of Florida:

47  
48 Section 1. Paragraph (e) is added to subsection (10) of  
49 section 624.307, Florida Statutes, to read:

50 624.307 General powers; duties.—

51 (10)  
 52 (e) For purposes of this subsection, a third-party vendor,  
 53 as an assignee of policy benefits, is not a consumer. Inquiries  
 54 or complaints from a third-party vendor, as an assignee of  
 55 policy benefits, may not be used when calculating a complaint  
 56 ratio pursuant to s. 624.313.

57 Section 2. Paragraph (c) is added to subsection (3) of  
 58 section 625.151, Florida Statutes, to read:

59 625.151 Valuation of other securities.—

60 (3) Stock of a subsidiary corporation of an insurer may  
 61 ~~shall~~ not be valued at an amount in excess of the net value  
 62 thereof as based upon those assets only of the subsidiary which  
 63 would be eligible under part II for investment of the funds of  
 64 the insurer directly.

65 (c) This subsection does not apply to stock of a  
 66 subsidiary corporation or related entities of a foreign insurer  
 67 that is permissible under the laws of its state of domicile if  
 68 the state of domicile is a member of the National Association of  
 69 Insurance Commissioners.

70 Section 3. Subsection (7) is added to section 625.325,  
 71 Florida Statutes, to read:

72 625.325 Investments in subsidiaries and related  
 73 corporations.—

74 (7) APPLICABILITY.—This section does not apply to a  
 75 foreign insurer's investments in its subsidiaries or related

76 corporations if:

77 (a) The foreign insurer is domiciled in a state that is a  
 78 member of the National Association of Insurance Commissioners  
 79 (NAIC).

80 (b) Such investments in the foreign insurer's subsidiaries  
 81 or related corporations are:

82 1. Permitted under the laws of the foreign insurer's state  
 83 of domicile.

84 2.a. Assigned a rating of 1, 2, or 3 by the NAIC's  
 85 Securities Valuation Office (SVO); or

86 b. Qualify for the NAIC's filing exemption rule and  
 87 assigned a rating by a nationally recognized statistical rating  
 88 organization that would be equivalent to a rating of 1, 2, or 3  
 89 by the SVO.

90 Section 4. Subsection (4) of section 626.914, Florida  
 91 Statutes, is amended to read:

92 626.914 Definitions.—As used in this Surplus Lines Law,  
 93 the term:

94 (4) "Diligent effort" means seeking coverage from and  
 95 having been rejected by at least three authorized insurers  
 96 currently writing this type of coverage and documenting these  
 97 rejections. However, if the residential structure has a dwelling  
 98 replacement cost of \$750,000 ~~\$1 million~~ or more, the term means  
 99 seeking coverage from and having been rejected by at least one  
 100 authorized insurer currently writing this type of coverage and

101 | documenting this rejection.

102 |       Section 5. Paragraph (b) of subsection (2) of section  
103 | 626.918, Florida Statutes, is amended to read:

104 |       626.918 Eligible surplus lines insurers.—

105 |       (2) An unauthorized insurer may not be or become an  
106 | eligible surplus lines insurer unless made eligible by the  
107 | office in accordance with the following conditions:

108 |       (b) The insurer must be currently an authorized insurer in  
109 | the state or country of its domicile as to the kind or kinds of  
110 | insurance proposed to be so placed and must have been such an  
111 | insurer for not less than the 3 years next preceding or must be  
112 | the wholly owned subsidiary of such authorized insurer or must  
113 | be the wholly owned subsidiary of an already eligible surplus  
114 | lines insurer as to the kind or kinds of insurance proposed for  
115 | a period of not less than the 3 years next preceding. However,  
116 | the office may waive the 3-year requirement if the insurer  
117 | provides a product or service not readily available to the  
118 | consumers of this state or has operated successfully for a  
119 | period of at least 1 year next preceding and has capital and  
120 | surplus of not less than \$30 ~~\$25~~ million.

