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LEGISLATIVE ACTION

Senate

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House

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Senator Burgess moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 626.914, Florida Statutes, is amended to  
read:

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

(5)~~(1)~~ "Surplus lines agent" means an individual licensed  
as provided in this part to handle the placement of insurance  
coverages with unauthorized insurers and to place such coverages



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12 with authorized insurers as to which the licensee is not  
13 licensed as an agent.

14 (2) "Domestic surplus lines insurer" means a nonadmitted  
15 insurer domiciled in this state that:

16 (a) Has been deemed eligible and authorized by the office  
17 to write surplus lines insurance; and

18 (b) May write surplus lines insurance in any jurisdiction,  
19 including this state. The authorization to write surplus lines  
20 insurance is not contingent on the company's holding of an  
21 existing certificate of authority.

22  
23 The term does not include an authorized insurer as defined in s.  
24 624.09.

25 (3)~~(2)~~ "Eligible surplus lines insurer" means:

26 (a) An unauthorized insurer that ~~which~~ has been made  
27 eligible by the office to issue insurance coverage under this  
28 Surplus Lines Law; or

29 (b) A domestic surplus lines insurer.

30 (4)~~(3)~~ "Export" ~~"To export"~~ means to place, in an  
31 unauthorized insurer under this Surplus Lines Law, insurance  
32 covering a subject of insurance resident, located, or to be  
33 performed in this state.

34 (1)~~(4)~~ "Diligent effort" means seeking coverage from and  
35 having been rejected by at least three authorized insurers  
36 currently writing this type of coverage and documenting these  
37 rejections. However, if the residential structure has a dwelling  
38 replacement cost of \$700,000 or more, the term means seeking  
39 coverage from and having been rejected by at least one  
40 authorized insurer currently writing this type of coverage and



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41 documenting this rejection.

42 Section 2. Section 626.91805, Florida Statutes, is created  
43 to read:

44 626.91805 Domestic surplus lines insurers.-

45 (1) As used in this section, the term "nonadmitted insurer"  
46 has the same meaning as provided in the federal Nonadmitted and  
47 Reinsurance Reform Act of 2010.

48 (2) Notwithstanding any other law, a nonadmitted insurer  
49 possessing a policyholder surplus of at least \$15 million may,  
50 under a resolution by its board of directors and with the  
51 written approval of the office, be eligible to transact  
52 insurance as a domestic surplus lines insurer. A domestic  
53 surplus lines insurer must maintain surplus of at least \$15  
54 million at all times.

55 (3) Notwithstanding s. 626.918(2), a domestic surplus lines  
56 insurer shall be deemed an eligible surplus lines insurer and  
57 shall be included in the list of eligible surplus lines insurers  
58 required by s. 626.918(3). Eligible surplus lines insurers  
59 listed in s. 626.918(3) may write any kind of insurance that an  
60 unauthorized insurer not domiciled in this state is eligible to  
61 write.

62 (4) For purposes of writing surplus lines insurance  
63 pursuant to the Surplus Lines Law, a domestic surplus lines  
64 insurer shall be considered an unauthorized insurer.

65 (5) For purposes of the federal Nonadmitted and Reinsurance  
66 Reform Act of 2010, a domestic surplus lines insurer shall be  
67 considered a nonadmitted insurer.

68 (6) A domestic surplus lines insurer may write only surplus  
69 lines insurance in this state which is procured from a surplus



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70 lines agent pursuant to the Surplus Lines Law. Such insurer may  
71 not simultaneously hold any certificate of authority authorizing  
72 it to operate as an admitted insurer.

73 (7) A domestic surplus lines insurer may write surplus  
74 lines insurance in any jurisdiction if such insurer complies  
75 with the requirements of that jurisdiction.

76 (8) All requirements imposed by the Florida Insurance Code  
77 on admitted domestic insurers apply to domestic surplus lines  
78 insurers unless otherwise exempted in this section.

79 (9) A domestic surplus lines insurer is exempt from s.  
80 624.408.

81 (10) A surplus lines insurance policy issued by a domestic  
82 surplus lines insurer is exempt from all statutory requirements  
83 relating to insurance rating and rating plans; policy forms;  
84 premiums charged to insureds; policy cancellation, nonrenewal,  
85 and renewal; and other statutory requirements in the same manner  
86 and to the same extent as surplus lines policies issued by a  
87 surplus lines insurer domiciled in another state.

88 (11) Notwithstanding any other law, a policy issued by a  
89 domestic surplus lines insurer is subject to taxes assessed upon  
90 surplus lines policies issued by nonadmitted insurers, including  
91 surplus lines premium taxes, but is not subject to other taxes  
92 levied upon admitted insurers, whether domestic or foreign.

93 (12) A policy issued by a domestic surplus lines insurer is  
94 not subject to the protections or requirements of the Florida  
95 Insurance Guaranty Association Act, the Florida Life and Health  
96 Insurance Guaranty Association Act, the Florida Workers'  
97 Compensation Insurance Guaranty Association Act, or the Florida  
98 Hurricane Catastrophe Fund.



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99           (13) A domestic surplus lines insurer may not issue a  
100 homeowner's policy covering a personal residential property  
101 located in this state within 12 months after the effective date  
102 of a nonrenewal or cancellation of a previous policy if the  
103 nonrenewal or cancellation of the previous policy was initiated  
104 by an affiliate of an admitted insurer. This restriction does  
105 not apply to a nonrenewal or cancellation provided at the  
106 insured's request. A domestic surplus lines insurer may not  
107 issue a policy designed to satisfy the motor vehicle financial  
108 responsibility requirements of this state under chapter 324, the  
109 Workers' Compensation Law under chapter 440, or any other law of  
110 this state mandating insurance coverage by an admitted insurer.

111           Section 3. Paragraph (b) of subsection (1) and paragraph  
112 (b) of subsection (2) of section 458.320, Florida Statutes, are  
113 amended to read:

114           458.320 Financial responsibility.—

115           (1) As a condition of licensing and maintaining an active  
116 license, and prior to the issuance or renewal of an active  
117 license or reactivation of an inactive license for the practice  
118 of medicine, an applicant must by one of the following methods  
119 demonstrate to the satisfaction of the board and the department  
120 financial responsibility to pay claims and costs ancillary  
121 thereto arising out of the rendering of, or the failure to  
122 render, medical care or services:

123           (b) Obtaining and maintaining professional liability  
124 coverage in an amount not less than \$100,000 per claim, with a  
125 minimum annual aggregate of not less than \$300,000, from an  
126 authorized insurer as defined under s. 624.09, from a surplus  
127 lines insurer as defined under s. 626.914 ~~s. 626.914(2)~~, from a



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128 risk retention group as defined under s. 627.942, from the Joint  
129 Underwriting Association established under s. 627.351(4), or  
130 through a plan of self-insurance as provided in s. 627.357. The  
131 required coverage amount set forth in this paragraph may not be  
132 used for litigation costs or attorney's fees for the defense of  
133 any medical malpractice claim.

