



26 applicability of specified financial and solvency  
 27 requirements to domestic surplus lines insurers;  
 28 providing an exception; providing an exemption from a  
 29 specified law for domestic surplus lines insurers;  
 30 providing exemptions from specified requirements for  
 31 surplus lines insurance policies issued by such  
 32 insurers; providing that such policies are subject to  
 33 specified taxes but are not subject to certain other  
 34 taxes; providing that such policies are not subject to  
 35 the protections and requirements of specified acts;  
 36 amending ss. 458.320, 459.0085, and 464.0123, F.S.;  
 37 conforming cross-references; amending s. 629.401,  
 38 F.S.; specifying cross-references; providing an  
 39 effective date.

40

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

42

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

45 626.914 Definitions.—As used in this Surplus Lines Law,  
 46 the term:

47 (1)~~(4)~~ "Diligent effort" means seeking coverage from and  
 48 having been rejected by at least three authorized insurers  
 49 currently writing this type of coverage and documenting these  
 50 rejections. However, if the residential structure has a dwelling

51 replacement cost of \$700,000 or more, the term means seeking  
52 coverage from and having been rejected by at least one  
53 authorized insurer currently writing this type of coverage and  
54 documenting this rejection.

55 (2) "Domestic surplus lines insurer" means a nonadmitted  
56 insurer domiciled in this state that has been authorized by the  
57 office to write surplus lines insurance.

58 (3)-(2) "Eligible surplus lines insurer" means:

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

62 (b) A domestic surplus lines insurer.

63 (4)-(3) "Export" "To export" ~~means to place, in an~~  
64 ~~unauthorized insurer under this Surplus Lines Law, insurance~~  
65 ~~covering a subject of insurance resident, located, or to be~~  
66 ~~performed in this state.~~

67 (5)-(1) "Surplus lines agent" means an individual licensed  
68 as provided in this part to handle the placement of insurance  
69 coverages with unauthorized insurers and to place such coverages  
70 with authorized insurers as to which the licensee is not  
71 licensed as an agent.

72 Section 2. Section 626.91805, Florida Statutes, is created  
73 to read:

74 626.91805 Domestic surplus lines insurers.—

75 (1) As used in this section, the term "nonadmitted

76 insurer" has the same meaning as provided in the federal  
77 Nonadmitted and Reinsurance Reform Act of 2010.

78 (2) Notwithstanding any other law, a nonadmitted insurer  
79 possessing a policyholder surplus of at least \$15 million may,  
80 under a resolution by its board of directors and with the  
81 written approval of the office, be authorized to transact  
82 insurance as a domestic surplus lines insurer. Such insurers are  
83 authorized to write surplus lines insurance in any jurisdiction,  
84 including this state, and such authorization is not contingent  
85 on the company's holding of an existing certificate of  
86 authority.

87 (3) Notwithstanding s. 626.918(2), a domestic surplus  
88 lines insurer shall be deemed an eligible surplus lines insurer  
89 and shall be included in the list of eligible surplus lines  
90 insurers required by s. 626.918(3). Eligible surplus lines  
91 insurers listed in s. 626.918(3) may write any kind of insurance  
92 that an unauthorized insurer not domiciled in this state is  
93 eligible to write.

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

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

100 (6) A domestic surplus lines insurer may write only

101 surplus lines insurance in this state and only if procured from  
 102 a surplus lines agent pursuant to the Surplus Lines Law.

103 (7) All financial and solvency requirements imposed by  
 104 this state's laws on admitted domestic insurers apply to  
 105 domestic surplus lines insurers unless domestic surplus lines  
 106 insurers are otherwise specifically exempted.

107 (8) A domestic surplus lines insurer is exempt from s.  
 108 624.408.

109 (9) A surplus lines insurance policy issued by a domestic  
 110 surplus lines insurer is exempt from all statutory requirements  
 111 relating to insurance rating and rating plans; policy forms;  
 112 premiums charged to insureds; policy cancellation, nonrenewal,  
 113 and renewal; and other statutory requirements in the same manner  
 114 and to the same extent as surplus lines policies issued by a  
 115 surplus lines insurer domiciled in another state.

116 (10) Notwithstanding any other law, a policy issued by a  
 117 domestic surplus lines insurer is subject to taxes assessed upon  
 118 surplus lines policies issued by nonadmitted insurers, including  
 119 surplus lines premium taxes, but is not subject to other taxes  
 120 levied upon admitted insurers, whether domestic or foreign.

121 (11) A policy issued by a domestic surplus lines insurer  
 122 is not subject to the protections or requirements of the Florida  
 123 Insurance Guaranty Association Act, the Florida Life and Health  
 124 Insurance Guaranty Association Act, or the Florida Workers'  
 125 Compensation Insurance Guaranty Association Act.

126 Section 3. Paragraph (b) of subsection (1) and paragraph  
 127 (b) of subsection (2) of section 458.320, Florida Statutes, are  
 128 amended to read:

129 458.320 Financial responsibility.—

130 (1) As a condition of licensing and maintaining an active  
 131 license, and prior to the issuance or renewal of an active  
 132 license or reactivation of an inactive license for the practice  
 133 of medicine, an applicant must by one of the following methods  
 134 demonstrate to the satisfaction of the board and the department  
 135 financial responsibility to pay claims and costs ancillary  
 136 thereto arising out of the rendering of, or the failure to  
 137 render, medical care or services:

138 (b) Obtaining and maintaining professional liability  
 139 coverage in an amount not less than \$100,000 per claim, with a  
 140 minimum annual aggregate of not less than \$300,000, from an  
 141 authorized insurer as defined under s. 624.09, from a surplus  
 142 lines insurer as defined under s. 626.914 ~~s. 626.914(2)~~, from a  
 143 risk retention group as defined under s. 627.942, from the Joint  
 144 Underwriting Association established under s. 627.351(4), or  
 145 through a plan of self-insurance as provided in s. 627.357. The  
 146 required coverage amount set forth in this paragraph may not be  
 147 used for litigation costs or attorney's fees for the defense of  
 148 any medical malpractice claim.