121 |       Section 6. Subsections (3) of section 626.932, Florida  
122 | Statutes, is amended to read:

123 |       626.932 Surplus lines tax.—

124 |       (3) If a surplus lines policy covers risks or exposures  
125 | only partially in this state and the state is the home state as

126 defined in the federal Nonadmitted and Reinsurance Reform Act of  
 127 2010 (NRRA), the tax payable must ~~shall~~ be computed on the gross  
 128 premium. ~~The tax must not exceed the tax rate where the risk or~~  
 129 ~~exposure is located.~~

130 Section 7. Section 626.9651, Florida Statutes, is amended  
 131 to read:

132 626.9651 Privacy.—The department and commission must ~~shall~~  
 133 each adopt rules consistent with other provisions of the Florida  
 134 Insurance Code to govern the use of a consumer's nonpublic  
 135 personal financial and health information. These rules must be  
 136 based on, consistent with, and not more restrictive than the  
 137 Privacy of Consumer Financial and Health Information Regulation,  
 138 adopted September 26, 2000, by the National Association of  
 139 Insurance Commissioners; however, the rules must permit the use  
 140 and disclosure of nonpublic personal health information for  
 141 scientific, medical, or public policy research, in accordance  
 142 with federal law. In addition, these rules must be consistent  
 143 with, and not more restrictive than, the standards contained in  
 144 Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-  
 145 102, as amended in Title LXXV of the Fixing America's Surface  
 146 Transportation (FAST) Act, Pub. L. No. 114-94. If the office  
 147 determines that a health insurer or health maintenance  
 148 organization is in compliance with, or is actively undertaking  
 149 compliance with, the consumer privacy protection rules adopted  
 150 by the United States Department of Health and Human Services, in

151 conformance with the Health Insurance Portability and  
152 Affordability Act, that health insurer or health maintenance  
153 organization is in compliance with this section.

154 Section 8. Subsection (5) of section 626.9891, Florida  
155 Statutes, is amended to read:

156 626.9891 Insurer anti-fraud investigative units; reporting  
157 requirements; penalties for noncompliance.—

158 (5) Each insurer is required to report data related to  
159 fraud for each identified line of business written by the  
160 insurer during the prior calendar year. The data must ~~shall~~ be  
161 reported to the department by March 1, 2019, and annually  
162 thereafter, and may ~~must~~ include, ~~at a minimum~~:

163 (a) The number of policies in effect;

164 (b) The amount of premiums written for policies;

165 (c) The number of claims received;

166 (d) The number of claims referred to the anti-fraud  
167 investigative unit;

168 (e) The number of other insurance fraud matters referred  
169 to the anti-fraud investigative unit that were not claim  
170 related;

171 (f) The number of claims investigated or accepted by the  
172 anti-fraud investigative unit;

173 (g) The number of other insurance fraud matters  
174 investigated or accepted by the anti-fraud investigative unit  
175 that were not claim related;

176 (h) The number of cases referred to the Division of  
177 Investigative and Forensic Services;

178 (i) The number of cases referred to other law enforcement  
179 agencies;

180 (j) The number of cases referred to other entities; and

181 (k) The estimated dollar amount or range of damages on  
182 cases referred to the Division of Investigative and Forensic  
183 Services or other agencies.

184 Section 9. Subsection (5) is added to section 627.4136,  
185 Florida Statutes, to read:

186 627.4136 Nonjoinder of insurers.—

187 (5) This section applies to surplus lines liability  
188 insurers.

189 Section 10. Subsections (1), (3), (6), and (9) of section  
190 627.7015, Florida Statutes, are amended to read:

191 627.7015 Alternative procedure for resolution of disputed  
192 property insurance claims.—

193 (1) This section sets forth a nonadversarial alternative  
194 dispute resolution procedure for a mediated claim resolution  
195 conference prompted by the need for effective, fair, and timely  
196 handling of property insurance claims. There is a particular  
197 need for an informal, nonthreatening forum for helping parties  
198 who elect this procedure to resolve their claims disputes  
199 because most homeowner and commercial residential insurance  
200 policies obligate policyholders to participate in a potentially



