

By the Committee on Banking and Insurance; and Senator DiCeglie

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A bill to be entitled

An act relating to residual market insurers; amending s. 626.913, F.S.; conforming a provision to changes made by the act; amending s. 626.914, F.S.; removing the definition of the term "diligent effort"; amending s. 626.916, F.S.; revising the conditions for insurance coverage to be eligible for export; providing a presumption that an insured is presumed to have been informed of the availability of other coverage under certain circumstances; amending ss. 627.4085, 627.701, 627.70131, 627.70132, 627.70152, and 627.952, F.S.; removing applicability and nonapplicability to surplus lines insurance of provisions relating to applications for insurance policies and annuity contracts; liability of insureds, coinsurance, and deductibles; insurers' duty to acknowledge communications regarding claims and investigations; notice of property insurance claim; suits arising under a property insurance policy; and risk retention and purchasing group agents, respectively; creating ss. 626.9261, 626.9262, 626.9263, and 626.9264, F.S.; transferring to surplus lines insurance those provisions relating to liability of insureds and deductibles; insurers' duty to acknowledge communications regarding residential property insurance claims and investigations; notice of property insurance claim; suits arising under a property insurance policy; creating s. 626.9265, F.S.; prohibiting policyholders from assigning post-loss

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insurance benefits under property insurance policies;
creating s. 626.9266, F.S.; requiring settlements or
verdicts against insureds as a condition precedent to
the accrual or maintenance of causes of actions
against liability insurers by persons who are not
insureds; providing that insurers are parties for the
purpose of recovering taxable costs and attorney fees
under certain circumstances; authorizing insurers to
insert specified contractual provisions in liability
insurance policies; authorizing liability insurers to
be joined as party defendants under certain
circumstances; prohibiting insurers' presence from
being disclosed under certain circumstances; amending
s. 626.931, F.S.; removing the requirement that
certain surplus lines agents file a specified
affidavit; amending s. 626.932, F.S.; conforming
cross-references; revising the timeline of the surplus
lines tax remittance by surplus lines agents to the
Florida Surplus Lines Service Office; amending s.
627.351, F.S.; revising the requirements for licensed
agents appointed by Citizens Property Insurance
Corporation to write and renew certain insurance
coverage; amending ss. 626.918, 626.9325, and
626.9541, F.S.; conforming cross-references; amending
ss. 626.935 and 627.715, F.S.; conforming provisions
to changes made by the act; providing an effective
date.

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

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Section 1. Subsection (4) of section 626.913, Florida Statutes, is amended to read:

626.913 Surplus Lines Law; short title; purposes.—

(4) ~~Except as may be specifically stated to apply to surplus lines insurers, the provisions of Chapter 627 does de~~ not apply to surplus lines insurance authorized under ss. 626.913-626.937, the Surplus Lines Law.

Section 2. Subsection (4) of section 626.914, Florida Statutes, is amended to read:

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

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

Section 3. Paragraphs (a) and (e) of subsection (1) and subsections (2) and (3) of section 626.916, Florida Statutes, are amended to read:

626.916 Eligibility for export.—

(1) No insurance coverage shall be eligible for export unless it meets all of the following conditions:

~~(a) The full amount of insurance required must not be procurable, after a diligent effort has been made by the producing agent to do so, from among the insurers authorized to~~

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~~transact and actually writing that kind and class of insurance in this state, and the amount of insurance exported shall be only the excess over the amount so procurable from authorized insurers. Surplus lines agents must verify that a diligent effort has been made by requiring a properly documented statement of diligent effort from the retail or producing agent. However, to be in compliance with the diligent effort requirement, the surplus lines agent's reliance must be reasonable under the particular circumstances surrounding the export of that particular risk. Reasonableness shall be assessed by taking into account factors which include, but are not limited to, a regularly conducted program of verification of the information provided by the retail or producing agent. Declinations must be documented on a risk-by-risk basis. If it is not possible to obtain the full amount of insurance required by layering the risk, it is permissible to export the full amount.~~

~~(d)(e)~~ The insured has signed or otherwise provided documented acknowledgment of a disclosure in substantially the following form: "You are agreeing to place coverage in the surplus lines market. Coverage may be available in the admitted market. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer. Additionally, surplus lines insurers' policy rates and forms are not approved by any Florida regulatory agency." If the acknowledgment of the disclosure is signed by the insured, the insured is presumed to have been informed and to know that other coverage may be available.

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~~(2) The commission may by rule declare eligible for export generally, and notwithstanding the provisions of paragraphs (a), (b), (c), and (d) of subsection (1), any class or classes of insurance coverage or risk for which it finds, after a hearing, that there is no reasonable or adequate market among authorized insurers. Any such rules shall continue in effect during the existence of the conditions upon which predicated, but subject to termination by the commission.~~

~~(3)(a) Subsection (1) does not apply to wet marine and transportation or aviation risks that are subject to s. 626.917.~~

~~(b) Subsection (1) does not apply to classes of insurance which are related to indemnity of deductibles for property insurance or are subject to s. 627.062(3)(d)1. These classes may be exportable under the following conditions:~~

~~1. The insurance must be placed only by or through a surplus lines agent licensed in this state;~~

~~2. The insurer must be made eligible under s. 626.918; and~~

~~3. The insured has complied with paragraph (1)(c). If the disclosure is signed by the insured, the insured is presumed to have been informed and to know that other coverage may be available, and, with respect to the diligent effort requirement under subsection (1), there is no liability on the part of, and no cause of action arises against, the retail agent presenting the form.~~

Section 4. Section 627.4085, Florida Statutes, is amended to read:

627.4085 Insurer name, agent name, and license identification number required on application.—

~~(1)~~ All applications for an insurance policy or annuity

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contract shall prominently display the name of the insuring entity on the first page of the application form at the time the coverage is bound or premium is quoted. Such applications shall also disclose the name and license identification number of the agent as shown on the agent's license issued by the department, which information may be typed, printed, stamped, or handwritten if legible.

~~(2) This section does not apply to surplus lines business under the provisions of ss. 626.913-626.937.~~

Section 5. Paragraph (d) of subsection (6) of section 627.701, Florida Statutes, is amended to read:

627.701 Liability of insureds; coinsurance; deductibles.—

(6)

(d) The office shall draft and formally propose as a rule the form for the certificate of security. The certificate of security may be issued in any of the following circumstances:

1. A mortgage lender or other financial institution may issue a certificate of security after granting the applicant a line of credit, secured by equity in real property or other reasonable security, which line of credit may be drawn on only to pay for the deductible portion of insured construction or reconstruction after a hurricane loss. In the sole discretion of the mortgage lender or other financial institution, the line of credit may be issued to an applicant on an unsecured basis.

2. A licensed insurance agent may issue a certificate of security after obtaining for an applicant a line of credit, secured by equity in real property or other reasonable security, which line of credit may be drawn on only to pay for the deductible portion of insured construction or reconstruction

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175 after a hurricane loss. The Florida Hurricane Catastrophe Fund
176 shall negotiate agreements creating a financing consortium to
177 serve as an additional source of lines of credit to secure
178 deductibles. Any licensed insurance agent may act as the agent
179 of such consortium.

180 3. Any person qualified to act as a trustee for any purpose
181 may issue a certificate of security secured by a pledge of
182 assets, with the restriction that the assets may be drawn on
183 only to pay for the deductible portion of insured construction
184 or reconstruction after a hurricane loss.

185 4. Any insurer, ~~including any admitted insurer or any~~
186 ~~surplus lines insurer,~~ may issue a certificate of security after
187 issuing the applicant a policy of supplemental insurance that
188 will pay for 100 percent of the deductible portion of insured
189 construction or reconstruction after a hurricane loss.