149 (2) Physicians who perform surgery in an ambulatory  
 150 surgical center licensed under chapter 395 and, as a continuing

151 condition of hospital staff privileges, physicians who have  
 152 staff privileges must also establish financial responsibility by  
 153 one of the following methods:

154 (b) Obtaining and maintaining professional liability  
 155 coverage in an amount not less than \$250,000 per claim, with a  
 156 minimum annual aggregate of not less than \$750,000 from an  
 157 authorized insurer as defined under s. 624.09, from a surplus  
 158 lines insurer as defined under s. 626.914 ~~s. 626.914(2)~~, from a  
 159 risk retention group as defined under s. 627.942, from the Joint  
 160 Underwriting Association established under s. 627.351(4),  
 161 through a plan of self-insurance as provided in s. 627.357, or  
 162 through a plan of self-insurance which meets the conditions  
 163 specified for satisfying financial responsibility in s. 766.110.  
 164 The required coverage amount set forth in this paragraph may not  
 165 be used for litigation costs or attorney's fees for the defense  
 166 of any medical malpractice claim.

167  
 168 This subsection shall be inclusive of the coverage in subsection  
 169 (1).

170 Section 4. Paragraph (b) of subsection (1) and paragraph  
 171 (b) of subsection (2) of section 459.0085, Florida Statutes, are  
 172 amended to read:

173 459.0085 Financial responsibility.—

174 (1) As a condition of licensing and maintaining an active  
 175 license, and prior to the issuance or renewal of an active

176 | license or reactivation of an inactive license for the practice  
 177 | of osteopathic medicine, an applicant must by one of the  
 178 | following methods demonstrate to the satisfaction of the board  
 179 | and the department financial responsibility to pay claims and  
 180 | costs ancillary thereto arising out of the rendering of, or the  
 181 | failure to render, medical care or services:

182 |       (b) Obtaining and maintaining professional liability  
 183 | coverage in an amount not less than \$100,000 per claim, with a  
 184 | minimum annual aggregate of not less than \$300,000, from an  
 185 | authorized insurer as defined under s. 624.09, from a surplus  
 186 | lines insurer as defined under s. 626.914 ~~s. 626.914(2)~~, from a  
 187 | risk retention group as defined under s. 627.942, from the Joint  
 188 | Underwriting Association established under s. 627.351(4), or  
 189 | through a plan of self-insurance as provided in s. 627.357. The  
 190 | required coverage amount set forth in this paragraph may not be  
 191 | used for litigation costs or attorney's fees for the defense of  
 192 | any medical malpractice claim.

193 |       (2) Osteopathic physicians who perform surgery in an  
 194 | ambulatory surgical center licensed under chapter 395 and, as a  
 195 | continuing condition of hospital staff privileges, osteopathic  
 196 | physicians who have staff privileges must also establish  
 197 | financial responsibility by one of the following methods:

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



201 authorized insurer as defined under s. 624.09, from a surplus  
 202 lines insurer as defined under s. 626.914 ~~s. 626.914(2)~~, from a  
 203 risk retention group as defined under s. 627.942, from the Joint  
 204 Underwriting Association established under s. 627.351(4),  
 205 through a plan of self-insurance as provided in s. 627.357, or  
 206 through a plan of self-insurance that meets the conditions  
 207 specified for satisfying financial responsibility in s. 766.110.  
 208 The required coverage amount set forth in this paragraph may not  
 209 be used for litigation costs or attorney's fees for the defense  
 210 of any medical malpractice claim.

211  
 212 This subsection shall be inclusive of the coverage in subsection  
 213 (1).

214 Section 5. Paragraph (a) of subsection (2) of section  
 215 464.0123, Florida Statutes, is amended to read:

216 464.0123 Autonomous practice by an advanced practice  
 217 registered nurse.—

218 (2) FINANCIAL RESPONSIBILITY.—

219 (a) An advanced practice registered nurse registered under  
 220 this section must, by one of the following methods, demonstrate  
 221 to the satisfaction of the board and the department financial  
 222 responsibility to pay claims and costs ancillary thereto arising  
 223 out of the rendering of, or the failure to render, nursing care,  
 224 treatment, or services:

225 1. Obtaining and maintaining professional liability

226 coverage in an amount not less than \$100,000 per claim, with a  
 227 minimum annual aggregate of not less than \$300,000, from an  
 228 authorized insurer as defined in s. 624.09, from a surplus lines  
 229 insurer as defined in s. 626.914 ~~s. 626.914(2)~~, from a risk  
 230 retention group as defined in s. 627.942, from the Joint  
 231 Underwriting Association established under s. 627.351(4), or  
 232 through a plan of self-insurance as provided in s. 627.357; or

233 2. Obtaining and maintaining an unexpired, irrevocable  
 234 letter of credit, established pursuant to chapter 675, in an  
 235 amount of not less than \$100,000 per claim, with a minimum  
 236 aggregate availability of credit of not less than \$300,000. The  
 237 letter of credit must be payable to the advanced practice  
 238 registered nurse as beneficiary upon presentment of a final  
 239 judgment indicating liability and awarding damages to be paid by  
 240 the advanced practice registered nurse or upon presentment of a  
 241 settlement agreement signed by all parties to such agreement  
 242 when such final judgment or settlement is a result of a claim  
 243 arising out of the rendering of, or the failure to render,  
 244 nursing care and services.

245 Section 6. Paragraph (b) of subsection (6) of section  
 246 629.401, Florida Statutes, is amended to read:

247 629.401 Insurance exchange.—

248 (6)

249 (b) In addition to the insurance laws specified in  
 250 paragraph (a), the office shall regulate the exchange pursuant

251 to the following powers, rights, and duties:

252 1. General examination powers.—The office shall examine  
253 the affairs, transactions, accounts, records, and assets of any  
254 security fund, exchange, members, and associate brokers as often  
255 as it deems advisable. The examination may be conducted by the  
256 accredited examiners of the office at the offices of the entity  
257 or person being examined. The office shall examine in like  
258 manner each prospective member or associate broker applying for  
259 membership in an exchange.

260 2. Office approval and applications of underwriting  
261 members.—No underwriting member shall commence operation without  
262 the approval of the office. Before commencing operation, an  
263 underwriting member shall provide a written application  
264 containing:

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

266 b. Name, residence address, business background, and  
267 qualifications of each person associated or to be associated in  
268 the formation or financing of the underwriting member.

269 c. Full disclosure of the terms of all understandings and  
270 agreements existing or proposed among persons so associated  
271 relative to the underwriting member, or the formation or  
272 financing thereof, accompanied by a copy of each such agreement  
273 or understanding.

274 d. Full disclosure of the terms of all understandings and  
275 agreements existing or proposed for management or exclusive

HB 951

2022

276 agency contracts.

277 3. Investigation of underwriting member applications.—In  
278 connection with any proposal to establish an underwriting  
279 member, the office shall make an investigation of:

280 a. The character, reputation, financial standing, and  
281 motives of the organizers, incorporators, or subscribers  
282 organizing the proposed underwriting member.