134 (2) Physicians who perform surgery in an ambulatory  
135 surgical center licensed under chapter 395 and, as a continuing  
136 condition of hospital staff privileges, physicians who have  
137 staff privileges must also establish financial responsibility by  
138 one of the following methods:

139 (b) Obtaining and maintaining professional liability  
140 coverage in an amount not less than \$250,000 per claim, with a  
141 minimum annual aggregate of not less than \$750,000 from an  
142 authorized insurer as defined under s. 624.09, from a surplus  
143 lines insurer as defined under s. 626.914 ~~s. 626.914(2)~~, from a  
144 risk retention group as defined under s. 627.942, from the Joint  
145 Underwriting Association established under s. 627.351(4),  
146 through a plan of self-insurance as provided in s. 627.357, or  
147 through a plan of self-insurance which meets the conditions  
148 specified for satisfying financial responsibility in s. 766.110.  
149 The required coverage amount set forth in this paragraph may not  
150 be used for litigation costs or attorney ~~attorney's~~ fees for the  
151 defense of any medical malpractice claim.

152  
153 This subsection shall be inclusive of the coverage in subsection  
154 (1).

155 Section 4. Paragraph (b) of subsection (1) and paragraph  
156 (b) of subsection (2) of section 459.0085, Florida Statutes, are



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157 amended to read:

158 459.0085 Financial responsibility.—

159 (1) As a condition of licensing and maintaining an active  
160 license, and prior to the issuance or renewal of an active  
161 license or reactivation of an inactive license for the practice  
162 of osteopathic medicine, an applicant must by one of the  
163 following methods demonstrate to the satisfaction of the board  
164 and the department financial responsibility to pay claims and  
165 costs ancillary thereto arising out of the rendering of, or the  
166 failure to render, medical care or services:

167 (b) Obtaining and maintaining professional liability  
168 coverage in an amount not less than \$100,000 per claim, with a  
169 minimum annual aggregate of not less than \$300,000, from an  
170 authorized insurer as defined under s. 624.09, from a surplus  
171 lines insurer as defined under s. 626.914 ~~s. 626.914(2)~~, from a  
172 risk retention group as defined under s. 627.942, from the Joint  
173 Underwriting Association established under s. 627.351(4), or  
174 through a plan of self-insurance as provided in s. 627.357. The  
175 required coverage amount set forth in this paragraph may not be  
176 used for litigation costs or attorney's fees for the defense of  
177 any medical malpractice claim.

178 (2) Osteopathic physicians who perform surgery in an  
179 ambulatory surgical center licensed under chapter 395 and, as a  
180 continuing condition of hospital staff privileges, osteopathic  
181 physicians who have staff privileges must also establish  
182 financial responsibility by one of the following methods:

183 (b) Obtaining and maintaining professional liability  
184 coverage in an amount not less than \$250,000 per claim, with a  
185 minimum annual aggregate of not less than \$750,000 from an



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186 authorized insurer as defined under s. 624.09, from a surplus  
187 lines insurer as defined under s. 626.914 ~~s. 626.914(2)~~, from a  
188 risk retention group as defined under s. 627.942, from the Joint  
189 Underwriting Association established under s. 627.351(4),  
190 through a plan of self-insurance as provided in s. 627.357, or  
191 through a plan of self-insurance that meets the conditions  
192 specified for satisfying financial responsibility in s. 766.110.  
193 The required coverage amount set forth in this paragraph may not  
194 be used for litigation costs or attorney's fees for the defense  
195 of any medical malpractice claim.

196  
197 This subsection shall be inclusive of the coverage in subsection  
198 (1).

199 Section 5. Paragraph (a) of subsection (2) of section  
200 464.0123, Florida Statutes, is amended to read:

201 464.0123 Autonomous practice by an advanced practice  
202 registered nurse.—

203 (2) FINANCIAL RESPONSIBILITY.—

204 (a) An advanced practice registered nurse registered under  
205 this section must, by one of the following methods, demonstrate  
206 to the satisfaction of the board and the department financial  
207 responsibility to pay claims and costs ancillary thereto arising  
208 out of the rendering of, or the failure to render, nursing care,  
209 treatment, or services:

210 1. Obtaining and maintaining professional liability  
211 coverage in an amount not less than \$100,000 per claim, with a  
212 minimum annual aggregate of not less than \$300,000, from an  
213 authorized insurer as defined in s. 624.09, from a surplus lines  
214 insurer as defined in s. 626.914(3) ~~s. 626.914(2)~~, from a risk





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215 retention group as defined in s. 627.942, from the Joint  
216 Underwriting Association established under s. 627.351(4), or  
217 through a plan of self-insurance as provided in s. 627.357; or

218 2. Obtaining and maintaining an unexpired, irrevocable  
219 letter of credit, established pursuant to chapter 675, in an  
220 amount of not less than \$100,000 per claim, with a minimum  
221 aggregate availability of credit of not less than \$300,000. The  
222 letter of credit must be payable to the advanced practice  
223 registered nurse as beneficiary upon presentment of a final  
224 judgment indicating liability and awarding damages to be paid by  
225 the advanced practice registered nurse or upon presentment of a  
226 settlement agreement signed by all parties to such agreement  
227 when such final judgment or settlement is a result of a claim  
228 arising out of the rendering of, or the failure to render,  
229 nursing care and services.

230 Section 6. Paragraph (b) of subsection (6) of section  
231 629.401, Florida Statutes, is amended to read:

232 629.401 Insurance exchange.—

233 (6)

234 (b) In addition to the insurance laws specified in  
235 paragraph (a), the office shall regulate the exchange pursuant  
236 to the following powers, rights, and duties:

237 1. General examination powers.—The office shall examine the  
238 affairs, transactions, accounts, records, and assets of any  
239 security fund, exchange, members, and associate brokers as often  
240 as it deems advisable. The examination may be conducted by the  
241 accredited examiners of the office at the offices of the entity  
242 or person being examined. The office shall examine in like  
243 manner each prospective member or associate broker applying for



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244 membership in an exchange.

245         2. Office approval and applications of underwriting  
246 members.—No underwriting member shall commence operation without  
247 the approval of the office. Before commencing operation, an  
248 underwriting member shall provide a written application  
249 containing:

250             a. Name, type, and purpose of the underwriting member.

251             b. Name, residence address, business background, and  
252 qualifications of each person associated or to be associated in  
253 the formation or financing of the underwriting member.

254             c. Full disclosure of the terms of all understandings and  
255 agreements existing or proposed among persons so associated  
256 relative to the underwriting member, or the formation or  
257 financing thereof, accompanied by a copy of each such agreement  
258 or understanding.

259             d. Full disclosure of the terms of all understandings and  
260 agreements existing or proposed for management or exclusive  
261 agency contracts.

262         3. Investigation of underwriting member applications.—In  
263 connection with any proposal to establish an underwriting  
264 member, the office shall make an investigation of:

265             a. The character, reputation, financial standing, and  
266 motives of the organizers, incorporators, or subscribers  
267 organizing the proposed underwriting member.

268             b. The character, financial responsibility, insurance  
269 experience, and business qualifications of its proposed  
270 officers.

271             c. The character, financial responsibility, business  
272 experience, and standing of the proposed stockholders and



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273 directors, or owners.