190 5. Any other method approved by the office upon finding
191 that such other method provides a similar level of security as
192 the methods specified in this paragraph and that such other
193 method has no negative impact on residential property insurance
194 catastrophic capacity. The legislative intent of this
195 subparagraph is to provide the flexibility needed to achieve the
196 public policy of expanding property insurance capacity while
197 improving the affordability of property insurance.

198 Section 6. Section 626.9261, Florida Statutes, is created
199 to read:

200 626.9261 Liability of insureds; deductibles.—A surplus
201 lines insurer may issue a certificate of security after issuing
202 the applicant a policy of supplemental insurance which will pay
203 for 100 percent of the deductible portion of insured

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204 construction or reconstruction after a hurricane loss.

205 Section 7. Subsection (9) of section 627.70131, Florida
206 Statutes, is amended to read:

207 627.70131 Insurer's duty to acknowledge communications
208 regarding claims; investigation.—

209 ~~(9) This section also applies to surplus lines insurers and~~
210 ~~surplus lines insurance authorized under ss. 626.913-626.937~~
211 ~~providing residential coverage.~~

212 Section 8. Section 626.9262, Florida Statutes, is created
213 to read:

214 626.9262 Insurer's duty to acknowledge communications
215 regarding residential property insurance claims; investigation.—

216 (1)(a) Upon an insurer's receipt of a communication with
217 respect to a residential property insurance claim, the insurer
218 shall, within 7 calendar days, review and acknowledge receipt of
219 such communication unless payment is made within that period of
220 time or unless the failure to acknowledge is caused by factors
221 beyond the control of the insurer. If the acknowledgment is not
222 in writing, a notification indicating acknowledgment must be
223 made in the insurer's claim file and dated. A communication made
224 to or by a representative of an insurer with respect to a claim
225 constitutes communication to or by the insurer.

226 (b) As used in this subsection, the term "representative"
227 means any person to whom an insurer has granted authority or
228 responsibility to receive or make such communications with
229 respect to claims on behalf of the insurer.

230 (c) This subsection does not apply to claimants represented
231 by counsel beyond those communications necessary to provide
232 forms and instructions.

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233 (2) Such acknowledgment must be responsive to the
234 communication. If the communication constitutes a notification
235 of a residential property insurance claim, unless the
236 acknowledgment reasonably advises the claimant that the claim
237 appears not to be covered by the insurer, the acknowledgment
238 must provide necessary claim forms, and instructions, including
239 an appropriate telephone number.

240 (3) (a) Unless otherwise provided by the policy of insurance
241 or by law, within 7 days after an insurer receives proof-of-loss
242 statements, the insurer shall begin such investigation as is
243 reasonably necessary unless the failure to begin such
244 investigation is caused by factors beyond the control of the
245 insurer.

246 (b) If such investigation involves a physical inspection of
247 the property, the licensed adjuster assigned by the insurer must
248 provide the policyholder with a printed or electronic document
249 containing his or her name and state adjuster license number. An
250 insurer must conduct any such physical inspection within 30 days
251 after its receipt of the proof-of-loss statements.

252 (c) Any subsequent communication with the policyholder
253 regarding the residential property insurance claim must also
254 include the name and license number of the adjuster
255 communicating about the claim. Communication of the adjuster's
256 name and license number may be included with other information
257 provided to the policyholder.

258 (d) An insurer may use electronic methods to investigate
259 the loss. Such electronic methods may include any method that
260 provides the insurer with clear, color pictures or video
261 documenting the loss, including, but not limited to, electronic

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photographs or video recordings of the loss; video conferencing between the adjuster and the policyholder which includes video recording of the loss; and video recordings or photographs of the loss using a drone, driverless vehicle, or other machine that can move independently or through remote control. The insurer also may allow the policyholder to use such methods to assist in the investigation of the loss. An insurer may void the insurance policy if the policyholder or any other person at the direction of the policyholder, with intent to injure, defraud, or deceive any insurer, commits insurance fraud by providing false, incomplete, or misleading information concerning any fact or thing material to a claim using electronic methods. The use of electronic methods to investigate the loss does not prohibit an insurer from assigning a licensed adjuster to physically inspect the property.

(e) The insurer shall send the policyholder a copy of any detailed estimate of the amount of the loss within 7 days after the estimate is generated by an insurer's adjuster. This paragraph does not require that an insurer create a detailed estimate of the amount of the loss if such estimate is not reasonably necessary as part of the claim investigation.

(4) An insurer shall maintain:

(a) A record or log of each adjuster who communicates with the policyholder as provided in paragraphs (3)(b) and (c) and provide a list of such adjusters to the insured, office, or department upon request.

(b) Claim records, including dates, of all of the following:

1. Any claim-related communication made between the insurer

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and the policyholder or the policyholder's representative.

2. The insurer's receipt of the policyholder's proof-of-loss statement.

3. Any claim-related request for information made by the insurer to the policyholder or the policyholder's representative.

4. Any claim-related inspections of the property made by the insurer, including physical inspections and inspections made by electronic means.

5. Any detailed estimate of the amount of the loss generated by the insurer's adjuster.

6. The beginning and end of any tolling period provided for in subsection (8).

7. The insurer's payment or denial of the claim.

(5) For purposes of this section, the term:

(a) "Factors beyond the control of the insurer" means:

1. Any of the following events which is the basis for the office issuing an order finding that such event renders all or specified residential property insurers reasonably unable to meet the requirements of this section in specified locations and ordering that such insurer or insurers may have additional time as specified by the office to comply with the requirements of this section: a state of emergency declared by the Governor under s. 252.36, a breach of security that must be reported under s. 501.171(3), or an information technology issue. The office may not extend the period for payment or denial of a claim for more than 30 additional days.

2. Actions by the policyholder or the policyholder's representative which constitute fraud, lack of cooperation, or

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320 intentional misrepresentation regarding the claim for which
321 benefits are owed when such actions reasonably prevent the
322 insurer from complying with any requirement of this section.

323 (b) "Insurer" means an eligible surplus lines insurer that
324 issues residential property policies.

325 (6) (a) When providing a preliminary or partial estimate of
326 damage regarding a residential property insurance claim, an
327 insurer shall include with the estimate the following statement
328 printed in at least 12-point bold, uppercase type: THIS ESTIMATE
329 REPRESENTS OUR CURRENT EVALUATION OF THE COVERED DAMAGES TO YOUR
330 INSURED PROPERTY AND MAY BE REVISED AS WE CONTINUE TO EVALUATE
331 YOUR CLAIM. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL
332 INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT
333 US.

334 (b) When providing a payment on a claim which is not the
335 full and final payment for the claim, an insurer shall include
336 with the payment the following statement printed in at least 12-
337 point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR
338 CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL
339 PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL
340 INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT
341 US.

342 (7) (a) Within 60 days after an insurer receives notice of
343 an initial, reopened, or supplemental property insurance claim
344 from a policyholder, the insurer shall pay or deny such claim or
345 a portion of the claim unless the failure to pay is caused by
346 factors beyond the control of the insurer. The insurer shall
347 provide a reasonable explanation in writing to the policyholder
348 of the basis in the insurance policy, in relation to the facts

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or applicable law, for the payment, denial, or partial denial of
a claim. If the insurer's claim payment is less than specified
in any insurer's detailed estimate of the amount of the loss,
the insurer must provide a reasonable explanation in writing of
the difference to the policyholder. Any payment of an initial or
supplemental claim or portion of such claim made 60 days after
the insurer receives notice of the claim, or made after the
expiration of any additional timeframe provided to pay or deny a
claim or a portion of a claim made pursuant to an order of the
office finding factors beyond the control of the insurer,
whichever is later, bears interest at the rate set forth in s.
55.03. Interest begins to accrue from the date the insurer
receives notice of the claim. The provisions of this subsection
may not be waived, voided, or nullified by the terms of the
insurance policy. If there is a right to prejudgment interest,
the insured must select whether to receive prejudgment interest
or interest under this subsection. Interest is payable when the
claim or portion of the claim is paid. Failure to comply with
this subsection constitutes a violation of this code. However,
failure to comply with this subsection does not form the sole
basis for a private cause of action.

