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A bill to be entitled
 An act relating to unauthorized insurers; amending s.
 626.901, F.S.; clarifying nonapplication of prohibitions
 against representing or aiding unauthorized insurers to
 certain independently procured coverage; authorizing the
 Office of Insurance Regulation or the Department of
 Financial Services to issue certain cease and desist
 orders under certain circumstances; providing a
 legislative finding; authorizing the office to investigate
 accounts, records, documents, and transactions pertaining
 to unauthorized insurers and certain persons; amending s.
 626.902, F.S.; specifying nonapplication of provisions
 relating to penalties for representing unauthorized
 insurers to matters authorized by the office under the
 Unauthorized Insurers Process Law; amending s. 626.908,
 F.S.; applying requirements imposed on unauthorized
 insurers in certain actions to certain additional actions;
 providing a time period for unauthorized insurers or
 certain persons to file certain motions; providing an
 effective date.

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

Section 1. Paragraph (d) of subsection (4) of section
 626.901, Florida Statutes, is amended, and subsections (5) and
 (6) are added to said section, to read:

626.901 Representing or aiding unauthorized insurer
 prohibited.--

29 (4) This section does not apply to:

30 (d) Independently procured coverage written pursuant to s.
 31 626.938 that is not solicited, marketed, negotiated, or sold in
 32 this state.

33 (5) In its discretion and without advance notice or
 34 hearing, the office or department may issue, pursuant to s.
 35 120.569, an immediate final order to cease and desist to any
 36 person or entity that violates this section. The Legislature
 37 finds that a violation of this section constitutes an imminent
 38 and immediate threat to the public health, safety, and welfare
 39 of the residents of this state.

40 (6) The office is authorized to investigate the accounts,
 41 records, documents, and transactions pertaining to the
 42 activities of any unauthorized insurer or person, as defined in
 43 s. 624.04, who is or may be aiding or representing an
 44 unauthorized insurer.

45 Section 2. Subsection (3) is added to section 626.902,
 46 Florida Statutes, to read:

47 626.902 Penalty for representing unauthorized insurer.--

48 (3) This section does not apply to matters authorized by
 49 the office under ss. 626.904-626.912, the Unauthorized Insurers
 50 Process Law.

51 Section 3. Subsections (1) and (3) of section 626.908,
 52 Florida Statutes, are amended to read:

53 626.908 Defense of action by unauthorized insurer or
 54 person representing or aiding such insurer; damages and attorney
 55 fee.--

56 (1) Before an unauthorized insurer or person representing
57 or aiding such insurer files or causes to be filed any pleading
58 in any action or proceeding instituted against it under s. ~~ss-~~
59 626.906, s. ~~and~~ 626.907, or s. 626.909 or in a suit instituted
60 by the office or the department enforcing agency action against
61 unauthorized insurers pursuant to s. 120.69, an unauthorized
62 insurer or person representing or aiding such insurer shall:

63 (a) Procure a certificate of authority to transact
64 insurance in this state, or

65 (b) Deposit with the clerk of the court in which such
66 action or proceeding is pending cash or securities or file with
67 such clerk a bond with good and sufficient sureties, to be
68 approved by the court, in an amount to be fixed by the court
69 sufficient to secure the payment of any final judgment which may
70 be rendered in such action. The court may in its discretion make
71 an order dispensing with such deposit or bond where the insurer
72 makes a showing satisfactory to the court that it maintains in a
73 state of the United States funds or securities, in trust or
74 otherwise, sufficient and available to satisfy any final
75 judgment which may be entered in such action or proceeding, and
76 that the insurer or person representing or aiding such insurer
77 will pay any final judgment entered therein without requiring
78 suit to be brought on such judgment in the state where such
79 funds or securities are located, and that if, nevertheless, such
80 suit is brought on such final judgment the insurer or person
81 representing or aiding such insurer shall waive all defenses
82 thereto.

83 (c) Any proof, evidence, or testimony in support of such
84 motion shall be taken in the jurisdiction of the court in which
85 the action or proceeding is pending.

86 (d) If the unauthorized insurer or person representing or
87 aiding such insurer seeks to take discovery or de bene esse
88 depositions of witnesses beyond the jurisdiction of the court in
89 which the action is pending, upon seasonable application by the
90 plaintiff, the court by appropriate order shall require the
91 unauthorized insurer or person representing or aiding such
92 insurer, before such depositions are taken, to make similar
93 deposit as described in paragraph (b), in sufficient amount to
94 pay the reasonable expenses of the plaintiff and his or her
95 attorney in attending the taking of such depositions, including
96 reasonable attorney's fees to be fixed by the court.

97 (3) Nothing in subsection (1) is to be construed to
98 prevent an unauthorized insurer or person representing or aiding
99 such insurer from filing, within 30 days after service, a motion
100 to quash or to set aside the service of any process made in the
101 manner provided in s. 626.907 hereof on the ground either:

102 (a) That such unauthorized insurer or person representing
103 or aiding such insurer has not done any of the acts enumerated
104 in s. 626.906; or

105 (b) That the person on whom service was made pursuant to
106 s. 626.907(2) was not doing any of the acts therein enumerated.

107 Section 4. This act shall take effect July 1, 2005.