274 4. Notice of management changes.—An underwriting member  
275 shall promptly give the office written notice of any change  
276 among the directors or principal officers of the underwriting  
277 member within 30 days after such change. The office shall  
278 investigate the new directors or principal officers of the  
279 underwriting member. The office's investigation shall include an  
280 investigation of the character, financial responsibility,  
281 insurance experience, and business qualifications of any new  
282 directors or principal officers. As a result of the  
283 investigation, the office may require the underwriting member to  
284 replace any new directors or principal officers.

285 5. Alternate financial statement.—In lieu of any financial  
286 examination, the office may accept an audited financial  
287 statement.

288 6. Correction and reconstruction of records.—If the office  
289 finds any accounts or records to be inadequate, or inadequately  
290 kept or posted, it may employ experts to reconstruct, rewrite,  
291 post, or balance them at the expense of the person or entity  
292 being examined if such person or entity has failed to maintain,  
293 complete, or correct such records or accounts after the office  
294 has given him or her or it notice and reasonable opportunity to  
295 do so.

296 7. Obstruction of examinations.—Any person or entity who or  
297 which willfully obstructs the office or its examiner in an  
298 examination is guilty of a misdemeanor of the second degree,  
299 punishable as provided in s. 775.082 or s. 775.083.

300 8. Filing of annual statement.—Each underwriting member  
301 shall file with the office a full and true statement of its



302 financial condition, transactions, and affairs. The statement  
303 shall be filed on or before March 1 of each year, or within such  
304 extension of time as the office for good cause grants, and shall  
305 be for the preceding calendar year. The statement shall contain  
306 information generally included in insurer financial statements  
307 prepared in accordance with generally accepted insurance  
308 accounting principles and practices and in a form generally  
309 utilized by insurers for financial statements, sworn to by at  
310 least two executive officers of the underwriting member. The  
311 form of the financial statements shall be the approved form of  
312 the National Association of Insurance Commissioners or its  
313 successor organization. The commission may by rule require each  
314 insurer to submit any part of the information contained in the  
315 financial statement in a computer-readable form compatible with  
316 the office's electronic data processing system. In addition to  
317 information furnished in connection with its annual statement,  
318 an underwriting member must furnish to the office as soon as  
319 reasonably possible such information about its transactions or  
320 affairs as the office requests in writing. All information  
321 furnished pursuant to the office's request must be verified by  
322 the oath of two executive officers of the underwriting member.

323 9. Record maintenance.—Each underwriting member shall have  
324 and maintain its principal place of business in this state and  
325 shall keep therein complete records of its assets, transactions,  
326 and affairs in accordance with such methods and systems as are  
327 customary for or suitable to the kind or kinds of insurance  
328 transacted.

329 10. Examination of agents.—If the department has reason to  
330 believe that any agent, as defined in s. 626.015 or s.



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331 626.914(5) ~~s. 626.914~~, has violated or is violating any  
332 provision of the insurance law, or upon receipt of a written  
333 complaint signed by any interested person indicating that any  
334 such violation may exist, the department shall conduct such  
335 examination as it deems necessary of the accounts, records,  
336 documents, and transactions pertaining to or affecting the  
337 insurance affairs of such agent.

338 11. Written reports of office.—The office or its examiner  
339 shall make a full and true written report of any examination.  
340 The report shall contain only information obtained from  
341 examination of the records, accounts, files, and documents of or  
342 relative to the person or entity examined or from testimony of  
343 individuals under oath, together with relevant conclusions and  
344 recommendations of the examiner based thereon. The office shall  
345 furnish a copy of the report to the person or entity examined  
346 not less than 30 days prior to filing the report in its office.  
347 If such person or entity so requests in writing within such 30-  
348 day period, the office shall grant a hearing with respect to the  
349 report and shall not file the report until after the hearing and  
350 after such modifications have been made therein as the office  
351 deems proper.

352 12. Admissibility of reports.—The report of an examination  
353 when filed shall be admissible in evidence in any action or  
354 proceeding brought by the office against the person or entity  
355 examined, or against his or her or its officers, employees, or  
356 agents. The office or its examiners may at any time testify and  
357 offer other proper evidence as to information secured or matters  
358 discovered during the course of an examination, whether or not a  
359 written report of the examination has been either made,



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360 furnished, or filed in the office.

361 13. Publication of reports.—After an examination report has  
362 been filed, the office may publish the results of any such  
363 examination in one or more newspapers published in this state  
364 whenever it deems it to be in the public interest.

365 14. Consideration of examination reports by entity  
366 examined.—After the examination report of an underwriting member  
367 has been filed, an affidavit shall be filed with the office, not  
368 more than 30 days after the report has been filed, on a form  
369 furnished by the office and signed by the person or a  
370 representative of any entity examined, stating that the report  
371 has been read and that the recommendations made in the report  
372 will be considered within a reasonable time.

373 15. Examination costs.—Each person or entity examined by  
374 the office shall pay to the office the expenses incurred in such  
375 examination.

376 16. Exchange costs.—An exchange shall reimburse the office  
377 for any expenses incurred by it relating to the regulation of  
378 the exchange and its members, except as specified in  
379 subparagraph 15.

380 17. Powers of examiners.—Any examiner appointed by the  
381 office, as to the subject of any examination, investigation, or  
382 hearing being conducted by him or her, may administer oaths,  
383 examine and cross-examine witnesses, and receive oral and  
384 documentary evidence, and shall have the power to subpoena  
385 witnesses, compel their attendance and testimony, and require by  
386 subpoena the production of books, papers, records, files,  
387 correspondence, documents, or other evidence which the examiner  
388 deems relevant to the inquiry. If any person refuses to comply



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389 with any such subpoena or to testify as to any matter concerning  
390 which he or she may be lawfully interrogated, the Circuit Court  
391 of Leon County or the circuit court of the county wherein such  
392 examination, investigation, or hearing is being conducted, or of  
393 the county wherein such person resides, on the office's  
394 application may issue an order requiring such person to comply  
395 with the subpoena and to testify; and any failure to obey such  
396 an order of the court may be punished by the court as a contempt  
397 thereof. Subpoenas shall be served, and proof of such service  
398 made, in the same manner as if issued by a circuit court.  
399 Witness fees and mileage, if claimed, shall be allowed the same  
400 as for testimony in a circuit court.

401 18. False testimony.—Any person willfully testifying  
402 falsely under oath as to any matter material to any examination,  
403 investigation, or hearing shall upon conviction thereof be  
404 guilty of perjury and shall be punished accordingly.

405 19. Self-incrimination.—

406 a. If any person asks to be excused from attending or  
407 testifying or from producing any books, papers, records,  
408 contracts, documents, or other evidence in connection with any  
409 examination, hearing, or investigation being conducted by the  
410 office or its examiner, on the ground that the testimony or  
411 evidence required of the person may tend to incriminate him or  
412 her or subject him or her to a penalty or forfeiture, and the  
413 person notwithstanding is directed to give such testimony or  
414 produce such evidence, he or she shall, if so directed by the  
415 office and the Department of Legal Affairs, nonetheless comply  
416 with such direction; but the person shall not thereafter be  
417 prosecuted or subjected to any penalty or forfeiture for or on



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418 account of any transaction, matter, or thing concerning which he  
419 or she may have so testified or produced evidence, and no  
420 testimony so given or evidence so produced shall be received  
421 against him or her upon any criminal action, investigation, or  
422 proceeding; except that no such person so testifying shall be  
423 exempt from prosecution or punishment for any perjury committed  
424 by him or her in such testimony, and the testimony or evidence  
425 so given or produced shall be admissible against him or her upon  
426 any criminal action, investigation, or proceeding concerning  
427 such perjury, nor shall he or she be exempt from the refusal,  
428 suspension, or revocation of any license, permission, or  
429 authority conferred, or to be conferred, pursuant to the  
430 insurance law.