(b) Notwithstanding the definitions in subsection (5), for
purposes of this subsection, the term "claim" means any of the
following:

1. A claim under an insurance policy providing residential
coverage as defined in s. 627.4025(1).

2. A claim for structural or contents coverage under a
commercial property insurance policy if the insured structure is
10,000 square feet or less.

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378 3. A claim for contents coverage under a commercial tenant
379 policy if the insured premises is 10,000 square feet or less.

380 (c) This subsection does not apply to claims under an
381 insurance policy covering structures or contents in more than
382 one state.

383 (8) The requirements of this section are tolled:

384 (a) During the pendency of any mediation proceeding under
385 s. 627.7015 or any alternative dispute resolution proceeding
386 provided for in the insurance contract. The tolling period ends
387 upon the end of the mediation or alternative dispute resolution
388 proceeding.

389 (b) Upon the failure of a policyholder or a representative
390 of the policyholder to provide material claims information
391 requested by the insurer within 10 days after the request was
392 received. The tolling period ends upon the insurer's receipt of
393 the requested information. Tolling under this paragraph applies
394 only to requests sent by the insurer to the policyholder or a
395 representative of the policyholder at least 15 days before the
396 insurer is required to pay or deny the claim or a portion of the
397 claim under subsection (7).

398 Section 9. Subsection (2) of section 627.70132, Florida
399 Statutes, is amended to read:

400 627.70132 Notice of property insurance claim.—

401 (2) A claim or reopened claim, but not a supplemental
402 claim, under an insurance policy that provides property
403 insurance, as defined in s. 624.604, ~~including a property~~
404 ~~insurance policy issued by an eligible surplus lines insurer,~~
405 for loss or damage caused by any peril is barred unless notice
406 of the claim was given to the insurer in accordance with the

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terms of the policy within 1 year after the date of loss. A supplemental claim is barred unless notice of the supplemental claim was given to the insurer in accordance with the terms of the policy within 18 months after the date of loss. The time limitations of this subsection are tolled during any term of deployment to a combat zone or combat support posting which materially affects the ability of a named insured who is a servicemember as defined in s. 250.01 to file a claim, supplemental claim, or reopened claim.

Section 10. Section 626.9263, Florida Statutes, is created to read:

626.9263 Notice of property insurance claim.—

(1) As used in this section, the term:

(a) "Reopened claim" means a claim that an insurer has previously closed, but that has been reopened upon an insured's request for additional costs for loss or damage previously disclosed to the insurer.

(b) "Supplemental claim" means a claim for additional loss or damage from the same peril which the insurer has previously adjusted or for which costs have been incurred while completing repairs or replacement pursuant to an open claim for which timely notice was previously provided to the insurer.

(2) A claim or reopened claim, but not a supplemental claim, under an insurance policy that provides property insurance, as defined in s. 624.604, for loss or damage caused by any peril is barred unless notice of the claim was given to the insurer in accordance with the terms of the policy within 1 year after the date of loss. A supplemental claim is barred unless notice of the supplemental claim was given to the insurer

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in accordance with the terms of the policy within 18 months after the date of loss. The time limitations of this subsection are tolled during any term of deployment to a combat zone or combat support posting which materially affects the ability of a named insured who is a servicemember as defined in s. 250.01 to file a claim, supplemental claim, or reopened claim.

(3) For claims resulting from hurricanes, tornadoes, windstorms, severe rain, or other weather-related events, the date of loss is the date that the hurricane made landfall or the tornado, windstorm, severe rain, or other weather-related event is verified by the National Oceanic and Atmospheric Administration.

(4) (a) A notice of claim for loss assessment coverage under s. 627.714 may not occur later than 3 years after the date of loss and must be provided to the insurer the later of:

1. Within 1 year after the date of loss; or

2. Within 90 days after the date on which the condominium association or its governing board votes to levy an assessment resulting from a covered loss.

(b) For purposes of this subsection, the term "date of loss" means the date of the covered loss event that created the need for an assessment.

(5) This section does not affect any applicable limitation on civil actions provided in s. 95.11 for claims, supplemental claims, or reopened claims timely filed under this section.

Section 11. Subsection (1) of section 627.70152, Florida Statutes, is amended to read:

627.70152 Suits arising under a property insurance policy.—

(1) APPLICATION.—This section applies exclusively to all

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suits arising under a residential or commercial property insurance policy, ~~including a residential or commercial property insurance policy issued by an eligible surplus lines insurer.~~

Section 12. Section 626.9264, Florida Statutes, is created to read:

626.9264 Suits arising under a property insurance policy.—

(1) APPLICATION.—This section applies exclusively to all suits arising under a residential or commercial property insurance policy.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Claimant" means an insured who is filing suit under a residential or commercial property insurance policy.

(b) "Disputed amount" means the difference between the claimant's presuit settlement demand, not including attorney fees and costs listed in the demand, and the insurer's presuit settlement offer, not including attorney fees and costs, if part of the offer.

(c) "Presuit settlement demand" means the demand made by the claimant in the written notice of intent to initiate litigation as required by paragraph (3)(a). The demand must include the amount of reasonable and necessary attorney fees and costs incurred by the claimant, to be calculated by multiplying the number of hours actually worked on the claim by the claimant's attorney as of the date of the notice by a reasonable hourly rate.

(d) "Presuit settlement offer" means the offer made by the insurer in its written response to the notice required under subsection (3).

(3) NOTICE.—

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494 (a) As a condition precedent to filing a suit under a
495 property insurance policy, a claimant must provide the
496 department with written notice of intent to initiate litigation
497 on a form provided by the department. Such notice must be given
498 at least 10 business days before filing suit under the policy,
499 but may not be given before the insurer has made a determination
500 of coverage under s. 626.9263. Notice to the insurer must be
501 provided by the department to the e-mail address designated by
502 the insurer under s. 624.422. The notice must state with
503 specificity all of the following information:

- 504 1. That the notice is provided pursuant to this section.
505 2. The alleged acts or omissions of the insurer giving rise
506 to the suit, which may include a denial of coverage.
507 3. If provided by an attorney or other representative, that
508 a copy of the notice was provided to the claimant.
509 4. If the notice is provided following a denial of
510 coverage, an estimate of damages, if known.
511 5. If the notice is provided following acts or omissions by
512 the insurer other than denial of coverage, both of the
513 following:

- 514 a. The presuit settlement demand, which must itemize the
515 damages, attorney fees, and costs.
516 b. The disputed amount.

517
518 Documentation to support the information provided in this
519 paragraph may be provided along with the notice to the insurer.

520 (b) A claimant must serve a notice of intent to initiate
521 litigation within the time limits provided in s. 95.11. However,
522 the notice is not required if the suit is a counterclaim.

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Service of a notice tolls the time limits provided in s. 95.11 for 10 business days if such time limits will expire before the end of the 10-day notice period.

(4) INSURER DUTIES.—An insurer must have a procedure for the prompt investigation, review, and evaluation of the dispute stated in the notice and must investigate each claim contained in the notice in accordance with the Florida Insurance Code. An insurer must respond in writing within 10 business days after receiving the notice specified in subsection (3). The insurer must provide the response to the claimant by e-mail if the insured has designated an e-mail address in the notice.

(a) If an insurer is responding to a notice served on the insurer following a denial of coverage by the insurer, the insurer must respond by:

1. Accepting coverage;
2. Continuing to deny coverage; or
3. Asserting the right to reinspect the damaged property.

If the insurer responds by asserting the right to reinspect the damaged property, it has 14 business days after the response asserting that right to reinspect the property to accept or continue to deny coverage. The time limits provided in s. 95.11 are tolled during the reinspection period if such time limits expire before the end of the reinspection period. If the insurer continues to deny coverage, the claimant may file suit without providing additional notice to the insurer.

