

By Senator Brandes

24-00599C-18

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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

24-00599C-18

2018784\_\_

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 is 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:

24-00599C-18

2018784\_\_

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 subsidiary  
66 corporation or related entities of a foreign insurer that is  
67 permissible under the laws of its state of domicile if the state  
68 of domicile is a member of the National Association of Insurance  
69 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 foreign  
75 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

24-00599C-18

2018784\_\_

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, the  
93 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

24-00599C-18

2018784\_\_

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. Subsection (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

24-00599C-18

2018784\_\_

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 to  
169 the anti-fraud investigative unit that were not claim related;

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

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

24-00599C-18

2018784\_\_

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

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

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

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

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

185 627.4136 Nonjoinder of insurers.-

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

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

190 627.7015 Alternative procedure for resolution of disputed  
191 property insurance claims.-

192 (1) This section sets forth a nonadversarial alternative  
193 dispute resolution procedure for a mediated claim resolution  
194 conference prompted by the need for effective, fair, and timely  
195 handling of property insurance claims. There is a particular  
196 need for an informal, nonthreatening forum for helping parties  
197 who elect this procedure to resolve their claims disputes  
198 because most homeowner and commercial residential insurance  
199 policies obligate policyholders to participate in a potentially  
200 expensive and time-consuming adversarial appraisal process  
201 before litigation. The procedure set forth in this section is  
202 designed to bring the parties together for a mediated claims  
203 settlement conference without any of the trappings or drawbacks

24-00599C-18

2018784\_\_

204 of an adversarial process. Before resorting to these procedures,  
205 policyholders and insurers are encouraged to resolve claims as  
206 quickly and fairly as possible. This section is available with  
207 respect to claims under personal lines and commercial  
208 residential policies before commencing the appraisal process, or  
209 before commencing litigation. Mediation may be requested only by  
210 the policyholder, as a first-party claimant, or the insurer. An  
211 insurer may, but is not required to, participate in mediation  
212 requested by a third party, as an assignee of policy benefits.  
213 If requested by the policyholder, participation by legal counsel  
214 is permitted. Mediation under this section is also available to  
215 litigants referred to the department by a county court or  
216 circuit court. This section does not apply to commercial  
217 coverages, to private passenger motor vehicle insurance  
218 coverages, or to disputes relating to liability coverages in  
219 policies of property insurance.

220 (3) The costs of mediation must ~~shall~~ be reasonable, and  
221 the insurer must ~~shall~~ bear all of the cost of conducting  
222 mediation conferences, except as otherwise provided in this  
223 section. If a policyholder ~~an insured~~ fails to appear at the  
224 conference, the conference must ~~shall~~ be rescheduled upon the  
225 policyholder's ~~insured's~~ payment of the costs of a rescheduled  
226 conference. If the insurer fails to appear at the conference,  
227 the insurer must ~~shall~~ pay the policyholder's ~~insured's~~ actual  
228 cash expenses incurred in attending the conference if the  
229 insurer's failure to attend was not due to a good cause  
230 acceptable to the department. An insurer will be deemed to have  
231 failed to appear if the insurer's representative lacks authority  
232 to settle the full value of the claim. The insurer shall incur



24-00599C-18

2018784\_\_

233 an additional fee for a rescheduled conference necessitated by  
234 the insurer's failure to appear at a scheduled conference. The  
235 fees assessed by the administrator must ~~shall~~ include a charge  
236 necessary to defray the expenses of the department related to  
237 its duties under this section and must ~~shall~~ be deposited in the  
238 Insurance Regulatory Trust Fund.

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

248 (9) For purposes of this section, the term "claim" refers  
249 to any dispute between an insurer and a policyholder relating to  
250 a material issue of fact other than a dispute:

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

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

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

260 (d) With respect to which the amount in controversy is less  
261 than \$500, unless the parties agree to mediate a dispute

24-00599C-18

2018784\_\_

262 involving a lesser amount; or

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

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

267 627.728 Cancellations; nonrenewals.—

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

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

279 627.748 Transportation network companies.—

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

282 (b)1. An insurer that provides an automobile liability  
283 insurance policy under this part may exclude any and all  
284 coverage afforded under the policy issued to an owner or  
285 operator of a TNC vehicle ~~while driving that vehicle~~ for any  
286 loss or injury that occurs while a TNC driver is logged on to a  
287 digital network and driving a motor vehicle, or when ~~while~~ a TNC  
288 driver provides a prearranged ride. Exclusions imposed under  
289 this subsection are limited to coverage while a TNC driver is  
290 logged on to a digital network or while a TNC driver provides a

24-00599C-18

2018784\_\_

291 prearranged ride. This right to exclude all coverage may apply  
292 to any coverage included in an automobile insurance policy,  
293 including, but not limited to:

294 a. Liability coverage for bodily injury and property  
295 damage;

296 b. Uninsured and underinsured motorist coverage;

297 c. Medical payments coverage;

298 d. Comprehensive physical damage coverage;

299 e. Collision physical damage coverage; and

300 f. Personal injury protection.

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

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

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

24-00599C-18

2018784\_\_

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

322 628.8015 Own-risk and solvency assessment; corporate  
323 governance annual disclosure.—

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

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

345 636.044 Agent licensing.—

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

24-00599C-18

2018784\_\_

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

354 Section 15. This act shall take effect upon becoming a law.