431       b. Any such individual may execute, acknowledge, and file  
432 with the office a statement expressly waiving such immunity or  
433 privilege in respect to any transaction, matter, or thing  
434 specified in such statement, and thereupon the testimony of such  
435 individual or such evidence in relation to such transaction,  
436 matter, or thing may be received or produced before any judge or  
437 justice, court, tribunal, grand jury, or otherwise; and if such  
438 testimony or evidence is so received or produced, such  
439 individual shall not be entitled to any immunity or privileges  
440 on account of any testimony so given or evidence so produced.

441       20. Penalty for failure to testify.—Any person who refuses  
442 or fails, without lawful cause, to testify relative to the  
443 affairs of any member, associate broker, or other person when  
444 subpoenaed and requested by the office to so testify, as  
445 provided in subparagraph 17., shall, in addition to the penalty  
446 provided in subparagraph 17., be guilty of a misdemeanor of the





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447 second degree, punishable as provided in s. 775.082 or s.  
448 775.083.

449 21. Name selection.—No underwriting member shall be formed  
450 or authorized to transact insurance in this state under a name  
451 which is the same as that of any authorized insurer or is so  
452 nearly similar thereto as to cause or tend to cause confusion or  
453 under a name which would tend to mislead as to the type of  
454 organization of the insurer. Before incorporating under or using  
455 any name, the underwriting syndicate or proposed underwriting  
456 syndicate shall submit its name or proposed name to the office  
457 for the approval of the office.

458 22. Capitalization.—An underwriting member approved on or  
459 after July 2, 1987, shall provide an initial paid-in capital and  
460 surplus of \$3 million and thereafter shall maintain a minimum  
461 policyholder surplus of \$2 million in order to be permitted to  
462 write insurance. Underwriting members approved prior to July 2,  
463 1987, shall maintain a minimum policyholder surplus of \$1  
464 million. After June 29, 1988, underwriting members approved  
465 prior to July 2, 1987, must maintain a minimum policyholder  
466 surplus of \$1.5 million to write insurance. After June 29, 1989,  
467 underwriting members approved prior to July 2, 1987, must  
468 maintain a minimum policyholder surplus of \$1.75 million to  
469 write insurance. After December 30, 1989, all underwriting  
470 members, regardless of the date they were approved, must  
471 maintain a minimum policyholder surplus of \$2 million to write  
472 insurance. Except for that portion of the paid-in capital and  
473 surplus which shall be maintained in a security fund of an  
474 exchange, the paid-in capital and surplus shall be invested by  
475 an underwriting member in a manner consistent with ss. 625.301-



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476 625.340. The portion of the paid-in capital and surplus in any  
477 security fund of an exchange shall be invested in a manner  
478 limited to investments for life insurance companies under the  
479 Florida insurance laws.

480 23. Limitations on coverage written.—

481 a. Limit of risk.—No underwriting member shall expose  
482 itself to any loss on any one risk in an amount exceeding 10  
483 percent of its surplus to policyholders. Any risk or portion of  
484 any risk which shall have been reinsured in an assuming  
485 reinsurer authorized or approved to do such business in this  
486 state shall be deducted in determining the limitation of risk  
487 prescribed in this section.

488 b. Restrictions on premiums written.—If the office has  
489 reason to believe that the underwriting member's ratio of actual  
490 or projected annual gross written premiums to policyholder  
491 surplus exceeds 8 to 1 or the underwriting member's ratio of  
492 actual or projected annual net premiums to policyholder surplus  
493 exceeds 4 to 1, the office may establish maximum gross or net  
494 annual premiums to be written by the underwriting member  
495 consistent with maintaining the ratios specified in this sub-  
496 subparagraph.

497 (I) Projected annual net or gross premiums shall be based  
498 on the actual writings to date for the underwriting member's  
499 current calendar year, its writings for the previous calendar  
500 year, or both. Ratios shall be computed on an annualized basis.

501 (II) For purposes of this sub-subparagraph, the term "gross  
502 written premiums" means direct premiums written and reinsurance  
503 assumed.

504 c. Surplus as to policyholders.—For the purpose of



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505 determining the limitation on coverage written, surplus as to  
506 policyholders shall be deemed to include any voluntary reserves,  
507 or any part thereof, which are not required by or pursuant to  
508 law and shall be determined from the last sworn statement of  
509 such underwriting member with the office, or by the last report  
510 or examination filed by the office, whichever is more recent at  
511 the time of assumption of such risk.

512         24. Unearned premium reserves.—An underwriting member must  
513 at all times maintain an unearned premium reserve equal to 50  
514 percent of the net written premiums of the subscribers on  
515 policies having 1 year or less to run, and pro rata on those for  
516 longer periods, except that all premiums on any marine or  
517 transportation insurance trip risk shall be deemed unearned  
518 until the trip is terminated. For the purpose of this  
519 subparagraph, the term "net written premiums" means the premium  
520 payments made by subscribers plus the premiums due from  
521 subscribers, after deducting the amounts specifically provided  
522 in the subscribers' agreements for expenses, including  
523 reinsurance costs and fees paid to the attorney in fact,  
524 provided that the power of attorney agreement contains an  
525 explicit provision requiring the attorney in fact to refund any  
526 unearned subscribers fees on a pro-rata basis for canceled  
527 policies. If there is no such provision, the unearned premium  
528 reserve shall be calculated without any adjustment for fees paid  
529 to the attorney in fact. If the unearned premium reserves at any  
530 time do not amount to \$100,000, there shall be maintained on  
531 deposit at the exchange at all times additional funds in cash or  
532 eligible securities which, together with the unearned premium  
533 reserves, equal \$100,000. In calculating the foregoing reserves,



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534 the amount of the attorney's bond, as filed with the office and  
535 as required by s. 629.121, shall be included in such reserves.  
536 If at any time the unearned premium reserves are less than the  
537 foregoing requirements, the subscribers, or the attorney in  
538 fact, shall advance funds to make up the deficiency. Such  
539 advances shall only be repaid out of the surplus of the exchange  
540 and only after receiving written approval from the office.

541 25. Loss reserves.—All underwriting members of an exchange  
542 shall maintain loss reserves, including a reserve for incurred  
543 but not reported claims. The reserves shall be subject to review  
544 by the office, and, if loss experience shows that an  
545 underwriting member's loss reserves are inadequate, the office  
546 shall require the underwriting member to maintain loss reserves  
547 in such additional amount as is needed to make them adequate.

548 26. Distribution of profits.—An underwriting member shall  
549 not distribute any profits in the form of cash or other assets  
550 to owners except out of that part of its available and  
551 accumulated surplus funds which is derived from realized net  
552 operating profits on its business and realized capital gains. In  
553 any one year such payments to owners shall not exceed 30 percent  
554 of such surplus as of December 31 of the immediately preceding  
555 year, unless otherwise approved by the office. No distribution  
556 of profits shall be made that would render an underwriting  
557 member either impaired or insolvent.