(b) If an insurer is responding to a notice provided to the insurer alleging an act or omission by the insurer other than a denial of coverage, the insurer must respond by making a settlement offer or requiring the claimant to participate in

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552 appraisal or another method of alternative dispute resolution.
553 The time limits provided in s. 95.11 are tolled as long as
554 appraisal or other alternative dispute resolution is ongoing if
555 such time limits expire during the appraisal process or dispute
556 resolution process. If the appraisal or alternative dispute
557 resolution has not been concluded within 90 days after the
558 expiration of the 10-day notice of intent to initiate litigation
559 specified in subsection (3), the claimant or claimant's attorney
560 may immediately file suit without providing the insurer
561 additional notice.

562 (5) DISMISSAL OF SUIT.—A court must dismiss without
563 prejudice any claimant's suit relating to a claim for which a
564 notice of intent to initiate litigation was not given as
565 required by this section or if such suit is commenced before the
566 expiration of any time period provided under subsection (4), as
567 applicable.

568 (6) ADMISSIBILITY OF NOTICE AND RESPONSE.—The notice
569 provided pursuant to subsection (3) and, if applicable, the
570 documentation to support the information provided in the notice:

571 (a) Are not admissible as evidence in any proceeding.

572 (b) Do not relieve any obligation that an insured or
573 assignee has to give notice under any other provision of law.

574 (7) TOLLING.—If a claim is not resolved during the presuit
575 notice process and if the time limits provided in s. 95.11
576 expire in the 30 days following the conclusion of the presuit
577 notice process, such time limits are tolled for 30 days.

578 Section 13. Section 626.9265, Florida Statutes, is created
579 to read:

580 626.9265 Assignment agreements.—A policyholder may not

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581 assign, in whole or in part, any post-loss insurance benefit
582 under any residential property insurance policy or under any
583 commercial property insurance policy, as defined in s.
584 627.0625(1)(a). An attempt to assign post-loss property
585 insurance benefits under such a policy is void, invalid, and
586 unenforceable.

587 Section 14. Section 626.9266, Florida Statutes, is created
588 to read:

589 626.9266 Nonjoinder of insurers.—

590 (1) It shall be a condition precedent to the accrual or
591 maintenance of a cause of action against a liability insurer by
592 a person who is not an insured under the terms of the liability
593 insurance contract that such person must first obtain a
594 settlement or verdict against a person who is an insured under
595 the terms of such policy for a cause of action which is covered
596 by such policy.

597 (2) Notwithstanding subsection (1), any insurer that pays
598 any taxable costs or attorney fees that would be recoverable by
599 the insured but for the fact that such costs or fees were paid
600 by the insurer is considered a party for the purpose of
601 recovering such fees or costs. A person who is not an insured
602 under the terms of a liability insurance policy may not have any
603 interest in such policy, either as a third-party beneficiary or
604 otherwise, before first obtaining a settlement or verdict
605 against a person who is an insured under the terms of such
606 policy for a cause of action which is covered by such policy.

607 (3) Insurers are affirmatively granted the substantive
608 right to insert in liability insurance policies contractual
609 provisions that preclude persons who are not designated as

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insureds in such policies from joining a liability insurer as a party defendant with its insured before the rendition of a verdict. The contractual provisions authorized in this subsection are fully enforceable.

(4) When a judgment is entered or a settlement is reached during the pendency of litigation, a liability insurer may be joined as a party defendant for the purposes of entering final judgment or enforcing the settlement by the motion of any party, unless the insurer denied coverage under s. 627.426(2) or defended under a reservation of rights pursuant to s. 627.426(2). A copy of the motion to join the insurer must be served on the insurer by certified mail. If a judgment is reversed or remanded on appeal, the insurer's presence may not be disclosed to the jury in a subsequent trial.

Section 15. Subsection (1) of section 627.952, Florida Statutes, is amended to read:

627.952 Risk retention and purchasing group agents.—

(1) Any person offering, soliciting, selling, purchasing, administering, or otherwise servicing insurance contracts, certificates, or agreements for any purchasing group or risk retention group to any resident of this state, either directly or indirectly, by the use of mail, advertising, or other means of communication, shall obtain a license and appointment to act as a resident general lines agent, if a resident of this state, or a nonresident general lines agent if not a resident. Any such person shall be subject to all requirements of the Florida Insurance Code.

~~(a)~~ All books, records, statements, and accounts required to be established and maintained with respect to activities

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described in this subsection shall be established and maintained on a segregated basis, separate and apart from all other books, records, statements, and accounts regarding the agent's other transactions.

~~(b) Any person required to be licensed and appointed under this subsection, in order to place business through Florida eligible surplus lines carriers, must, if a resident of this state, be licensed and appointed as a surplus lines agent. If not a resident of this state, such person must be licensed and appointed as a surplus lines agent in her or his state of residence and be licensed and appointed as a nonresident surplus lines agent in this state.~~

Section 16. Section 626.931, Florida Statutes, is amended to read:

626.931 ~~Agent affidavit and Insurer reporting requirements.~~—

~~(1) Each surplus lines agent that has transacted business during a calendar quarter shall on or before the 45th day following the calendar quarter file with the Florida Surplus Lines Service Office an affidavit, on forms as prescribed and furnished by the Florida Surplus Lines Service Office, stating that all surplus lines insurance transacted by him or her during such calendar quarter has been submitted to the Florida Surplus Lines Service Office as required.~~

~~(2) The affidavit of the surplus lines agent shall include efforts made to place coverages with authorized insurers and the results thereof.~~

(1)~~(3)~~ Each foreign insurer accepting premiums shall, on or before the end of the month following each calendar quarter,

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file with the Florida Surplus Lines Service Office a verified report of all surplus lines insurance transacted by such insurer for insurance risks located in this state during such calendar quarter.

(2)~~(4)~~ Each alien insurer accepting premiums shall, on or before June 30 of each year, file with the Florida Surplus Lines Service Office a verified report of all surplus lines insurance transacted by such insurer for insurance risks located in this state during the preceding calendar year.

(3)~~(5)~~ The department may waive the filing requirements described in subsections (1) ~~(3)~~ and (2) ~~(4)~~.

(4)~~(6)~~ Each insurer's report and supporting information shall be in a computer-readable format as determined by the Florida Surplus Lines Service Office or shall be submitted on forms prescribed by the Florida Surplus Lines Service Office and shall show for each applicable agent:

(a) A listing of all policies, certificates, cover notes, or other forms of confirmation of insurance coverage or any substitutions thereof or endorsements thereto and the identifying number; and

(b) Any additional information required by the department or Florida Surplus Lines Service Office.

Section 17. Paragraph (a) of subsection (2) and subsection (6) of section 626.932, Florida Statutes, are amended to read:

626.932 Surplus lines tax.—

(2)(a) The surplus lines agent shall make payable to the department the tax related to each calendar quarter's business as reported to the Florida Surplus Lines Service Office, and remit the tax to the Florida Surplus Lines Service Office at the

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697 same time as the fee required ~~provided for the filing of the~~
698 ~~quarterly affidavit,~~ under s. 626.9325 ~~s. 626.931~~. The Florida
699 Surplus Lines Service Office shall forward to the department the
700 taxes and any interest collected pursuant to paragraph (b)~~7~~
701 within 10 days after ~~of~~ receipt.

702 (6) For the purposes of this section, the term "premium"
703 means the consideration for insurance by whatever name called
704 and includes any assessment, or any membership, policy, survey,
705 inspection, service, or similar fee or charge in consideration
706 for an insurance contract, which items are deemed to be a part
707 of the premium. The per-policy fee authorized by s. 626.916(2)
708 ~~s. 626.916(4)~~ is specifically included within the meaning of the
709 term "premium." However, the service fee imposed pursuant to s.
710 626.9325 is excluded from the meaning of the term "premium."