201 expensive and time-consuming adversarial appraisal process  
202 before litigation. The procedure set forth in this section is  
203 designed to bring the parties together for a mediated claims  
204 settlement conference without any of the trappings or drawbacks  
205 of an adversarial process. Before resorting to these procedures,  
206 policyholders and insurers are encouraged to resolve claims as  
207 quickly and fairly as possible. This section is available with  
208 respect to claims under personal lines and commercial  
209 residential policies before commencing the appraisal process, or  
210 before commencing litigation. Mediation may be requested only by  
211 the policyholder, as a first-party claimant, or the insurer. An  
212 insurer may, but is not required to, participate in mediation  
213 requested by a third-party, as an assignee of policy benefits.  
214 If requested by the policyholder, participation by legal counsel  
215 is permitted. Mediation under this section is also available to  
216 litigants referred to the department by a county court or  
217 circuit court. This section does not apply to commercial  
218 coverages, to private passenger motor vehicle insurance  
219 coverages, or to disputes relating to liability coverages in  
220 policies of property insurance.

221 (3) The costs of mediation must ~~shall~~ be reasonable, and  
222 the insurer must ~~shall~~ bear all of the cost of conducting  
223 mediation conferences, except as otherwise provided in this  
224 section. If a policyholder ~~an insured~~ fails to appear at the  
225 conference, the conference must ~~shall~~ be rescheduled upon the

226 policyholder's ~~insured's~~ payment of the costs of a rescheduled  
227 conference. If the insurer fails to appear at the conference,  
228 the insurer must ~~shall~~ pay the policyholder's ~~insured's~~ actual  
229 cash expenses incurred in attending the conference if the  
230 insurer's failure to attend was not due to a good cause  
231 acceptable to the department. An insurer will be deemed to have  
232 failed to appear if the insurer's representative lacks authority  
233 to settle the full value of the claim. The insurer shall incur  
234 an additional fee for a rescheduled conference necessitated by  
235 the insurer's failure to appear at a scheduled conference. The  
236 fees assessed by the administrator must ~~shall~~ include a charge  
237 necessary to defray the expenses of the department related to  
238 its duties under this section and must ~~shall~~ be deposited in the  
239 Insurance Regulatory Trust Fund.

240 (6) Mediation is nonbinding; however, if a written  
241 settlement is reached, the policyholder ~~insured~~ has 3 business  
242 days within which the policyholder ~~insured~~ may rescind the  
243 settlement unless the policyholder ~~insured~~ has cashed or  
244 deposited any check or draft disbursed to the policyholder  
245 ~~insured~~ for the disputed matters as a result of the conference.  
246 If a settlement agreement is reached and is not rescinded, it is  
247 ~~shall be~~ binding and acts ~~act~~ as a release of all specific  
248 claims that were presented in that mediation conference.

249 (9) For purposes of this section, the term "claim" refers  
250 to any dispute between an insurer and a policyholder relating to

251 a material issue of fact other than a dispute:

252 (a) With respect to which the insurer has a reasonable  
253 basis to suspect fraud;

254 (b) When ~~where~~, based on agreed-upon facts as to the cause  
255 of loss, there is no coverage under the policy;

256 (c) With respect to which the insurer has a reasonable  
257 basis to believe that the policyholder has intentionally made a  
258 material misrepresentation of fact which is relevant to the  
259 claim, and the entire request for payment of a loss has been  
260 denied on the basis of the material misrepresentation;

261 (d) With respect to which the amount in controversy is  
262 less than \$500, unless the parties agree to mediate a dispute  
263 involving a lesser amount; or

264 (e) With respect to a windstorm or hurricane loss that  
265 does not comply with s. 627.70132.

266 Section 11. Subsection (5) of section 627.728, Florida  
267 Statutes, is amended to read:

268 627.728 Cancellations; nonrenewals.—

269 (5) United States postal proof of mailing, ~~or~~ certified or  
270 registered mailing, or other mailing using the Intelligent Mail  
271 barcode or other similar tracking method used or approved by the  
272 United States Postal Service of notice of cancellation, of  
273 intention not to renew, or of reasons for cancellation, or of  
274 the intention of the insurer to issue a policy by an insurer  
275 under the same ownership or management, to the first-named

276 | insured at the address shown in the policy is ~~shall be~~  
 277 | sufficient proof of notice.