283 b. The character, financial responsibility, insurance  
284 experience, and business qualifications of its proposed  
285 officers.

286 c. The character, financial responsibility, business  
287 experience, and standing of the proposed stockholders and  
288 directors, or owners.

289 4. Notice of management changes.—An underwriting member  
290 shall promptly give the office written notice of any change  
291 among the directors or principal officers of the underwriting  
292 member within 30 days after such change. The office shall  
293 investigate the new directors or principal officers of the  
294 underwriting member. The office's investigation shall include an  
295 investigation of the character, financial responsibility,  
296 insurance experience, and business qualifications of any new  
297 directors or principal officers. As a result of the  
298 investigation, the office may require the underwriting member to  
299 replace any new directors or principal officers.

300 5. Alternate financial statement.—In lieu of any financial

301 examination, the office may accept an audited financial  
302 statement.

303 6. Correction and reconstruction of records.—If the office  
304 finds any accounts or records to be inadequate, or inadequately  
305 kept or posted, it may employ experts to reconstruct, rewrite,  
306 post, or balance them at the expense of the person or entity  
307 being examined if such person or entity has failed to maintain,  
308 complete, or correct such records or accounts after the office  
309 has given him or her or it notice and reasonable opportunity to  
310 do so.

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

315 8. Filing of annual statement.—Each underwriting member  
316 shall file with the office a full and true statement of its  
317 financial condition, transactions, and affairs. The statement  
318 shall be filed on or before March 1 of each year, or within such  
319 extension of time as the office for good cause grants, and shall  
320 be for the preceding calendar year. The statement shall contain  
321 information generally included in insurer financial statements  
322 prepared in accordance with generally accepted insurance  
323 accounting principles and practices and in a form generally  
324 utilized by insurers for financial statements, sworn to by at  
325 least two executive officers of the underwriting member. The

326 form of the financial statements shall be the approved form of  
327 the National Association of Insurance Commissioners or its  
328 successor organization. The commission may by rule require each  
329 insurer to submit any part of the information contained in the  
330 financial statement in a computer-readable form compatible with  
331 the office's electronic data processing system. In addition to  
332 information furnished in connection with its annual statement,  
333 an underwriting member must furnish to the office as soon as  
334 reasonably possible such information about its transactions or  
335 affairs as the office requests in writing. All information  
336 furnished pursuant to the office's request must be verified by  
337 the oath of two executive officers of the underwriting member.

338 9. Record maintenance.—Each underwriting member shall have  
339 and maintain its principal place of business in this state and  
340 shall keep therein complete records of its assets, transactions,  
341 and affairs in accordance with such methods and systems as are  
342 customary for or suitable to the kind or kinds of insurance  
343 transacted.

344 10. Examination of agents.—If the department has reason to  
345 believe that any agent, as defined in s. 626.015 or s.  
346 626.914(5) ~~s. 626.914~~, has violated or is violating any  
347 provision of the insurance law, or upon receipt of a written  
348 complaint signed by any interested person indicating that any  
349 such violation may exist, the department shall conduct such  
350 examination as it deems necessary of the accounts, records,

351 documents, and transactions pertaining to or affecting the  
352 insurance affairs of such agent.

353 11. Written reports of office.—The office or its examiner  
354 shall make a full and true written report of any examination.  
355 The report shall contain only information obtained from  
356 examination of the records, accounts, files, and documents of or  
357 relative to the person or entity examined or from testimony of  
358 individuals under oath, together with relevant conclusions and  
359 recommendations of the examiner based thereon. The office shall  
360 furnish a copy of the report to the person or entity examined  
361 not less than 30 days prior to filing the report in its office.  
362 If such person or entity so requests in writing within such 30-  
363 day period, the office shall grant a hearing with respect to the  
364 report and shall not file the report until after the hearing and  
365 after such modifications have been made therein as the office  
366 deems proper.

367 12. Admissibility of reports.—The report of an examination  
368 when filed shall be admissible in evidence in any action or  
369 proceeding brought by the office against the person or entity  
370 examined, or against his or her or its officers, employees, or  
371 agents. The office or its examiners may at any time testify and  
372 offer other proper evidence as to information secured or matters  
373 discovered during the course of an examination, whether or not a  
374 written report of the examination has been either made,  
375 furnished, or filed in the office.

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

380           14. Consideration of examination reports by entity  
381 examined.—After the examination report of an underwriting member  
382 has been filed, an affidavit shall be filed with the office, not  
383 more than 30 days after the report has been filed, on a form  
384 furnished by the office and signed by the person or a  
385 representative of any entity examined, stating that the report  
386 has been read and that the recommendations made in the report  
387 will be considered within a reasonable time.

388           15. Examination costs.—Each person or entity examined by  
389 the office shall pay to the office the expenses incurred in such  
390 examination.

391           16. Exchange costs.—An exchange shall reimburse the office  
392 for any expenses incurred by it relating to the regulation of  
393 the exchange and its members, except as specified in  
394 subparagraph 15.

395           17. Powers of examiners.—Any examiner appointed by the  
396 office, as to the subject of any examination, investigation, or  
397 hearing being conducted by him or her, may administer oaths,  
398 examine and cross-examine witnesses, and receive oral and  
399 documentary evidence, and shall have the power to subpoena  
400 witnesses, compel their attendance and testimony, and require by



HB 951

2022

401 subpoena the production of books, papers, records, files,  
402 correspondence, documents, or other evidence which the examiner  
403 deems relevant to the inquiry. If any person refuses to comply  
404 with any such subpoena or to testify as to any matter concerning  
405 which he or she may be lawfully interrogated, the Circuit Court  
406 of Leon County or the circuit court of the county wherein such  
407 examination, investigation, or hearing is being conducted, or of  
408 the county wherein such person resides, on the office's  
409 application may issue an order requiring such person to comply  
410 with the subpoena and to testify; and any failure to obey such  
411 an order of the court may be punished by the court as a contempt  
412 thereof. Subpoenas shall be served, and proof of such service  
413 made, in the same manner as if issued by a circuit court.  
414 Witness fees and mileage, if claimed, shall be allowed the same  
415 as for testimony in a circuit court.