711 Section 18. Paragraph (c) of subsection (6) of section
712 627.351, Florida Statutes, is amended to read:

713 627.351 Insurance risk apportionment plans.—

714 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

715 (c) The corporation's plan of operation:

716 1. Must provide for adoption of residential property and
717 casualty insurance policy forms and commercial residential and
718 nonresidential property insurance forms, which must be approved
719 by the office before use. The corporation shall adopt the
720 following policy forms:

721 a. Standard personal lines policy forms that are
722 comprehensive multiperil policies providing full coverage of a
723 residential property equivalent to the coverage provided in the
724 private insurance market under an HO-3, HO-4, or HO-6 policy.

725 b. Basic personal lines policy forms that are policies

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726 similar to an HO-8 policy or a dwelling fire policy that provide
727 coverage meeting the requirements of the secondary mortgage
728 market, but which is more limited than the coverage under a
729 standard policy.

730 c. Commercial lines residential and nonresidential policy
731 forms that are generally similar to the basic perils of full
732 coverage obtainable for commercial residential structures and
733 commercial nonresidential structures in the admitted voluntary
734 market.

735 d. Personal lines and commercial lines residential property
736 insurance forms that cover the peril of wind only. The forms are
737 applicable only to residential properties located in areas
738 eligible for coverage by the Florida Windstorm Underwriting
739 Association, as those areas were defined on January 1, 2002.

740 e. Commercial lines nonresidential property insurance forms
741 that cover the peril of wind only. The forms are applicable only
742 to nonresidential properties located in areas eligible for
743 coverage by the Florida Windstorm Underwriting Association, as
744 those areas were defined on January 1, 2002.

745 f. The corporation may adopt variations of the policy forms
746 listed in sub-subparagraphs a.-e. which contain more restrictive
747 coverage.

748 g. The corporation shall offer a basic personal lines
749 policy similar to an HO-8 policy with dwelling repair based on
750 common construction materials and methods.

751 2. Must provide that the corporation adopt a program in
752 which the corporation and authorized insurers enter into quota
753 share primary insurance agreements for hurricane coverage, as
754 defined in s. 627.4025(2)(a), for eligible risks, and adopt

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property insurance forms for eligible risks which cover the
peril of wind only.

a. As used in this subsection, the term:

(I) "Approved surplus lines insurer" means an eligible
surplus lines insurer that:

(A) Has a financial strength rating of "A-" or higher from
A.M. Best Company;

(B) Has a personal lines residential risk program that is
managed by a Florida resident surplus lines broker;

(C) Applies to the office to participate in the take-out
process to offer coverage to applicants for new coverage from
the corporation or current policyholders of the corporation
through a take-out plan approved by the office;

(D) Does not, as part of any take-out plan approved by the
office, offer coverage on any personal lines residential risk
that is a primary residence or has a homestead exemption under
chapter 196;

(E) Files rates for review as part of a take-out plan with
the office. The office shall review whether the premium is more
than 20 percent greater than the premium for comparable coverage
from the corporation; and

(F) Provides data to the office related to coverage and
rates in a format promulgated by the commission.

(II) "Eligible risks" means personal lines residential and
commercial lines residential risks that meet the underwriting
criteria of the corporation and are located in areas that were
eligible for coverage by the Florida Windstorm Underwriting
Association on January 1, 2002.

(III) "Primary residence" means the dwelling that is the

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784 policyholder's primary home or is a rental property that is the
785 primary home of the tenant, and which the policyholder or tenant
786 occupies for more than 9 months of each year.

787 (IV) "Quota share primary insurance" means an arrangement
788 in which the primary hurricane coverage of an eligible risk is
789 provided in specified percentages by the corporation and an
790 authorized insurer. The corporation and authorized insurer are
791 each solely responsible for a specified percentage of hurricane
792 coverage of an eligible risk as set forth in a quota share
793 primary insurance agreement between the corporation and an
794 authorized insurer and the insurance contract. The
795 responsibility of the corporation or authorized insurer to pay
796 its specified percentage of hurricane losses of an eligible
797 risk, as set forth in the agreement, may not be altered by the
798 inability of the other party to pay its specified percentage of
799 losses. Eligible risks that are provided hurricane coverage
800 through a quota share primary insurance arrangement must be
801 provided policy forms that set forth the obligations of the
802 corporation and authorized insurer under the arrangement,
803 clearly specify the percentages of quota share primary insurance
804 provided by the corporation and authorized insurer, and
805 conspicuously and clearly state that the authorized insurer and
806 the corporation may not be held responsible beyond their
807 specified percentage of coverage of hurricane losses.

808 b. The corporation may enter into quota share primary
809 insurance agreements with authorized insurers at corporation
810 coverage levels of 90 percent and 50 percent.

811 c. If the corporation determines that additional coverage
812 levels are necessary to maximize participation in quota share

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primary insurance agreements by authorized insurers, the corporation may establish additional coverage levels. However, the corporation's quota share primary insurance coverage level may not exceed 90 percent.

d. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation must provide for a uniform specified percentage of coverage of hurricane losses, by county or territory as set forth by the corporation board, for all eligible risks of the authorized insurer covered under the agreement.

e. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation is subject to review and approval by the office. However, such agreement shall be authorized only as to insurance contracts entered into between an authorized insurer and an insured who is already insured by the corporation for wind coverage.

f. For all eligible risks covered under quota share primary insurance agreements, the exposure and coverage levels for both the corporation and authorized insurers shall be reported by the corporation to the Florida Hurricane Catastrophe Fund. For all policies of eligible risks covered under such agreements, the corporation and the authorized insurer must maintain complete and accurate records for the purpose of exposure and loss reimbursement audits as required by fund rules. The corporation and the authorized insurer shall each maintain duplicate copies of policy declaration pages and supporting claims documents.

g. The corporation board shall establish in its plan of operation standards for quota share agreements which ensure that there is no discriminatory application among insurers as to the

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842 terms of the agreements, pricing of the agreements, incentive
843 provisions if any, and consideration paid for servicing policies
844 or adjusting claims.

845 h. The quota share primary insurance agreement between the
846 corporation and an authorized insurer must set forth the
847 specific terms under which coverage is provided, including, but
848 not limited to, the sale and servicing of policies issued under
849 the agreement by the insurance agent of the authorized insurer
850 producing the business, the reporting of information concerning
851 eligible risks, the payment of premium to the corporation, and
852 arrangements for the adjustment and payment of hurricane claims
853 incurred on eligible risks by the claims adjuster and personnel
854 of the authorized insurer. Entering into a quota sharing
855 insurance agreement between the corporation and an authorized
856 insurer is voluntary and at the discretion of the authorized
857 insurer.

858 3. May provide that the corporation may employ or otherwise
859 contract with individuals or other entities to provide
860 administrative or professional services that may be appropriate
861 to effectuate the plan. The corporation may borrow funds by
862 issuing bonds or by incurring other indebtedness, and shall have
863 other powers reasonably necessary to effectuate the requirements
864 of this subsection, including, without limitation, the power to
865 issue bonds and incur other indebtedness in order to refinance
866 outstanding bonds or other indebtedness. The corporation may
867 seek judicial validation of its bonds or other indebtedness
868 under chapter 75. The corporation may issue bonds or incur other
869 indebtedness, or have bonds issued on its behalf by a unit of
870 local government pursuant to subparagraph (q)2. in the absence

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of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation may take all actions needed to facilitate tax-free status for such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation may pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of nine individuals who are residents of this state and who are from different geographical areas of the state, one of whom is appointed by the Governor and serves solely to advocate on behalf of the consumer. The appointment of a consumer representative by the Governor is deemed to be within the scope of the exemption provided in s. 112.313(7)(b) and is in addition to the appointments authorized under sub-subparagraph a.

a. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives

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shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance and be deemed to be within the scope of the exemption provided in s. 112.313(7)(b). The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All members of the board are subject to removal at will by the officers who appointed them. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. However, for the first term beginning on or after July 1, 2009, each appointing officer shall appoint one member of the board for a 2-year term and one member for a 3-year term. A board vacancy shall be filled for the unexpired term by the appointing officer. The Chief Financial Officer shall appoint a technical advisory group to provide information and advice to the board in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board and serve at the pleasure of the board. Any executive director appointed on or after July 1, 2006, is subject to confirmation by the Senate. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board.

b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its customer and agent service levels in relationship to the voluntary market insurers writing similar coverage.