558 27. Stock dividends.—A stock dividend may be paid by an  
559 underwriting member out of any available surplus funds in excess  
560 of the aggregate amount of surplus advanced to the underwriting  
561 member under subparagraph 29.

562 28. Dividends from earned surplus.—A dividend otherwise



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563 lawful may be payable out of an underwriting member's earned  
564 surplus even though the total surplus of the underwriting member  
565 is then less than the aggregate of its past contributed surplus  
566 resulting from issuance of its capital stock at a price in  
567 excess of the par value thereof.

568 29. Borrowing of money by underwriting members.—

569 a. An underwriting member may borrow money to defray the  
570 expenses of its organization, provide it with surplus funds, or  
571 for any purpose of its business, upon a written agreement that  
572 such money is required to be repaid only out of the underwriting  
573 member's surplus in excess of that stipulated in such agreement.  
574 The agreement may provide for interest not exceeding 15 percent  
575 simple interest per annum. The interest shall or shall not  
576 constitute a liability of the underwriting member as to its  
577 funds other than such excess of surplus, as stipulated in the  
578 agreement. No commission or promotion expense shall be paid in  
579 connection with any such loan. The use of any surplus note and  
580 any repayments thereof shall be subject to the approval of the  
581 office.

582 b. Money so borrowed, together with any interest thereon if  
583 so stipulated in the agreement, shall not form a part of the  
584 underwriting member's legal liabilities except as to its surplus  
585 in excess of the amount thereof stipulated in the agreement, nor  
586 be the basis of any setoff; but until repayment, financial  
587 statements filed or published by an underwriting member shall  
588 show as a footnote thereto the amount thereof then unpaid,  
589 together with any interest thereon accrued but unpaid.

590 30. Liquidation, rehabilitation, and restrictions.—The  
591 office, upon a showing that a member or associate broker of an



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592 exchange has met one or more of the grounds contained in part I  
593 of chapter 631, may restrict sales by type of risk, policy or  
594 contract limits, premium levels, or policy or contract  
595 provisions; increase surplus or capital requirements of  
596 underwriting members; issue cease and desist orders; suspend or  
597 restrict a member's or associate broker's right to transact  
598 business; place an underwriting member under conservatorship or  
599 rehabilitation; or seek an order of liquidation as authorized by  
600 part I of chapter 631.

601 31. Prohibited conduct.—The following acts by a member,  
602 associate broker, or affiliated person shall constitute  
603 prohibited conduct:

604 a. Fraud.

605 b. Fraudulent or dishonest acts committed by a member or  
606 associate broker prior to admission to an exchange, if the facts  
607 and circumstances were not disclosed to the office upon  
608 application to become a member or associate broker.

609 c. Conduct detrimental to the welfare of an exchange.

610 d. Unethical or improper practices or conduct, inconsistent  
611 with just and equitable principles of trade as set forth in, but  
612 not limited to, ss. 626.951-626.9641 and 626.973.

613 e. Failure to use due diligence to ascertain the insurance  
614 needs of a client or a principal.

615 f. Misstatements made under oath or upon an application for  
616 membership on an exchange.

617 g. Failure to testify or produce documents when requested  
618 by the office.

619 h. Willful violation of any law of this state.

620 i. Failure of an officer or principal to testify under oath



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621 concerning a member, associate broker, or other person's affairs  
622 as they relate to the operation of an exchange.

623 j. Violation of the constitution and bylaws of the  
624 exchange.

625 32. Penalties for participating in prohibited conduct.—

626 a. The office may order the suspension of further  
627 transaction of business on the exchange of any member or  
628 associate broker found to have engaged in prohibited conduct. In  
629 addition, any member or associate broker found to have engaged  
630 in prohibited conduct may be subject to reprimand, censure,  
631 and/or a fine not exceeding \$25,000 imposed by the office.

632 b. Any member which has an affiliated person who is found  
633 to have engaged in prohibited conduct shall be subject to  
634 involuntary withdrawal or in addition thereto may be subject to  
635 suspension, reprimand, censure, and/or a fine not exceeding  
636 \$25,000.

637 33. Reduction of penalties.—Any suspension, reprimand,  
638 censure, or fine may be remitted or reduced by the office on  
639 such terms and conditions as are deemed fair and equitable.

640 34. Other offenses.—Any member or associate broker that is  
641 suspended shall be deprived, during the period of suspension, of  
642 all rights and privileges of a member or of an associate broker  
643 and may be proceeded against by the office for any offense  
644 committed either before or after the date of suspension.

645 35. Reinstatement.—Any member or associate broker that is  
646 suspended may be reinstated at any time on such terms and  
647 conditions as the office may specify.

648 36. Remittance of fines.—Fines imposed under this section  
649 shall be remitted to the office and shall be paid into the



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650 Insurance Regulatory Trust Fund.

651         37. Failure to pay fines.—When a member or associate broker  
652 has failed to pay a fine for 15 days after it becomes payable,  
653 such member or associate broker shall be suspended, unless the  
654 office has granted an extension of time to pay such fine.

655         38. Changes in ownership or assets.—In the event of a major  
656 change in the ownership or a major change in the assets of an  
657 underwriting member, the underwriting member shall report such  
658 change in writing to the office within 30 days of the effective  
659 date thereof. The report shall set forth the details of the  
660 change. Any change in ownership or assets of more than 5 percent  
661 shall be considered a major change.

662         39. Retaliation.—

663         a. When by or pursuant to the laws of any other state or  
664 foreign country any taxes, licenses, or other fees, in the  
665 aggregate, and any fines, penalties, deposit requirements, or  
666 other material obligations, prohibitions, or restrictions are or  
667 would be imposed upon an exchange or upon the agents or  
668 representatives of such exchange which are in excess of such  
669 taxes, licenses, and other fees, in the aggregate, or which are  
670 in excess of such fines, penalties, deposit requirements, or  
671 other obligations, prohibitions, or restrictions directly  
672 imposed upon similar exchanges or upon the agents or  
673 representatives of such exchanges of such other state or country  
674 under the statutes of this state, so long as such laws of such  
675 other state or country continue in force or are so applied, the  
676 same taxes, licenses, and other fees, in the aggregate, or  
677 fines, penalties, deposit requirements, or other material  
678 obligations, prohibitions, or restrictions of whatever kind





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679 shall be imposed by the office upon the exchanges, or upon the  
680 agents or representatives of such exchanges, of such other state  
681 or country doing business or seeking to do business in this  
682 state.

683       b. Any tax, license, or other obligation imposed by any  
684 city, county, or other political subdivision or agency of a  
685 state, jurisdiction, or foreign country on an exchange, or on  
686 the agents or representatives on an exchange, shall be deemed to  
687 be imposed by such state, jurisdiction, or foreign country  
688 within the meaning of sub-subparagraph a.