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

420 19. Self-incrimination.—

421 a. If any person asks to be excused from attending or  
422 testifying or from producing any books, papers, records,  
423 contracts, documents, or other evidence in connection with any  
424 examination, hearing, or investigation being conducted by the  
425 office or its examiner, on the ground that the testimony or

426 | evidence required of the person may tend to incriminate him or  
427 | her or subject him or her to a penalty or forfeiture, and the  
428 | person notwithstanding is directed to give such testimony or  
429 | produce such evidence, he or she shall, if so directed by the  
430 | office and the Department of Legal Affairs, nonetheless comply  
431 | with such direction; but the person shall not thereafter be  
432 | prosecuted or subjected to any penalty or forfeiture for or on  
433 | account of any transaction, matter, or thing concerning which he  
434 | or she may have so testified or produced evidence, and no  
435 | testimony so given or evidence so produced shall be received  
436 | against him or her upon any criminal action, investigation, or  
437 | proceeding; except that no such person so testifying shall be  
438 | exempt from prosecution or punishment for any perjury committed  
439 | by him or her in such testimony, and the testimony or evidence  
440 | so given or produced shall be admissible against him or her upon  
441 | any criminal action, investigation, or proceeding concerning  
442 | such perjury, nor shall he or she be exempt from the refusal,  
443 | suspension, or revocation of any license, permission, or  
444 | authority conferred, or to be conferred, pursuant to the  
445 | insurance law.

446 |       b. Any such individual may execute, acknowledge, and file  
447 | with the office a statement expressly waiving such immunity or  
448 | privilege in respect to any transaction, matter, or thing  
449 | specified in such statement, and thereupon the testimony of such  
450 | individual or such evidence in relation to such transaction,

HB 951

2022

451 matter, or thing may be received or produced before any judge or  
452 justice, court, tribunal, grand jury, or otherwise; and if such  
453 testimony or evidence is so received or produced, such  
454 individual shall not be entitled to any immunity or privileges  
455 on account of any testimony so given or evidence so produced.

456 20. Penalty for failure to testify.—Any person who refuses  
457 or fails, without lawful cause, to testify relative to the  
458 affairs of any member, associate broker, or other person when  
459 subpoenaed and requested by the office to so testify, as  
460 provided in subparagraph 17., shall, in addition to the penalty  
461 provided in subparagraph 17., be guilty of a misdemeanor of the  
462 second degree, punishable as provided in s. 775.082 or s.  
463 775.083.

464 21. Name selection.—No underwriting member shall be formed  
465 or authorized to transact insurance in this state under a name  
466 which is the same as that of any authorized insurer or is so  
467 nearly similar thereto as to cause or tend to cause confusion or  
468 under a name which would tend to mislead as to the type of  
469 organization of the insurer. Before incorporating under or using  
470 any name, the underwriting syndicate or proposed underwriting  
471 syndicate shall submit its name or proposed name to the office  
472 for the approval of the office.

473 22. Capitalization.—An underwriting member approved on or  
474 after July 2, 1987, shall provide an initial paid-in capital and  
475 surplus of \$3 million and thereafter shall maintain a minimum

HB 951

2022

476 policyholder surplus of \$2 million in order to be permitted to  
477 write insurance. Underwriting members approved prior to July 2,  
478 1987, shall maintain a minimum policyholder surplus of \$1  
479 million. After June 29, 1988, underwriting members approved  
480 prior to July 2, 1987, must maintain a minimum policyholder  
481 surplus of \$1.5 million to write insurance. After June 29, 1989,  
482 underwriting members approved prior to July 2, 1987, must  
483 maintain a minimum policyholder surplus of \$1.75 million to  
484 write insurance. After December 30, 1989, all underwriting  
485 members, regardless of the date they were approved, must  
486 maintain a minimum policyholder surplus of \$2 million to write  
487 insurance. Except for that portion of the paid-in capital and  
488 surplus which shall be maintained in a security fund of an  
489 exchange, the paid-in capital and surplus shall be invested by  
490 an underwriting member in a manner consistent with ss. 625.301-  
491 625.340. The portion of the paid-in capital and surplus in any  
492 security fund of an exchange shall be invested in a manner  
493 limited to investments for life insurance companies under the  
494 Florida insurance laws.

495 23. Limitations on coverage written.-

496 a. Limit of risk.-No underwriting member shall expose  
497 itself to any loss on any one risk in an amount exceeding 10  
498 percent of its surplus to policyholders. Any risk or portion of  
499 any risk which shall have been reinsured in an assuming  
500 reinsurer authorized or approved to do such business in this

501 state shall be deducted in determining the limitation of risk  
502 prescribed in this section.

503 b. Restrictions on premiums written.—If the office has  
504 reason to believe that the underwriting member's ratio of actual  
505 or projected annual gross written premiums to policyholder  
506 surplus exceeds 8 to 1 or the underwriting member's ratio of  
507 actual or projected annual net premiums to policyholder surplus  
508 exceeds 4 to 1, the office may establish maximum gross or net  
509 annual premiums to be written by the underwriting member  
510 consistent with maintaining the ratios specified in this sub-  
511 subparagraph.

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

516 (II) For purposes of this sub-subparagraph, the term  
517 "gross written premiums" means direct premiums written and  
518 reinsurance assumed.

519 c. Surplus as to policyholders.—For the purpose of  
520 determining the limitation on coverage written, surplus as to  
521 policyholders shall be deemed to include any voluntary reserves,  
522 or any part thereof, which are not required by or pursuant to  
523 law and shall be determined from the last sworn statement of  
524 such underwriting member with the office, or by the last report  
525 or examination filed by the office, whichever is more recent at

HB 951

2022

526 | the time of assumption of such risk.

527 |       24. Unearned premium reserves.—An underwriting member must  
528 | at all times maintain an unearned premium reserve equal to 50  
529 | percent of the net written premiums of the subscribers on  
530 | policies having 1 year or less to run, and pro rata on those for  
531 | longer periods, except that all premiums on any marine or  
532 | transportation insurance trip risk shall be deemed unearned  
533 | until the trip is terminated. For the purpose of this  
534 | subparagraph, the term "net written premiums" means the premium  
535 | payments made by subscribers plus the premiums due from  
536 | subscribers, after deducting the amounts specifically provided  
537 | in the subscribers' agreements for expenses, including  
538 | reinsurance costs and fees paid to the attorney in fact,  
539 | provided that the power of attorney agreement contains an  
540 | explicit provision requiring the attorney in fact to refund any  
541 | unearned subscribers fees on a pro-rata basis for canceled  
542 | policies. If there is no such provision, the unearned premium  
543 | reserve shall be calculated without any adjustment for fees paid  
544 | to the attorney in fact. If the unearned premium reserves at any  
545 | time do not amount to \$100,000, there shall be maintained on  
546 | deposit at the exchange at all times additional funds in cash or  
547 | eligible securities which, together with the unearned premium  
548 | reserves, equal \$100,000. In calculating the foregoing reserves,  
549 | the amount of the attorney's bond, as filed with the office and  
550 | as required by s. 629.121, shall be included in such reserves.