(I) The members of the advisory committee consist of the

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following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the Professional Insurance Agents of Florida, and one by the Latin American Association of Insurance Agencies; three representatives appointed by the insurers with the three highest voluntary market share of residential property insurance business in the state; one representative from the Office of Insurance Regulation; one consumer appointed by the board who is insured by the corporation at the time of appointment to the committee; one representative appointed by the Florida Association of Realtors; and one representative appointed by the Florida Bankers Association. All members shall be appointed to 3-year terms and may serve for consecutive terms.

(II) The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.

5. Must provide a procedure for determining the eligibility of a risk for coverage, as follows:

a. Subject to s. 627.3517, with respect to personal lines residential risks that are primary residences, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, for a

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new application to the corporation for coverage, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 20 percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a personal lines residential risk that is a primary residence is received for a policyholder of the corporation at renewal from an authorized insurer, if the offer is equal to or less than the corporation's renewal premium for comparable coverage, the risk is not eligible for coverage with the corporation for policies that renew before April 1, 2023; for policies that renew on or after that date, the risk is not eligible for coverage with the corporation unless the premium for coverage from the authorized insurer is more than 20 percent greater than the corporation's renewal premium for comparable coverage. If the risk is not able to obtain such offer, the risk is eligible for a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk is eligible for a basic policy including wind coverage unless rejected under subparagraph 8. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices. A policyholder removed from the corporation through an assumption agreement does not remain eligible for coverage from the corporation after the end of the policy term. However, any policy removed from the corporation through an assumption agreement remains on the corporation's

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policy forms through the end of the policy term. This sub-
subparagraph applies only to risks that are primary residences.

(I) If the risk accepts an offer of coverage through the
market assistance plan or through a mechanism established by the
corporation other than a plan established by s. 627.3518, before
a policy is issued to the risk by the corporation or during the
first 30 days of coverage by the corporation, and the producing
agent who submitted the application to the plan or to the
corporation is not currently appointed by the insurer, the
insurer shall:

(A) Pay to the producing agent of record of the policy for
the first year, an amount that is the greater of the insurer's
usual and customary commission for the type of policy written or
a fee equal to the usual and customary commission of the
corporation; or

(B) Offer to allow the producing agent of record of the
policy to continue servicing the policy for at least 1 year and
offer to pay the agent the greater of the insurer's or the
corporation's usual and customary commission for the type of
policy written.

If the producing agent is unwilling or unable to accept
appointment, the new insurer shall pay the agent in accordance
with sub-sub-sub-subparagraph (A).

(II) If the corporation enters into a contractual agreement
for a take-out plan, the producing agent of record of the
corporation policy is entitled to retain any unearned commission
on the policy, and the insurer shall:

(A) Pay to the producing agent of record, for the first

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year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record to continue servicing the policy for at least 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

b. Subject to s. 627.3517, with respect to personal lines residential risks that are not primary residences, if the risk is offered coverage from an authorized insurer at the insurer's approved rate or from an approved surplus lines insurer at the rate approved by the office as part of such surplus lines insurer's take-out plan for a new application to the corporation for coverage, the risk is not eligible for any policy issued by the corporation unless the premium for coverage from the authorized insurer or approved surplus lines insurer is more than 20 percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a personal lines residential risk that is not a primary residence is received for a policyholder of the corporation at renewal from an authorized insurer at the insurer's approved rate or an approved surplus lines insurer at the rate approved by the office as part of such insurer's take-out plan, the risk is not eligible for coverage with the corporation unless the premium

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for coverage from the authorized insurer or approved surplus lines insurer is more than 20 percent greater than the corporation's renewal premium for comparable coverage for policies that renew on or after July 1, 2024. If the risk is not able to obtain such offer, the risk is eligible for a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation. If the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk is eligible for a basic policy including wind coverage unless rejected under subparagraph 8. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices. A policyholder removed from the corporation through an assumption agreement does not remain eligible for coverage from the corporation after the end of the policy term. However, any policy removed from the corporation through an assumption agreement remains on the corporation's policy forms through the end of the policy term.

(I) If the risk accepts an offer of coverage through the market assistance plan or through a mechanism established by the corporation other than a plan established by s. 627.3518, before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or to the corporation is not currently appointed by the insurer, the insurer must:

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's

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usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for at least 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer must pay the agent in accordance with sub-sub-sub-subparagraph (A).

(II) If the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer must:

(A) Pay to the producing agent of record, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record to continue servicing the policy for at least 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

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c. With respect to commercial lines residential risks, for a new application to the corporation for coverage, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for a policy issued by the corporation unless the premium for coverage from the authorized insurer is more than 20 percent greater than the premium for comparable coverage from the corporation. Whenever an offer of coverage for a commercial lines residential risk is received for a policyholder of the corporation at renewal from an authorized insurer, the risk is not eligible for coverage with the corporation unless the premium for coverage from the authorized insurer is more than 20 percent greater than the corporation's renewal premium for comparable coverage. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation. A policyholder removed from the corporation through an assumption agreement remains eligible for coverage from the corporation until the end of the policy term. However, any policy removed from the corporation through an assumption agreement remains on the corporation's policy forms through the end of the policy term.

(I) If the risk accepts an offer of coverage through the market assistance plan or through a mechanism established by the corporation other than a plan established by s. 627.3518, before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or the corporation is not currently appointed by the insurer, the insurer shall:

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(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for at least 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-paragraph (A).

(II) If the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(A) Pay to the producing agent of record, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record to continue servicing the policy for at least 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept

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1161 appointment, the new insurer shall pay the agent in accordance
1162 with sub-sub-sub-subparagraph (A).

1163 d. For purposes of determining comparable coverage under
1164 sub-subparagraphs a., b., and c., the comparison must be based
1165 on those forms and coverages that are reasonably comparable. The
1166 corporation may rely on a determination of comparable coverage
1167 and premium made by the producing agent who submits the
1168 application to the corporation, made in the agent's capacity as
1169 the corporation's agent. For purposes of comparing the premium
1170 for comparable coverage under sub-subparagraphs a., b., and c.,
1171 premium includes any surcharge or assessment that is actually
1172 applied to such policy. A comparison may be made solely of the
1173 premium with respect to the main building or structure only on
1174 the following basis: the same Coverage A or other building
1175 limits; the same percentage hurricane deductible that applies on
1176 an annual basis or that applies to each hurricane for commercial
1177 residential property; the same percentage of ordinance and law
1178 coverage, if the same limit is offered by both the corporation
1179 and the authorized insurer or the approved surplus lines
1180 insurer; the same mitigation credits, to the extent the same
1181 types of credits are offered both by the corporation and the
1182 authorized insurer or the approved surplus lines insurer; the
1183 same method for loss payment, such as replacement cost or actual
1184 cash value, if the same method is offered both by the
1185 corporation and the authorized insurer in accordance with
1186 underwriting rules; and any other form or coverage that is
1187 reasonably comparable as determined by the board. If an
1188 application is submitted to the corporation for wind-only
1189 coverage on a risk that is located in an area eligible for

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coverage by the Florida Windstorm Underwriting Association, as that area was defined on January 1, 2002, the premium for the corporation's wind-only policy plus the premium for the ex-wind policy that is offered by an authorized insurer to the applicant must be compared to the premium for multiperil coverage offered by an authorized insurer, subject to the standards for comparison specified in this subparagraph. If the corporation or the applicant requests from the authorized insurer or the approved surplus lines insurer a breakdown of the premium of the offer by types of coverage so that a comparison may be made by the corporation or its agent and the authorized insurer or the approved surplus lines insurer refuses or is unable to provide such information, the corporation may treat the offer as not being an offer of coverage from an authorized insurer at the insurer's approved rate.