278 | Section 12. Paragraph (b) of subsection (8) of section  
 279 | 627.748, Florida Statutes, is amended to read:

280 | 627.748 Transportation network companies.—

281 | (8) TRANSPORTATION NETWORK COMPANY AND INSURER;  
 282 | DISCLOSURE; EXCLUSIONS.—

283 | (b)1. An insurer that provides an automobile liability  
 284 | insurance policy under this part may exclude any and all  
 285 | coverage afforded under the policy issued to an owner or  
 286 | operator of a TNC vehicle ~~while driving that vehicle~~ for any  
 287 | loss or injury that occurs while a TNC driver is logged on to a  
 288 | digital network and driving a motor vehicle, or when ~~while~~ a TNC  
 289 | driver provides a prearranged ride. Exclusions imposed under  
 290 | this subsection are limited to coverage while a TNC driver is  
 291 | logged on to a digital network or while a TNC driver provides a  
 292 | prearranged ride. This right to exclude all coverage may apply  
 293 | to any coverage included in an automobile insurance policy,  
 294 | including, but not limited to:

- 295 | a. Liability coverage for bodily injury and property
- 296 | damage;
- 297 | b. Uninsured and underinsured motorist coverage;
- 298 | c. Medical payments coverage;
- 299 | d. Comprehensive physical damage coverage;
- 300 | e. Collision physical damage coverage; and

301 f. Personal injury protection.

302 2. The exclusions described in subparagraph 1. apply  
303 notwithstanding any requirement under chapter 324. These  
304 exclusions do not affect or diminish coverage otherwise  
305 available for permissive drivers or resident relatives under the  
306 personal automobile insurance policy of the TNC driver or owner  
307 of the TNC vehicle who are not occupying the TNC vehicle at the  
308 time of loss. This section does not require that a personal  
309 automobile insurance policy provide coverage while the TNC  
310 driver is logged on to a digital network, while the TNC driver  
311 is engaged in a prearranged ride, or while the TNC driver  
312 otherwise uses a vehicle to transport riders for compensation.

313 3. This section must not be construed to require an  
314 insurer to use any particular policy language or reference to  
315 this section in order to exclude any and all coverage for any  
316 loss or injury that occurs while a TNC driver is logged on to a  
317 digital network or while a TNC driver provides a prearranged  
318 ride.

319 4. This section does not preclude an insurer from  
320 providing primary or excess coverage for the TNC driver's  
321 vehicle by contract or endorsement.

322 Section 13. Subsection (4) of section 628.8015, Florida  
323 Statutes, is amended to read:

324 628.8015 Own-risk and solvency assessment; corporate  
325 governance annual disclosure.—

326 (4) CONFIDENTIALITY.—The required filings and related  
 327 documents submitted pursuant to subsections (2) and (3) are  
 328 privileged such that they may not be produced in response to a  
 329 subpoena or other discovery directed to the office, and any such  
 330 filings and related documents, ~~if obtained from the office,~~ are  
 331 not admissible in evidence in any private civil action. However,  
 332 the department or office may use these filings and related  
 333 documents in the furtherance of any regulatory or legal action  
 334 brought against an insurer as part of the official duties of the  
 335 department or office. A waiver of any applicable claim of  
 336 privilege in these filings and related documents may not occur  
 337 because of a disclosure to the office under this section,  
 338 because of any other provision of the Insurance Code, or because  
 339 of sharing under s. 624.4212. The office or a person receiving  
 340 these filings and related documents, while acting under the  
 341 authority of the office, or with whom such filings and related  
 342 documents are shared pursuant to s. 624.4212, is not permitted  
 343 or required to testify in any private civil action concerning  
 344 any such filings or related documents.

345 Section 14. Subsection (5) of section 636.044, Florida  
 346 Statutes, is amended to read:

347 636.044 Agent licensing.—

348 (5) A person who sells ~~registered as a seller of travel~~  
 349 ~~under s. 559.928 is not required to be licensed under this~~  
 350 ~~section in order to sell~~ prepaid limited health service

351 | contracts that only cover the cost of transportation provided by  
352 | an air ambulance service licensed pursuant to s. 401.251 is not  
353 | required to be licensed under this section. The prepaid limited  
354 | health service contract for such coverage is, however, subject  
355 | to all applicable provisions of this chapter.

356 |         Section 15. This act shall take effect upon becoming a  
357 | law.