551 If at any time the unearned premium reserves are less than the  
552 foregoing requirements, the subscribers, or the attorney in  
553 fact, shall advance funds to make up the deficiency. Such  
554 advances shall only be repaid out of the surplus of the exchange  
555 and only after receiving written approval from the office.

556 25. Loss reserves.—All underwriting members of an exchange  
557 shall maintain loss reserves, including a reserve for incurred  
558 but not reported claims. The reserves shall be subject to review  
559 by the office, and, if loss experience shows that an  
560 underwriting member's loss reserves are inadequate, the office  
561 shall require the underwriting member to maintain loss reserves  
562 in such additional amount as is needed to make them adequate.

563 26. Distribution of profits.—An underwriting member shall  
564 not distribute any profits in the form of cash or other assets  
565 to owners except out of that part of its available and  
566 accumulated surplus funds which is derived from realized net  
567 operating profits on its business and realized capital gains. In  
568 any one year such payments to owners shall not exceed 30 percent  
569 of such surplus as of December 31 of the immediately preceding  
570 year, unless otherwise approved by the office. No distribution  
571 of profits shall be made that would render an underwriting  
572 member either impaired or insolvent.

573 27. Stock dividends.—A stock dividend may be paid by an  
574 underwriting member out of any available surplus funds in excess  
575 of the aggregate amount of surplus advanced to the underwriting

HB 951

2022

576 member under subparagraph 29.

577 28. Dividends from earned surplus.—A dividend otherwise  
578 lawful may be payable out of an underwriting member's earned  
579 surplus even though the total surplus of the underwriting member  
580 is then less than the aggregate of its past contributed surplus  
581 resulting from issuance of its capital stock at a price in  
582 excess of the par value thereof.

583 29. Borrowing of money by underwriting members.—

584 a. An underwriting member may borrow money to defray the  
585 expenses of its organization, provide it with surplus funds, or  
586 for any purpose of its business, upon a written agreement that  
587 such money is required to be repaid only out of the underwriting  
588 member's surplus in excess of that stipulated in such agreement.  
589 The agreement may provide for interest not exceeding 15 percent  
590 simple interest per annum. The interest shall or shall not  
591 constitute a liability of the underwriting member as to its  
592 funds other than such excess of surplus, as stipulated in the  
593 agreement. No commission or promotion expense shall be paid in  
594 connection with any such loan. The use of any surplus note and  
595 any repayments thereof shall be subject to the approval of the  
596 office.

597 b. Money so borrowed, together with any interest thereon  
598 if so stipulated in the agreement, shall not form a part of the  
599 underwriting member's legal liabilities except as to its surplus  
600 in excess of the amount thereof stipulated in the agreement, nor



601 be the basis of any setoff; but until repayment, financial  
602 statements filed or published by an underwriting member shall  
603 show as a footnote thereto the amount thereof then unpaid,  
604 together with any interest thereon accrued but unpaid.

605 30. Liquidation, rehabilitation, and restrictions.—The  
606 office, upon a showing that a member or associate broker of an  
607 exchange has met one or more of the grounds contained in part I  
608 of chapter 631, may restrict sales by type of risk, policy or  
609 contract limits, premium levels, or policy or contract  
610 provisions; increase surplus or capital requirements of  
611 underwriting members; issue cease and desist orders; suspend or  
612 restrict a member's or associate broker's right to transact  
613 business; place an underwriting member under conservatorship or  
614 rehabilitation; or seek an order of liquidation as authorized by  
615 part I of chapter 631.

616 31. Prohibited conduct.—The following acts by a member,  
617 associate broker, or affiliated person shall constitute  
618 prohibited conduct:

619 a. Fraud.

620 b. Fraudulent or dishonest acts committed by a member or  
621 associate broker prior to admission to an exchange, if the facts  
622 and circumstances were not disclosed to the office upon  
623 application to become a member or associate broker.

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

625 d. Unethical or improper practices or conduct,

626 inconsistent with just and equitable principles of trade as set  
 627 forth in, but not limited to, ss. 626.951-626.9641 and 626.973.

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

630 f. Misstatements made under oath or upon an application  
 631 for membership on an exchange.

632 g. Failure to testify or produce documents when requested  
 633 by the office.

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

635 i. Failure of an officer or principal to testify under  
 636 oath concerning a member, associate broker, or other person's  
 637 affairs as they relate to the operation of an exchange.

638 j. Violation of the constitution and bylaws of the  
 639 exchange.

640 32. Penalties for participating in prohibited conduct.—

641 a. The office may order the suspension of further  
 642 transaction of business on the exchange of any member or  
 643 associate broker found to have engaged in prohibited conduct. In  
 644 addition, any member or associate broker found to have engaged  
 645 in prohibited conduct may be subject to reprimand, censure,  
 646 and/or a fine not exceeding \$25,000 imposed by the office.

647 b. Any member which has an affiliated person who is found  
 648 to have engaged in prohibited conduct shall be subject to  
 649 involuntary withdrawal or in addition thereto may be subject to  
 650 suspension, reprimand, censure, and/or a fine not exceeding

HB 951

2022

651 | \$25,000.

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

655 |       34. Other offenses.—Any member or associate broker that is  
656 | suspended shall be deprived, during the period of suspension, of  
657 | all rights and privileges of a member or of an associate broker  
658 | and may be proceeded against by the office for any offense  
659 | committed either before or after the date of suspension.

660 |       35. Reinstatement.—Any member or associate broker that is  
661 | suspended may be reinstated at any time on such terms and  
662 | conditions as the office may specify.

663 |       36. Remittance of fines.—Fines imposed under this section  
664 | shall be remitted to the office and shall be paid into the  
665 | Insurance Regulatory Trust Fund.

666 |       37. Failure to pay fines.—When a member or associate  
667 | broker has failed to pay a fine for 15 days after it becomes  
668 | payable, such member or associate broker shall be suspended,  
669 | unless the office has granted an extension of time to pay such  
670 | fine.

671 |       38. Changes in ownership or assets.—In the event of a  
672 | major change in the ownership or a major change in the assets of  
673 | an underwriting member, the underwriting member shall report  
674 | such change in writing to the office within 30 days of the  
675 | effective date thereof. The report shall set forth the details

HB 951

2022

676 of the change. Any change in ownership or assets of more than 5  
677 percent shall be considered a major change.