689       40. Agents.—

690       a. Agents as defined in ss. 626.015 and 626.914(5) ~~626.914~~  
691 who are broker members or associate broker members of an  
692 exchange shall be allowed only to place on an exchange the same  
693 kind or kinds of business that the agent is licensed to place  
694 pursuant to Florida law. Direct Florida business as defined in  
695 s. 626.916 or s. 626.917 shall be written through a broker  
696 member who is a surplus lines agent as defined in s. 626.914.  
697 The activities of each broker member or associate broker with  
698 regard to an exchange shall be subject to all applicable  
699 provisions of the insurance laws of this state, and all such  
700 activities shall constitute transactions under his or her  
701 license as an insurance agent for purposes of the Florida  
702 insurance law.

703       b. Premium payments and other requirements.—If an  
704 underwriting member has assumed the risk as to a surplus lines  
705 coverage and if the premium therefor has been received by the  
706 surplus lines agent who placed such insurance, then in all  
707 questions thereafter arising under the coverage as between the



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708 | underwriting member and the insured, the underwriting member  
709 | shall be deemed to have received the premium due to it for such  
710 | coverage; and the underwriting member shall be liable to the  
711 | insured as to losses covered by such insurance, and for unearned  
712 | premiums which may become payable to the insured upon  
713 | cancellation of such insurance, whether or not in fact the  
714 | surplus lines agent is indebted to the underwriting member with  
715 | respect to such insurance or for any other cause.

716 |       41. Improperly issued contracts, riders, and endorsements.—

717 |       a. Any insurance policy, rider, or endorsement issued by an  
718 | underwriting member and otherwise valid which contains any  
719 | condition or provision not in compliance with the requirements  
720 | of this section shall not be thereby rendered invalid, except as  
721 | provided in s. 627.415, but shall be construed and applied in  
722 | accordance with such conditions and provisions as would have  
723 | applied had such policy, rider, or endorsement been in full  
724 | compliance with this section. In the event an underwriting  
725 | member issues or delivers any policy for an amount which exceeds  
726 | any limitations otherwise provided in this section, the  
727 | underwriting member shall be liable to the insured or his or her  
728 | beneficiary for the full amount stated in the policy in addition  
729 | to any other penalties that may be imposed.

730 |       b. Any insurance contract delivered or issued for delivery  
731 | in this state governing a subject or subjects of insurance  
732 | resident, located, or to be performed in this state which,  
733 | pursuant to the provisions of this section, the underwriting  
734 | member may not lawfully insure under such a contract shall be  
735 | cancelable at any time by the underwriting member, any provision  
736 | of the contract to the contrary notwithstanding; and the



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737 underwriting member shall promptly cancel the contract in  
738 accordance with the request of the office therefor. No such  
739 illegality or cancellation shall be deemed to relieve the  
740 underwriting syndicate of any liability incurred by it under the  
741 contract while in force or to prohibit the underwriting  
742 syndicate from retaining the pro rata earned premium thereon.  
743 This provision does not relieve the underwriting syndicate from  
744 any penalty otherwise incurred by the underwriting syndicate.

745 42. Satisfaction of judgments.—

746 a. Every judgment or decree for the recovery of money  
747 heretofore or hereafter entered in any court of competent  
748 jurisdiction against any underwriting member shall be fully  
749 satisfied within 60 days from and after the entry thereof or, in  
750 the case of an appeal from such judgment or decree, within 60  
751 days from and after the affirmance of the judgment or decree by  
752 the appellate court.

753 b. If the judgment or decree is not satisfied as required  
754 under sub-subparagraph a., and proof of such failure to satisfy  
755 is made by filing with the office a certified transcript of the  
756 docket of the judgment or the decree together with a certificate  
757 by the clerk of the court wherein the judgment or decree remains  
758 unsatisfied, in whole or in part, after the time provided in  
759 sub-subparagraph a., the office shall forthwith prohibit the  
760 underwriting member from transacting business. The office shall  
761 not permit such underwriting member to write any new business  
762 until the judgment or decree is wholly paid and satisfied and  
763 proof thereof is filed with the office under the official  
764 certificate of the clerk of the court wherein the judgment was  
765 recovered, showing that the judgment or decree is satisfied of



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766 record, and until the expenses and fees incurred in the case are  
767 also paid by the underwriting syndicate.

768 43. Tender and exchange offers.—No person shall conclude a  
769 tender offer or an exchange offer or otherwise acquire 5 percent  
770 or more of the outstanding voting securities of an underwriting  
771 member or controlling company or purchase 5 percent or more of  
772 the ownership of an underwriting member or controlling company  
773 unless such person has filed with, and obtained the approval of,  
774 the office and sent to such underwriting member a statement  
775 setting forth:

776 a. The identity of, and background information on, each  
777 person by whom, or on whose behalf, the acquisition is to be  
778 made; and, if the acquisition is to be made by or on behalf of a  
779 corporation, association, or trust, the identity of and  
780 background information on each director, officer, trustee, or  
781 other natural person performing duties similar to those of a  
782 director, officer, or trustee for the corporation, association,  
783 or trust.

784 b. The source and amount of the funds or other  
785 consideration used, or to be used, in making the acquisition.

786 c. Any plans or proposals which such person may have to  
787 liquidate such member, to sell its assets, or to merge or  
788 consolidate it.

789 d. The percentage of ownership which such person proposes  
790 to acquire and the terms of the offer or exchange, as the case  
791 may be.

792 e. Information as to any contracts, arrangements, or  
793 understandings with any party with respect to any securities of  
794 such member or controlling company, including, but not limited



795 to, information relating to the transfer of any securities,  
796 option arrangements, or puts or calls or the giving or  
797 withholding of proxies, naming the party with whom such  
798 contract, arrangements, or understandings have been entered and  
799 giving the details thereof.

800 f. The office may disapprove any acquisition subject to the  
801 provisions of this subparagraph by any person or any affiliated  
802 person of such person who:

803 (I) Willfully violates this subparagraph;

804 (II) In violation of an order of the office issued pursuant  
805 to sub-subparagraph j., fails to divest himself or herself of  
806 any stock obtained in violation of this subparagraph, or fails  
807 to divest himself or herself of any direct or indirect control  
808 of such stock, within 25 days after such order; or

809 (III) In violation of an order issued by the office  
810 pursuant to sub-subparagraph j., acquires additional stock of  
811 the underwriting member or controlling company, or direct or  
812 indirect control of such stock, without complying with this  
813 subparagraph.

