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2 An act relating to insurance; amending s.
3 626.901, F.S.; revising an exception from the
4 prohibition against representing or aiding
5 unauthorized insurers; providing for immediate
6 cease-and-desist orders for violations of the
7 prohibition; providing legislative findings;
8 authorizing investigations of activities that
9 may constitute violations of the prohibition;
10 amending s. 626.902, F.S.; providing an
11 exception from penalty provisions for a person
12 who cooperates with the office to administer
13 the Unauthorized Insurers Process Law; amending
14 s. 626.908, F.S.; providing conditions on
15 defenses of certain actions against
16 unauthorized insurers and persons representing
17 or aiding them; prescribing a time limit on
18 motions to quash or set aside service of
19 process in actions against such unauthorized
20 insurers and other persons; providing an
21 effective date.

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

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25 Section 1. Subsection (4) of section 626.901, Florida
26 Statutes, is amended, and subsections (5) and (6) are added to
27 that section, to read:

28 626.901 Representing or aiding unauthorized insurer
29 prohibited.--

30 (4) This section does not apply to:
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1 (a) Matters authorized to be done by the office under
2 the Unauthorized Insurers Process Law, ss. 626.904-626.912.

3 (b) Surplus lines insurance when written pursuant to
4 the Surplus Lines Law, ss. 626.913-626.937.

5 (c) Transactions as to which a certificate of
6 authority is not required of an insurer, as stated in s.
7 624.402.

8 (d) Independently procured coverage written pursuant
9 to s. 626.938 which is not solicited, marketed, negotiated, or
10 sold in this state.

11 (5) The office or department may, pursuant to s.
12 120.569 and in its discretion, issue an immediate final order
13 to cease and desist to any person or entity that violates this
14 section. The Legislature finds that a violation of this
15 section constitutes an imminent and immediate threat to the
16 health, safety, and welfare of the residents of this state.

17 (6) The office may investigate the accounts, records,
18 documents, and transactions pertaining to the activities of
19 any unauthorized insurer or person, as defined in s. 624.04,
20 which is or may be aiding or representing an unauthorized
21 insurer.

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

24 626.902 Penalty for representing unauthorized
25 insurer.--

26 (3) This section does not apply to actions of a person
27 who is assisting the office at its direction in the
28 administration of its responsibilities under ss.
29 626.904-626.912, the Unauthorized Insurers Process Law.

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

1 626.908 Defense of action by unauthorized insurer or
2 person representing or aiding such insurer; damages and
3 attorney fee.--

4 (1) Before an unauthorized insurer or person
5 representing or aiding such insurer files or causes to be
6 filed any pleading in any action or proceeding instituted
7 against it under s. ~~ss.~~ 626.906, s. ~~and~~ 626.907, or s. 626.909
8 or a suit instituted by the office or the department enforcing
9 agency action against unauthorized insurers under s. 120.69,
10 an unauthorized insurer or person representing or aiding such
11 insurer shall:

12 (a) Procure a certificate of authority to transact
13 insurance in this state, or

14 (b) Deposit with the clerk of the court in which such
15 action or proceeding is pending cash or securities or file
16 with such clerk a bond with good and sufficient sureties, to
17 be approved by the court, in an amount to be fixed by the
18 court sufficient to secure the payment of any final judgment
19 which may be rendered in such action. The court may in its
20 discretion make an order dispensing with such deposit or bond
21 where the insurer makes a showing satisfactory to the court
22 that it maintains in a state of the United States funds or
23 securities, in trust or otherwise, sufficient and available to
24 satisfy any final judgment which may be entered in such action
25 or proceeding, and that the insurer or person representing or
26 aiding such insurer will pay any final judgment entered
27 therein without requiring suit to be brought on such judgment
28 in the state where such funds or securities are located, and
29 that if, nevertheless, such suit is brought on such final
30 judgment the insurer or person representing or aiding such
31 insurer shall waive all defenses thereto.

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

4 (d) If the unauthorized insurer or person representing
5 or aiding such insurer seeks to take discovery or de bene esse
6 depositions of witnesses beyond the jurisdiction of the court
7 in which the action is pending, upon reasonable application by
8 the plaintiff, the court by appropriate order shall require
9 the unauthorized insurer or person representing or aiding such
10 insurer, before such depositions are taken, to make similar
11 deposit as described in paragraph (b), in sufficient amount to
12 pay the reasonable expenses of the plaintiff and his or her
13 attorney in attending the taking of such depositions,
14 including reasonable attorney's fees to be fixed by the court.

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

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

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

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