678 39. Retaliation.—

679 a. When by or pursuant to the laws of any other state or  
680 foreign country any taxes, licenses, or other fees, in the  
681 aggregate, and any fines, penalties, deposit requirements, or  
682 other material obligations, prohibitions, or restrictions are or  
683 would be imposed upon an exchange or upon the agents or  
684 representatives of such exchange which are in excess of such  
685 taxes, licenses, and other fees, in the aggregate, or which are  
686 in excess of such fines, penalties, deposit requirements, or  
687 other obligations, prohibitions, or restrictions directly  
688 imposed upon similar exchanges or upon the agents or  
689 representatives of such exchanges of such other state or country  
690 under the statutes of this state, so long as such laws of such  
691 other state or country continue in force or are so applied, the  
692 same taxes, licenses, and other fees, in the aggregate, or  
693 fines, penalties, deposit requirements, or other material  
694 obligations, prohibitions, or restrictions of whatever kind  
695 shall be imposed by the office upon the exchanges, or upon the  
696 agents or representatives of such exchanges, of such other state  
697 or country doing business or seeking to do business in this  
698 state.

699 b. Any tax, license, or other obligation imposed by any  
700 city, county, or other political subdivision or agency of a

HB 951

2022

701 state, jurisdiction, or foreign country on an exchange, or on  
702 the agents or representatives on an exchange, shall be deemed to  
703 be imposed by such state, jurisdiction, or foreign country  
704 within the meaning of sub-subparagraph a.

705 40. Agents.—

706 a. Agents as defined in ss. 626.015 and 626.914(5) ~~626.914~~  
707 who are broker members or associate broker members of an  
708 exchange shall be allowed only to place on an exchange the same  
709 kind or kinds of business that the agent is licensed to place  
710 pursuant to Florida law. Direct Florida business as defined in  
711 s. 626.916 or s. 626.917 shall be written through a broker  
712 member who is a surplus lines agent as defined in s. 626.914.  
713 The activities of each broker member or associate broker with  
714 regard to an exchange shall be subject to all applicable  
715 provisions of the insurance laws of this state, and all such  
716 activities shall constitute transactions under his or her  
717 license as an insurance agent for purposes of the Florida  
718 insurance law.

719 b. Premium payments and other requirements.—If an  
720 underwriting member has assumed the risk as to a surplus lines  
721 coverage and if the premium therefor has been received by the  
722 surplus lines agent who placed such insurance, then in all  
723 questions thereafter arising under the coverage as between the  
724 underwriting member and the insured, the underwriting member  
725 shall be deemed to have received the premium due to it for such

726 coverage; and the underwriting member shall be liable to the  
727 insured as to losses covered by such insurance, and for unearned  
728 premiums which may become payable to the insured upon  
729 cancellation of such insurance, whether or not in fact the  
730 surplus lines agent is indebted to the underwriting member with  
731 respect to such insurance or for any other cause.

732 41. Improperly issued contracts, riders, and  
733 endorsements.—

734 a. Any insurance policy, rider, or endorsement issued by  
735 an underwriting member and otherwise valid which contains any  
736 condition or provision not in compliance with the requirements  
737 of this section shall not be thereby rendered invalid, except as  
738 provided in s. 627.415, but shall be construed and applied in  
739 accordance with such conditions and provisions as would have  
740 applied had such policy, rider, or endorsement been in full  
741 compliance with this section. In the event an underwriting  
742 member issues or delivers any policy for an amount which exceeds  
743 any limitations otherwise provided in this section, the  
744 underwriting member shall be liable to the insured or his or her  
745 beneficiary for the full amount stated in the policy in addition  
746 to any other penalties that may be imposed.

747 b. Any insurance contract delivered or issued for delivery  
748 in this state governing a subject or subjects of insurance  
749 resident, located, or to be performed in this state which,  
750 pursuant to the provisions of this section, the underwriting

HB 951

2022

751 member may not lawfully insure under such a contract shall be  
752 cancelable at any time by the underwriting member, any provision  
753 of the contract to the contrary notwithstanding; and the  
754 underwriting member shall promptly cancel the contract in  
755 accordance with the request of the office therefor. No such  
756 illegality or cancellation shall be deemed to relieve the  
757 underwriting syndicate of any liability incurred by it under the  
758 contract while in force or to prohibit the underwriting  
759 syndicate from retaining the pro rata earned premium thereon.  
760 This provision does not relieve the underwriting syndicate from  
761 any penalty otherwise incurred by the underwriting syndicate.

762 42. Satisfaction of judgments.—

763 a. Every judgment or decree for the recovery of money  
764 heretofore or hereafter entered in any court of competent  
765 jurisdiction against any underwriting member shall be fully  
766 satisfied within 60 days from and after the entry thereof or, in  
767 the case of an appeal from such judgment or decree, within 60  
768 days from and after the affirmance of the judgment or decree by  
769 the appellate court.

770 b. If the judgment or decree is not satisfied as required  
771 under sub-subparagraph a., and proof of such failure to satisfy  
772 is made by filing with the office a certified transcript of the  
773 docket of the judgment or the decree together with a certificate  
774 by the clerk of the court wherein the judgment or decree remains  
775 unsatisfied, in whole or in part, after the time provided in

HB 951

2022

776 sub-subparagraph a., the office shall forthwith prohibit the  
777 underwriting member from transacting business. The office shall  
778 not permit such underwriting member to write any new business  
779 until the judgment or decree is wholly paid and satisfied and  
780 proof thereof is filed with the office under the official  
781 certificate of the clerk of the court wherein the judgment was  
782 recovered, showing that the judgment or decree is satisfied of  
783 record, and until the expenses and fees incurred in the case are  
784 also paid by the underwriting syndicate.

785 43. Tender and exchange offers.—No person shall conclude a  
786 tender offer or an exchange offer or otherwise acquire 5 percent  
787 or more of the outstanding voting securities of an underwriting  
788 member or controlling company or purchase 5 percent or more of  
789 the ownership of an underwriting member or controlling company  
790 unless such person has filed with, and obtained the approval of,  
791 the office and sent to such underwriting member a statement  
792 setting forth:

793 a. The identity of, and background information on, each  
794 person by whom, or on whose behalf, the acquisition is to be  
795 made; and, if the acquisition is to be made by or on behalf of a  
796 corporation, association, or trust, the identity of and  
797 background information on each director, officer, trustee, or  
798 other natural person performing duties similar to those of a  
799 director, officer, or trustee for the corporation, association,  
800 or trust.



HB 951

2022

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

803           c. Any plans or proposals which such person may have to  
804 liquidate such member, to sell its assets, or to merge or  
805 consolidate it.