6. Must include rules for classifications of risks and rates.

7. Must provide that if premium and investment income for the Citizens account, which are attributable to a particular calendar year, are in excess of projected losses and expenses for the Citizens account attributable to that year, such excess shall be held in surplus in the Citizens account. Such surplus must be available to defray deficits in the Citizens account as to future years and used for that purpose before assessing assessable insurers and assessable insureds as to any calendar year.

8. Must provide objective criteria and procedures to be uniformly applied to all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making

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1219 this determination and in establishing the criteria and
1220 procedures, the following must be considered:

1221 a. Whether the likelihood of a loss for the individual risk
1222 is substantially higher than for other risks of the same class;
1223 and

1224 b. Whether the uncertainty associated with the individual
1225 risk is such that an appropriate premium cannot be determined.
1226

1227 The acceptance or rejection of a risk by the corporation shall
1228 be construed as the private placement of insurance, and the
1229 provisions of chapter 120 do not apply.

1230 9. Must provide that the corporation make its best efforts
1231 to procure catastrophe reinsurance at reasonable rates, to cover
1232 its projected 100-year probable maximum loss as determined by
1233 the board of governors. If catastrophe reinsurance is not
1234 available at reasonable rates, the corporation need not purchase
1235 it, but the corporation shall include the costs of reinsurance
1236 to cover its projected 100-year probable maximum loss in its
1237 rate calculations even if it does not purchase catastrophe
1238 reinsurance.

1239 10. ~~The policies issued by the corporation~~ Must provide in
1240 the corporation policies that if the corporation or the market
1241 assistance plan obtains an offer from an authorized insurer to
1242 cover the risk at its approved rates, the risk is no longer
1243 eligible for renewal through the corporation, except as
1244 otherwise provided in this subsection.

1245 11. ~~Corporation policies and applications~~ Must include in
1246 the corporation policies and applications a notice that the
1247 corporation policy could, under this section, be replaced with a

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1248 policy issued by an authorized insurer which does not provide
1249 coverage identical to the coverage provided by the corporation.
1250 The notice must also specify that acceptance of corporation
1251 coverage creates a conclusive presumption that the applicant or
1252 policyholder is aware of this potential.

1253 12. May establish, subject to approval by the office,
1254 different eligibility requirements and operational procedures
1255 for any line or type of coverage for any specified county or
1256 area if the board determines that such changes are justified due
1257 to the voluntary market being sufficiently stable and
1258 competitive in such area or for such line or type of coverage
1259 and that consumers who, in good faith, are unable to obtain
1260 insurance through the voluntary market through ordinary methods
1261 continue to have access to coverage from the corporation. If
1262 coverage is sought in connection with a real property transfer,
1263 the requirements and procedures may not provide an effective
1264 date of coverage later than the date of the closing of the
1265 transfer as established by the transferor, the transferee, and,
1266 if applicable, the lender.

1267 13. Must provide that the corporation appoint as its
1268 licensed agents only those agents who throughout such
1269 appointments also hold an appointment as defined in s. 626.015
1270 by at least three insurers who are authorized to write and are
1271 actually writing or renewing personal lines residential property
1272 coverage, commercial residential property coverage, or
1273 commercial nonresidential property coverage within the state.
1274 For purposes of agents writing or renewing commercial
1275 residential property coverage or commercial nonresidential
1276 property coverage, an agent may satisfy the requirement for any

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one or more of the three direct appointments by providing to the corporation a signed attestation confirming that he or she has access through a broker to an authorized insurer or eligible surplus lines insurer authorized to write and actually writing or renewing commercial residential property coverage or commercial nonresidential property coverage. However, such signed attestations do not satisfy the requirements necessary to write personal lines residential property coverage for the corporation.

14. Must provide a premium payment plan option to its policyholders which, at a minimum, allows for quarterly and semiannual payment of premiums. A monthly payment plan may, but is not required to, be offered.

15. Must limit coverage on mobile homes or manufactured homes built before 1994 to actual cash value of the dwelling rather than replacement costs of the dwelling.

16. Must provide coverage for manufactured or mobile home dwellings. Such coverage must also include the following attached structures:

a. Screened enclosures that are aluminum framed or screened enclosures that are not covered by the same or substantially the same materials as those of the primary dwelling;

b. Carports that are aluminum or carports that are not covered by the same or substantially the same materials as those of the primary dwelling; and

c. Patios that have a roof covering that is constructed of materials that are not the same or substantially the same materials as those of the primary dwelling.

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The corporation shall make available a policy for mobile homes or manufactured homes for a minimum insured value of at least \$3,000.

17. May provide such limits of coverage as the board determines, consistent with the requirements of this subsection.

18. May require commercial property to meet specified hurricane mitigation construction features as a condition of eligibility for coverage.

19. Must provide that new or renewal policies issued by the corporation on or after January 1, 2012, which cover sinkhole loss do not include coverage for any loss to appurtenant structures, driveways, sidewalks, decks, or patios that are directly or indirectly caused by sinkhole activity. The corporation shall exclude such coverage using a notice of coverage change, which may be included with the policy renewal, and not by issuance of a notice of nonrenewal of the excluded coverage upon renewal of the current policy.

20.a. Must require that the agent obtain from an applicant for coverage from the corporation an acknowledgment signed by the applicant, which includes, at a minimum, the following statement:

ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
AND ASSESSMENT LIABILITY:

1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE POLICY, AND THAT THE

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SURCHARGES AND ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM, BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE STATE OF FLORIDA.

b. The corporation shall maintain, in electronic format or otherwise, a copy of the applicant's signed acknowledgment and provide a copy of the statement to the policyholder as part of the first renewal after the effective date of sub-subparagraph a.

c. The signed acknowledgment form creates a conclusive presumption that the policyholder understood and accepted his or her potential surcharge and assessment liability as a policyholder of the corporation.

21. Must provide that the income of the corporation may not inure to the benefit of any private person.

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Section 19. Subsection (5) of section 626.918, Florida Statutes, is amended to read:

626.918 Eligible surplus lines insurers.—

(5) When it appears that any particular insurance risk which is eligible for export, but on which insurance coverage, in whole or in part, is not procurable from the eligible surplus lines insurers, after a search of eligible surplus lines insurers, then the surplus lines agent may file a supplemental signed statement setting forth such facts and advising the office that such part of the risk as shall be unprocurable, as aforesaid, is being placed with named unauthorized insurers, in the amounts and percentages set forth in the statement. Such named unauthorized insurer shall, however, before accepting any risk in this state, deposit with the department cash or securities acceptable to the office and department of the market value of \$50,000 for each individual risk, contract, or certificate, which deposit shall be held by the department for the benefit of Florida policyholders only; and the surplus lines agent shall procure from such unauthorized insurer and file with the office a certified copy of its statement of condition as of the close of the last calendar year. If such statement reveals, including both capital and surplus, net assets of at least that amount required for licensure of a domestic insurer, then the surplus lines agent may proceed to consummate such contract of insurance. Whenever any insurance risk, or any part thereof, is placed with an unauthorized insurer, as provided herein, the policy, binder, or cover note shall contain a statement signed by the insured and the agent with the following notation: "The insured is aware that certain insurers participating in this

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1393 risk have not been approved to transact business in Florida nor
1394 have they been declared eligible as surplus lines insurers by
1395 the Office of Insurance Regulation of Florida. The placing of
1396 such insurance by a duly licensed surplus lines agent in Florida
1397 shall not be construed as approval of such insurer by the Office
1398 of Insurance Regulation of Florida. Consequently, the insured is
1399 aware that the insured has severely limited the assistance
1400 available under the insurance laws of Florida. The insured is
1401 further aware that he or she may be charged a reasonable per
1402 policy fee, as provided in s. 626.916(2) ~~s. 626.916(4)~~, Florida
1403 Statutes, for each policy certified for export." All other
1404 provisions of this code shall apply to such placement the same
1405 as if such risks were placed with an eligible surplus lines
1406 insurer.