814 g. The person or persons filing the statement required by  
815 this subparagraph have the burden of proof. The office shall  
816 approve any such acquisition if it finds, on the basis of the  
817 record made during any proceeding or on the basis of the filed  
818 statement if no proceeding is conducted, that:

819 (I) Upon completion of the acquisition, the underwriting  
820 member will be able to satisfy the requirements for the approval  
821 to write the line or lines of insurance for which it is  
822 presently approved;

823 (II) The financial condition of the acquiring person or



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824 persons will not jeopardize the financial stability of the  
825 underwriting member or prejudice the interests of its  
826 policyholders or the public;

827 (III) Any plan or proposal which the acquiring person has,  
828 or acquiring persons have, made:

829 (A) To liquidate the insurer, sell its assets, or merge or  
830 consolidate it with any person, or to make any other major  
831 change in its business or corporate structure or management; or

832 (B) To liquidate any controlling company, sell its assets,  
833 or merge or consolidate it with any person, or to make any major  
834 change in its business or corporate structure or management  
835 which would have an effect upon the underwriting member

836  
837 is fair and free of prejudice to the policyholders of the  
838 underwriting member or to the public;

839 (IV) The competence, experience, and integrity of those  
840 persons who will control directly or indirectly the operation of  
841 the underwriting member indicate that the acquisition is in the  
842 best interest of the policyholders of the underwriting member  
843 and in the public interest;

844 (V) The natural persons for whom background information is  
845 required to be furnished pursuant to this subparagraph have such  
846 backgrounds as to indicate that it is in the best interests of  
847 the policyholders of the underwriting member, and in the public  
848 interest, to permit such persons to exercise control over such  
849 underwriting member;

850 (VI) The officers and directors to be employed after the  
851 acquisition have sufficient insurance experience and ability to  
852 assure reasonable promise of successful operation;



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853 (VII) The management of the underwriting member after the  
854 acquisition will be competent and trustworthy and will possess  
855 sufficient managerial experience so as to make the proposed  
856 operation of the underwriting member not hazardous to the  
857 insurance-buying public;

858 (VIII) The management of the underwriting member after the  
859 acquisition will not include any person who has directly or  
860 indirectly through ownership, control, reinsurance transactions,  
861 or other insurance or business relations unlawfully manipulated  
862 the assets, accounts, finances, or books of any insurer or  
863 underwriting member or otherwise acted in bad faith with respect  
864 thereto;

865 (IX) The acquisition is not likely to be hazardous or  
866 prejudicial to the underwriting member's policyholders or the  
867 public; and

868 (X) The effect of the acquisition of control would not  
869 substantially lessen competition in insurance in this state or  
870 would not tend to create a monopoly therein.

871 h. No vote by the stockholder of record, or by any other  
872 person, of any security acquired in contravention of the  
873 provisions of this subparagraph is valid. Any acquisition of any  
874 security contrary to the provisions of this subparagraph is  
875 void. Upon the petition of the underwriting member or  
876 controlling company, the circuit court for the county in which  
877 the principal office of such underwriting member is located may,  
878 without limiting the generality of its authority, order the  
879 issuance or entry of an injunction or other order to enforce the  
880 provisions of this subparagraph. There shall be a private right  
881 of action in favor of the underwriting member or controlling



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882 company to enforce the provisions of this subparagraph. No  
883 demand upon the office that it perform its functions shall be  
884 required as a prerequisite to any suit by the underwriting  
885 member or controlling company against any other person, and in  
886 no case shall the office be deemed a necessary party to any  
887 action by such underwriting member or controlling company to  
888 enforce the provisions of this subparagraph. Any person who  
889 makes or proposes an acquisition requiring the filing of a  
890 statement pursuant to this subparagraph, or who files such a  
891 statement, shall be deemed to have thereby designated the Chief  
892 Financial Officer as such person's agent for service of process  
893 under this subparagraph and shall thereby be deemed to have  
894 submitted himself or herself to the administrative jurisdiction  
895 of the office and to the jurisdiction of the circuit court.

896 i. Any approval by the office under this subparagraph does  
897 not constitute a recommendation by the office for an  
898 acquisition, tender offer, or exchange offer. It is unlawful for  
899 a person to represent that the office's approval constitutes a  
900 recommendation. A person who violates the provisions of this  
901 sub-subparagraph is guilty of a felony of the third degree,  
902 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
903 The statute-of-limitations period for the prosecution of an  
904 offense committed under this sub-subparagraph is 5 years.

905 j. Upon notification to the office by the underwriting  
906 member or a controlling company that any person or any  
907 affiliated person of such person has acquired 5 percent or more  
908 of the outstanding voting securities of the underwriting member  
909 or controlling company without complying with the provisions of  
910 this subparagraph, the office shall order that the person and





911 any affiliated person of such person cease acquisition of any  
912 further securities of the underwriting member or controlling  
913 company; however, the person or any affiliated person of such  
914 person may request a proceeding, which proceeding shall be  
915 convened within 7 days after the rendering of the order for the  
916 sole purpose of determining whether the person, individually or  
917 in connection with any affiliated person of such person, has  
918 acquired 5 percent or more of the outstanding voting securities  
919 of an underwriting member or controlling company. Upon the  
920 failure of the person or affiliated person to request a hearing  
921 within 7 days, or upon a determination at a hearing convened  
922 pursuant to this sub-subparagraph that the person or affiliated  
923 person has acquired voting securities of an underwriting member  
924 or controlling company in violation of this subparagraph, the  
925 office may order the person and affiliated person to divest  
926 themselves of any voting securities so acquired.

927 k.(I) The office shall, if necessary to protect the public  
928 interest, suspend or revoke the certificate of authority of any  
929 underwriting member or controlling company:

930 (A) The control of which is acquired in violation of this  
931 subparagraph;

932 (B) That is controlled, directly or indirectly, by any  
933 person or any affiliated person of such person who, in violation  
934 of this subparagraph, has obtained control of an underwriting  
935 member or controlling company; or

936 (C) That is controlled, directly or indirectly, by any  
937 person who, directly or indirectly, controls any other person  
938 who, in violation of this subparagraph, acquires control of an  
939 underwriting member or controlling company.



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940 (II) If any underwriting member is subject to suspension or  
941 revocation pursuant to sub-sub-subparagraph (I), the  
942 underwriting member shall be deemed to be in such condition, or  
943 to be using or to have been subject to such methods or practices  
944 in the conduct of its business, as to render its further  
945 transaction of insurance presently or prospectively hazardous to  
946 its policyholders, creditors, or stockholders or to the public.

947 1.(I) For the purpose of this sub-sub-subparagraph, the  
948 term "affiliated person" of another person means:

949 (A) The spouse of such other person;

950 (B) The parents of such other person and their lineal  
951 descendants and the parents of such other person's spouse and  
952 their lineal descendants;

953 (C) Any person who directly or indirectly owns or controls,  
954 or holds with power to vote, 5 percent or more of the  
955 outstanding voting securities of such other person;

956 (D) Any person 5 percent or more of the outstanding voting  
957 securities of which are directly or indirectly owned or  
958 controlled, or held with power to vote, by such other person;

959 (E) Any person or group of persons who directly or  
960 indirectly control, are controlled by, or are under common  
961 control with such other person; or any officer, director,  
962 partner, copartner, or employee of such other person;

963 (F) If such other person is an investment company, any  
964 investment adviser of such company or any member of an advisory  
965 board of such company;

966 (G) If such other person is an unincorporated investment  
967 company not having a board of directors, the depositor of such  
968 company; or



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969 (H) Any person who has entered into an agreement, written  
970 or unwritten, to act in concert with such other person in  
971 acquiring or limiting the disposition of securities of an  
972 underwriting member or controlling company.

973 (II) For the purposes of this section, the term  
974 "controlling company" means any corporation, trust, or  
975 association owning, directly or indirectly, 25 percent or more  
976 of the voting securities of one or more underwriting members.

977 m. The commission may adopt, amend, or repeal rules that  
978 are necessary to implement the provisions of this subparagraph,  
979 pursuant to chapter 120.

980 44. Background information.—The information as to the  
981 background and identity of each person about whom information is  
982 required to be furnished pursuant to sub-subparagraph 43.a.  
983 shall include, but shall not be limited to:

984 a. Such person's occupations, positions of employment, and  
985 offices held during the past 10 years.