806           d. The percentage of ownership which such person proposes  
807 to acquire and the terms of the offer or exchange, as the case  
808 may be.

809           e. Information as to any contracts, arrangements, or  
810 understandings with any party with respect to any securities of  
811 such member or controlling company, including, but not limited  
812 to, information relating to the transfer of any securities,  
813 option arrangements, or puts or calls or the giving or  
814 withholding of proxies, naming the party with whom such  
815 contract, arrangements, or understandings have been entered and  
816 giving the details thereof.

817           f. The office may disapprove any acquisition subject to  
818 the provisions of this subparagraph by any person or any  
819 affiliated person of such person who:

820           (I) Willfully violates this subparagraph;

821           (II) In violation of an order of the office issued  
822 pursuant to sub-subparagraph j., fails to divest himself or  
823 herself of any stock obtained in violation of this subparagraph,  
824 or fails to divest himself or herself of any direct or indirect  
825 control of such stock, within 25 days after such order; or

826 (III) In violation of an order issued by the office  
 827 pursuant to sub-subparagraph j., acquires additional stock of  
 828 the underwriting member or controlling company, or direct or  
 829 indirect control of such stock, without complying with this  
 830 subparagraph.

831 g. The person or persons filing the statement required by  
 832 this subparagraph have the burden of proof. The office shall  
 833 approve any such acquisition if it finds, on the basis of the  
 834 record made during any proceeding or on the basis of the filed  
 835 statement if no proceeding is conducted, that:

836 (I) Upon completion of the acquisition, the underwriting  
 837 member will be able to satisfy the requirements for the approval  
 838 to write the line or lines of insurance for which it is  
 839 presently approved;

840 (II) The financial condition of the acquiring person or  
 841 persons will not jeopardize the financial stability of the  
 842 underwriting member or prejudice the interests of its  
 843 policyholders or the public;

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

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

849 (B) To liquidate any controlling company, sell its assets,  
 850 or merge or consolidate it with any person, or to make any major

HB 951

2022

851 change in its business or corporate structure or management  
852 which would have an effect upon the underwriting member

853

854 is fair and free of prejudice to the policyholders of the  
855 underwriting member or to the public;

856 (IV) The competence, experience, and integrity of those  
857 persons who will control directly or indirectly the operation of  
858 the underwriting member indicate that the acquisition is in the  
859 best interest of the policyholders of the underwriting member  
860 and in the public interest;

861 (V) The natural persons for whom background information is  
862 required to be furnished pursuant to this subparagraph have such  
863 backgrounds as to indicate that it is in the best interests of  
864 the policyholders of the underwriting member, and in the public  
865 interest, to permit such persons to exercise control over such  
866 underwriting member;

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

870 (VII) The management of the underwriting member after the  
871 acquisition will be competent and trustworthy and will possess  
872 sufficient managerial experience so as to make the proposed  
873 operation of the underwriting member not hazardous to the  
874 insurance-buying public;

875 (VIII) The management of the underwriting member after the

HB 951

2022

876 acquisition will not include any person who has directly or  
877 indirectly through ownership, control, reinsurance transactions,  
878 or other insurance or business relations unlawfully manipulated  
879 the assets, accounts, finances, or books of any insurer or  
880 underwriting member or otherwise acted in bad faith with respect  
881 thereto;

882 (IX) The acquisition is not likely to be hazardous or  
883 prejudicial to the underwriting member's policyholders or the  
884 public; and

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

888 h. No vote by the stockholder of record, or by any other  
889 person, of any security acquired in contravention of the  
890 provisions of this subparagraph is valid. Any acquisition of any  
891 security contrary to the provisions of this subparagraph is  
892 void. Upon the petition of the underwriting member or  
893 controlling company, the circuit court for the county in which  
894 the principal office of such underwriting member is located may,  
895 without limiting the generality of its authority, order the  
896 issuance or entry of an injunction or other order to enforce the  
897 provisions of this subparagraph. There shall be a private right  
898 of action in favor of the underwriting member or controlling  
899 company to enforce the provisions of this subparagraph. No  
900 demand upon the office that it perform its functions shall be

901 required as a prerequisite to any suit by the underwriting  
902 member or controlling company against any other person, and in  
903 no case shall the office be deemed a necessary party to any  
904 action by such underwriting member or controlling company to  
905 enforce the provisions of this subparagraph. Any person who  
906 makes or proposes an acquisition requiring the filing of a  
907 statement pursuant to this subparagraph, or who files such a  
908 statement, shall be deemed to have thereby designated the Chief  
909 Financial Officer as such person's agent for service of process  
910 under this subparagraph and shall thereby be deemed to have  
911 submitted himself or herself to the administrative jurisdiction  
912 of the office and to the jurisdiction of the circuit court.

913 i. Any approval by the office under this subparagraph does  
914 not constitute a recommendation by the office for an  
915 acquisition, tender offer, or exchange offer. It is unlawful for  
916 a person to represent that the office's approval constitutes a  
917 recommendation. A person who violates the provisions of this  
918 sub-subparagraph is guilty of a felony of the third degree,  
919 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
920 The statute-of-limitations period for the prosecution of an  
921 offense committed under this sub-subparagraph is 5 years.

922 j. Upon notification to the office by the underwriting  
923 member or a controlling company that any person or any  
924 affiliated person of such person has acquired 5 percent or more  
925 of the outstanding voting securities of the underwriting member

926 or controlling company without complying with the provisions of  
927 this subparagraph, the office shall order that the person and  
928 any affiliated person of such person cease acquisition of any  
929 further securities of the underwriting member or controlling  
930 company; however, the person or any affiliated person of such  
931 person may request a proceeding, which proceeding shall be  
932 convened within 7 days after the rendering of the order for the  
933 sole purpose of determining whether the person, individually or  
934 in connection with any affiliated person of such person, has  
935 acquired 5 percent or more of the outstanding voting securities  
936 of an underwriting member or controlling company. Upon the  
937 failure of the person or affiliated person to request a hearing  
938 within 7 days, or upon a determination at a hearing convened  
939 pursuant to this sub-subparagraph that the person or affiliated  
940 person has acquired voting securities of an underwriting member  
941 or controlling company in violation of this subparagraph, the  
942 office may order the person and affiliated person to divest  
943 themselves of any voting securities so acquired.

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

947 (A) The control of which is acquired in violation of this  
948 subparagraph;

949 (B) That is controlled, directly or indirectly, by any  
950 person or any affiliated person of such person who, in violation

951 of this subparagraph, has obtained control of an underwriting  
 952 member or controlling company; or

953 (C) That is controlled, directly or indirectly, by any  
 954 person who, directly or indirectly, controls any other person  
 955 who, in violation of this subparagraph, acquires control of an  
 956 underwriting member or controlling company.