1407 Section 20. Subsection (6) of section 626.9325, Florida
1408 Statutes, is amended to read:

1409 626.9325 Service fee.—

1410 (6) For the purposes of this section, the term "premium"
1411 means the consideration for insurance by whatever name called
1412 and includes any assessment, or any membership, policy, survey,
1413 inspection, service, or similar fee or charge in consideration
1414 for an insurance contract, which items are deemed to be a part
1415 of the premium. The per-policy fee authorized by s. 626.916(2)
1416 ~~s. 626.916(4)~~ is specifically included within the meaning of the
1417 term "premium."

1418 Section 21. Paragraph (o) of subsection (1) of section
1419 626.9541, Florida Statutes, is amended to read:

1420 626.9541 Unfair methods of competition and unfair or
1421 deceptive acts or practices defined.—

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(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(o) *Illegal dealings in premiums; excess or reduced charges for insurance.*—

1. Knowingly collecting any sum as a premium or charge for insurance, which is not then provided, or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as permitted by this code.

2. Knowingly collecting as a premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance, in accordance with the applicable classifications and rates as filed with and approved by the office, and as specified in the policy; or, in cases when classifications, premiums, or rates are not required by this code to be so filed and approved, premiums and charges collected from a Florida resident in excess of or less than those specified in the policy and as fixed by the insurer.

Notwithstanding any other provision of law, this provision shall not be deemed to prohibit the charging and collection, by surplus lines agents licensed under part VIII of this chapter, of the amount of applicable state and federal taxes, or fees as authorized by s. 626.916(2) ~~s. 626.916(4)~~, in addition to the premium required by the insurer or the charging and collection, by licensed agents, of the exact amount of any discount or other such fee charged by a credit card facility in connection with the use of a credit card, as authorized by subparagraph (q)3., in addition to the premium required by the insurer. This

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subparagraph shall not be construed to prohibit collection of a premium for a universal life or a variable or indeterminate value insurance policy made in accordance with the terms of the contract.

3.a. Imposing or requesting an additional premium for a policy of motor vehicle liability, personal injury protection, medical payment, or collision insurance or any combination thereof or refusing to renew the policy solely because the insured was involved in a motor vehicle accident unless the insurer's file contains information from which the insurer in good faith determines that the insured was substantially at fault in the accident.

b. An insurer which imposes and collects such a surcharge or which refuses to renew such policy shall, in conjunction with the notice of premium due or notice of nonrenewal, notify the named insured that he or she is entitled to reimbursement of such amount or renewal of the policy under the conditions listed below and will subsequently reimburse him or her or renew the policy, if the named insured demonstrates that the operator involved in the accident was:

(I) Lawfully parked;

(II) Reimbursed by, or on behalf of, a person responsible for the accident or has a judgment against such person;

(III) Struck in the rear by another vehicle headed in the same direction and was not convicted of a moving traffic violation in connection with the accident;

(IV) Hit by a "hit-and-run" driver, if the accident was reported to the proper authorities within 24 hours after discovering the accident;

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(V) Not convicted of a moving traffic violation in connection with the accident, but the operator of the other automobile involved in such accident was convicted of a moving traffic violation;

(VI) Finally adjudicated not to be liable by a court of competent jurisdiction;

(VII) In receipt of a traffic citation which was dismissed or nolle prossed; or

(VIII) Not at fault as evidenced by a written statement from the insured establishing facts demonstrating lack of fault which are not rebutted by information in the insurer's file from which the insurer in good faith determines that the insured was substantially at fault.

c. In addition to the other provisions of this subparagraph, an insurer may not fail to renew a policy if the insured has had only one accident in which he or she was at fault within the current 3-year period. However, an insurer may nonrenew a policy for reasons other than accidents in accordance with s. 627.728. This subparagraph does not prohibit nonrenewal of a policy under which the insured has had three or more accidents, regardless of fault, during the most recent 3-year period.

4. Imposing or requesting an additional premium for, or refusing to renew, a policy for motor vehicle insurance solely because the insured committed a noncriminal traffic infraction as described in s. 318.14 unless the infraction is:

a. A second infraction committed within an 18-month period, or a third or subsequent infraction committed within a 36-month period.

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b. A violation of s. 316.183, when such violation is a result of exceeding the lawful speed limit by more than 15 miles per hour.

5. Upon the request of the insured, the insurer and licensed agent shall supply to the insured the complete proof of fault or other criteria which justifies the additional charge or cancellation.

6. No insurer shall impose or request an additional premium for motor vehicle insurance, cancel or refuse to issue a policy, or refuse to renew a policy because the insured or the applicant is a handicapped or physically disabled person, so long as such handicap or physical disability does not substantially impair such person's mechanically assisted driving ability.

7. No insurer may cancel or otherwise terminate any insurance contract or coverage, or require execution of a consent to rate endorsement, during the stated policy term for the purpose of offering to issue, or issuing, a similar or identical contract or coverage to the same insured with the same exposure at a higher premium rate or continuing an existing contract or coverage with the same exposure at an increased premium.

8. No insurer may issue a nonrenewal notice on any insurance contract or coverage, or require execution of a consent to rate endorsement, for the purpose of offering to issue, or issuing, a similar or identical contract or coverage to the same insured at a higher premium rate or continuing an existing contract or coverage at an increased premium without meeting any applicable notice requirements.

9. No insurer shall, with respect to premiums charged for

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motor vehicle insurance, unfairly discriminate solely on the basis of age, sex, marital status, or scholastic achievement.

10. Imposing or requesting an additional premium for motor vehicle comprehensive or uninsured motorist coverage solely because the insured was involved in a motor vehicle accident or was convicted of a moving traffic violation.

11. No insurer shall cancel or issue a nonrenewal notice on any insurance policy or contract without complying with any applicable cancellation or nonrenewal provision required under the Florida Insurance Code.

12. No insurer shall impose or request an additional premium, cancel a policy, or issue a nonrenewal notice on any insurance policy or contract because of any traffic infraction when adjudication has been withheld and no points have been assessed pursuant to s. 318.14(9) and (10). However, this subparagraph does not apply to traffic infractions involving accidents in which the insurer has incurred a loss due to the fault of the insured.

Section 22. Paragraph (d) of subsection (1) of section 626.935, Florida Statutes, is amended to read:

626.935 Suspension, revocation, or refusal of surplus lines agent's license.—

(1) The department shall deny an application for, suspend, revoke, or refuse to renew the appointment of a surplus lines agent and all other licenses and appointments held by the licensee under this code, on any of the following grounds:

(d) Failure to make and file his or her ~~affidavit or~~ reports when due as required by s. 626.931.

Section 23. Subsection (4) of section 627.715, Florida

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Statutes, is amended to read:

627.715 Flood insurance.—An authorized insurer may issue an insurance policy, contract, or endorsement providing personal lines residential coverage for the peril of flood or excess coverage for the peril of flood on any structure or the contents of personal property contained therein, subject to this section. This section does not apply to commercial lines residential or commercial lines nonresidential coverage for the peril of flood. An insurer may issue flood insurance policies, contracts, endorsements, or excess coverage on a standard, preferred, customized, flexible, or supplemental basis.

(4) An agent may export a contract or an endorsement providing flood coverage to an eligible surplus lines insurer ~~without making a diligent effort to seek such coverage from three or more authorized insurers~~ under s. 626.916 ~~s. 626.916(1)(a)~~.

Section 24. This act shall take effect July 1, 2025.