986 b. The principal business and address of any business,  
987 corporation, or other organization in which each such office was  
988 held or in which such occupation or position of employment was  
989 carried on.

990 c. Whether, at any time during such 10-year period, such  
991 person was convicted of any crime other than a traffic  
992 violation.

993 d. Whether, during such 10-year period, such person has  
994 been the subject of any proceeding for the revocation of any  
995 license and, if so, the nature of such proceeding and the  
996 disposition thereof.

997 e. Whether, during such 10-year period, such person has



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998 been the subject of any proceeding under the federal Bankruptcy  
999 Act or whether, during such 10-year period, any corporation,  
1000 partnership, firm, trust, or association in which such person  
1001 was a director, officer, trustee, partner, or other official has  
1002 been subject to any such proceeding, either during the time in  
1003 which such person was a director, officer, trustee, partner, or  
1004 other official, or within 12 months thereafter.

1005 f. Whether, during such 10-year period, such person has  
1006 been enjoined, either temporarily or permanently, by a court of  
1007 competent jurisdiction from violating any federal or state law  
1008 regulating the business of insurance, securities, or banking, or  
1009 from carrying out any particular practice or practices in the  
1010 course of the business of insurance, securities, or banking,  
1011 together with details of any such event.

1012 45. Security fund.—All underwriting members shall be  
1013 members of the security fund of any exchange.

1014 46. Underwriting member defined.—Whenever the term  
1015 “underwriting member” is used in this subsection, it shall be  
1016 construed to mean “underwriting syndicate.”

1017 47. Offsets.—Any action, requirement, or constraint imposed  
1018 by the office shall reduce or offset similar actions,  
1019 requirements, or constraints of any exchange.

1020 48. Restriction on member ownership.—

1021 a. Investments existing prior to July 2, 1987.—The  
1022 investment in any member by brokers, agents, and intermediaries  
1023 transacting business on the exchange, and the investment in any  
1024 such broker, agent, or intermediary by any member, directly or  
1025 indirectly, shall in each case be limited in the aggregate to  
1026 less than 20 percent of the total investment in such member,



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1027 broker, agent, or intermediary, as the case may be. After  
1028 December 31, 1987, the aggregate percent of the total investment  
1029 in such member by any broker, agent, or intermediary and the  
1030 aggregate percent of the total investment in any such broker,  
1031 agent, or intermediary by any member, directly or indirectly,  
1032 shall not exceed 15 percent. After June 30, 1988, such aggregate  
1033 percent shall not exceed 10 percent and after December 31, 1988,  
1034 such aggregate percent shall not exceed 5 percent.

1035       b. Investments arising on or after July 2, 1987.—The  
1036 investment in any underwriting member by brokers, agents, or  
1037 intermediaries transacting business on the exchange, and the  
1038 investment in any such broker, agent, or intermediary by any  
1039 underwriting member, directly or indirectly, shall in each case  
1040 be limited in the aggregate to less than 5 percent of the total  
1041 investment in such underwriting member, broker, agent, or  
1042 intermediary.

1043       49. "Underwriting manager" defined.—"Underwriting manager"  
1044 as used in this subparagraph includes any person, partnership,  
1045 corporation, or organization providing any of the following  
1046 services to underwriting members of the exchange:

1047       a. Office management and allied services, including  
1048 correspondence and secretarial services.

1049       b. Accounting services, including bookkeeping and financial  
1050 report preparation.

1051       c. Investment and banking consultations and services.

1052       d. Underwriting functions and services including the  
1053 acceptance, rejection, placement, and marketing of risk.

1054       50. Prohibition of underwriting manager investment.—Any  
1055 direct or indirect investment in any underwriting manager by a



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1056 broker member or any affiliated person of a broker member or any  
1057 direct or indirect investment in a broker member by an  
1058 underwriting manager or any affiliated person of an underwriting  
1059 manager is prohibited. "Affiliated person" for purposes of this  
1060 subparagraph is defined in subparagraph 43.

1061 51. An underwriting member may not accept reinsurance on an  
1062 assumed basis from an affiliate or a controlling company, nor  
1063 may a broker member or management company place reinsurance from  
1064 an affiliate or controlling company of theirs with an  
1065 underwriting member. "Affiliate and controlling company" for  
1066 purposes of this subparagraph is defined in subparagraph 43.

1067 52. Premium defined.—"Premium" is the consideration for  
1068 insurance, by whatever name called. Any "assessment" or any  
1069 "membership," "policy," "survey," "inspection," "service" fee or  
1070 charge or similar fee or charge in consideration for an  
1071 insurance contract is deemed part of the premium.

1072 53. Rules.—The commission shall adopt rules necessary for  
1073 or as an aid to the effectuation of any provision of this  
1074 section.

1075 Section 7. This act shall take effect July 1, 2022.

1077 ===== T I T L E A M E N D M E N T =====

1078 And the title is amended as follows:

1079 Delete everything before the enacting clause  
1080 and insert:

1081 A bill to be entitled  
1082 An act relating to domestic surplus lines insurers;  
1083 amending s. 626.914, F.S.; defining the term "domestic  
1084 surplus lines insurer"; revising the definition of the



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1085 term "eligible surplus lines insurer" to include  
1086 domestic surplus lines insurers; creating s.  
1087 626.91805, F.S.; defining the term "nonadmitted  
1088 insurer"; authorizing specified nonadmitted insurers  
1089 to transact insurance as domestic surplus lines  
1090 insurers under certain circumstances; requiring  
1091 domestic surplus lines insurers to maintain a minimum  
1092 surplus amount; requiring such insurers to be deemed  
1093 eligible surplus lines insurers and to be included in  
1094 the list of eligible surplus lines insurers;  
1095 authorizing such insurers to write certain kinds of  
1096 insurance; requiring such insurers to be considered  
1097 unauthorized insurers for specified purposes;  
1098 requiring such insurers to be considered nonadmitted  
1099 insurers for specified purposes; authorizing domestic  
1100 surplus lines insurers to write only surplus lines  
1101 insurance under a specified circumstance; prohibiting  
1102 such insurers from simultaneously holding any  
1103 certificate of authority to operate as admitted  
1104 insurers; authorizing such insurers to write surplus  
1105 lines insurance in any jurisdiction if specified  
1106 requirements are met; providing applicability of  
1107 specified requirements of the Florida Insurance Code  
1108 to such insurers; providing an exception; providing an  
1109 exemption from a specified law for such insurers;  
1110 providing exemptions from specified requirements for  
1111 surplus lines insurance policies issued by such  
1112 insurers; providing that such policies are subject to  
1113 specified taxes but are not subject to certain other



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1114 taxes; providing that such policies are not subject to  
1115 the protections and requirements of specified acts and  
1116 a specified fund; prohibiting such insurers from  
1117 issuing certain homeowners' policies under a specified  
1118 circumstance; providing nonapplicability; prohibiting  
1119 such insurers from issuing certain policies to satisfy  
1120 specified laws; amending ss. 458.320, 459.0085, and  
1121 464.0123, F.S.; conforming cross-references; amending  
1122 s. 629.401, F.S.; specifying cross-references;  
1123 providing an effective date.