957 (II) If any underwriting member is subject to suspension  
 958 or revocation pursuant to sub-sub-subparagraph (I), the  
 959 underwriting member shall be deemed to be in such condition, or  
 960 to be using or to have been subject to such methods or practices  
 961 in the conduct of its business, as to render its further  
 962 transaction of insurance presently or prospectively hazardous to  
 963 its policyholders, creditors, or stockholders or to the public.

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

966 (A) The spouse of such other person;

967 (B) The parents of such other person and their lineal  
 968 descendants and the parents of such other person's spouse and  
 969 their lineal descendants;

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

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

976 (E) Any person or group of persons who directly or  
 977 indirectly control, are controlled by, or are under common  
 978 control with such other person; or any officer, director,  
 979 partner, copartner, or employee of such other person;

980 (F) If such other person is an investment company, any  
 981 investment adviser of such company or any member of an advisory  
 982 board of such company;

983 (G) If such other person is an unincorporated investment  
 984 company not having a board of directors, the depositor of such  
 985 company; or

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

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

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

997 44. Background information.—The information as to the  
 998 background and identity of each person about whom information is  
 999 required to be furnished pursuant to sub-subparagraph 43.a.  
 1000 shall include, but shall not be limited to:



1001 a. Such person's occupations, positions of employment, and  
 1002 offices held during the past 10 years.

1003 b. The principal business and address of any business,  
 1004 corporation, or other organization in which each such office was  
 1005 held or in which such occupation or position of employment was  
 1006 carried on.

1007 c. Whether, at any time during such 10-year period, such  
 1008 person was convicted of any crime other than a traffic  
 1009 violation.

1010 d. Whether, during such 10-year period, such person has  
 1011 been the subject of any proceeding for the revocation of any  
 1012 license and, if so, the nature of such proceeding and the  
 1013 disposition thereof.

1014 e. Whether, during such 10-year period, such person has  
 1015 been the subject of any proceeding under the federal Bankruptcy  
 1016 Act or whether, during such 10-year period, any corporation,  
 1017 partnership, firm, trust, or association in which such person  
 1018 was a director, officer, trustee, partner, or other official has  
 1019 been subject to any such proceeding, either during the time in  
 1020 which such person was a director, officer, trustee, partner, or  
 1021 other official, or within 12 months thereafter.

1022 f. Whether, during such 10-year period, such person has  
 1023 been enjoined, either temporarily or permanently, by a court of  
 1024 competent jurisdiction from violating any federal or state law  
 1025 regulating the business of insurance, securities, or banking, or

1026 | from carrying out any particular practice or practices in the  
 1027 | course of the business of insurance, securities, or banking,  
 1028 | together with details of any such event.

1029 |         45. Security fund.—All underwriting members shall be  
 1030 | members of the security fund of any exchange.

1031 |         46. Underwriting member defined.—Whenever the term  
 1032 | "underwriting member" is used in this subsection, it shall be  
 1033 | construed to mean "underwriting syndicate."

1034 |         47. Offsets.—Any action, requirement, or constraint  
 1035 | imposed by the office shall reduce or offset similar actions,  
 1036 | requirements, or constraints of any exchange.

1037 |         48. Restriction on member ownership.—

1038 |         a. Investments existing prior to July 2, 1987.—The  
 1039 | investment in any member by brokers, agents, and intermediaries  
 1040 | transacting business on the exchange, and the investment in any  
 1041 | such broker, agent, or intermediary by any member, directly or  
 1042 | indirectly, shall in each case be limited in the aggregate to  
 1043 | less than 20 percent of the total investment in such member,  
 1044 | broker, agent, or intermediary, as the case may be. After  
 1045 | December 31, 1987, the aggregate percent of the total investment  
 1046 | in such member by any broker, agent, or intermediary and the  
 1047 | aggregate percent of the total investment in any such broker,  
 1048 | agent, or intermediary by any member, directly or indirectly,  
 1049 | shall not exceed 15 percent. After June 30, 1988, such aggregate  
 1050 | percent shall not exceed 10 percent and after December 31, 1988,

1051 such aggregate percent shall not exceed 5 percent.

1052       b. Investments arising on or after July 2, 1987.—The  
 1053 investment in any underwriting member by brokers, agents, or  
 1054 intermediaries transacting business on the exchange, and the  
 1055 investment in any such broker, agent, or intermediary by any  
 1056 underwriting member, directly or indirectly, shall in each case  
 1057 be limited in the aggregate to less than 5 percent of the total  
 1058 investment in such underwriting member, broker, agent, or  
 1059 intermediary.

1060       49. "Underwriting manager" defined.—"Underwriting manager"  
 1061 as used in this subparagraph includes any person, partnership,  
 1062 corporation, or organization providing any of the following  
 1063 services to underwriting members of the exchange:

1064       a. Office management and allied services, including  
 1065 correspondence and secretarial services.

1066       b. Accounting services, including bookkeeping and  
 1067 financial report preparation.

1068       c. Investment and banking consultations and services.

1069       d. Underwriting functions and services including the  
 1070 acceptance, rejection, placement, and marketing of risk.

1071       50. Prohibition of underwriting manager investment.—Any  
 1072 direct or indirect investment in any underwriting manager by a  
 1073 broker member or any affiliated person of a broker member or any  
 1074 direct or indirect investment in a broker member by an  
 1075 underwriting manager or any affiliated person of an underwriting

HB 951

2022

1076 manager is prohibited. "Affiliated person" for purposes of this  
1077 subparagraph is defined in subparagraph 43.

1078 51. An underwriting member may not accept reinsurance on  
1079 an assumed basis from an affiliate or a controlling company, nor  
1080 may a broker member or management company place reinsurance from  
1081 an affiliate or controlling company of theirs with an  
1082 underwriting member. "Affiliate and controlling company" for  
1083 purposes of this subparagraph is defined in subparagraph 43.

1084 52. Premium defined.—"Premium" is the consideration for  
1085 insurance, by whatever name called. Any "assessment" or any  
1086 "membership," "policy," "survey," "inspection," "service" fee or  
1087 charge or similar fee or charge in consideration for an  
1088 insurance contract is deemed part of the premium.

1089 53. Rules.—The commission shall adopt rules necessary for  
1090 or as an aid to the effectuation of any provision of this  
1091 section.

1092 Section 7. This act shall take effect July 1, 2022.