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1
2 An act relating to financial services; amending s.
3 560.103, F.S.; revising the definition of the term
4 "control person"; amending s. 626.914, F.S.; deleting
5 the definition of the term "diligent effort"; amending
6 s. 626.916, F.S.; revising the conditions for
7 insurance coverage to be eligible for export; revising
8 the provisions of a certain notice providing that an
9 insured is presumed to have been informed of the
10 availability of other coverage under certain
11 circumstances; deleting the Financial Services
12 Commission's authority to adopt rules relating to
13 insurance coverage or risk eligibility for export;
14 deleting applicability; amending ss. 626.918, 626.932,
15 626.9325, 626.9541, and 627.715, F.S.; conforming
16 cross-references and provisions to changes made by the
17 act; amending s. 655.047, F.S.; requiring state
18 financial institutions to pay a semiannual assessment
19 for specified time periods; requiring that the
20 semiannual assessment be received by the Office of
21 Financial Regulation in a specified manner and by
22 specified dates; amending s. 655.414, F.S.;
23 authorizing the office to issue a specified
24 certificate under certain circumstances; amending s.
25 657.002, F.S.; revising the definition of the term

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"equity"; amending s. 657.028, F.S.; authorizing certain elected officers, directors, or committee members of a credit union to be reimbursed for certain expenses; amending s. 657.043, F.S.; conforming provisions to changes made by the act; amending s. 658.235, F.S.; revising the timeframe for certain requirements by the directors of a proposed bank or trust company; amending s. 658.25, F.S.; revising the timeframe within which a bank or trust company corporation is required to open and conduct specified business; providing effective dates.

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

Section 1. Paragraph (d) of subsection (10) of section 560.103, Florida Statutes, is amended to read:

560.103 Definitions.—As used in this chapter, the term:
(10) "Control person" means, with respect to a money services business, any of the following:

(d) A shareholder in whose name shares are registered in the records of a corporation for profit, whether incorporated under the laws of this state or organized under the laws of any other jurisdiction and existing in that legal form, who directly or indirectly has the power to vote 25 percent or more of a class of voting securities, or to sell or direct the sale of 25

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51 percent or more of a class of voting securities ~~owns 25 percent~~
52 ~~or more of a class of the company's equity securities.~~

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

55 626.914 Definitions.—As used in this Surplus Lines Law,
56 the term:

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

65 Section 3. Paragraph (a) and present paragraph (e) of
66 subsection (1) and subsections (2) and (3) of section 626.916,
67 Florida Statutes, are amended to read:

68 626.916 Eligibility for export.—

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

71 ~~(a) The full amount of insurance required must not be~~
72 ~~procurable, after a diligent effort has been made by the~~
73 ~~producing agent to do so, from among the insurers authorized to~~
74 ~~transact and actually writing that kind and class of insurance~~
75 ~~in this state, and the amount of insurance exported shall be~~

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76 | ~~only the excess over the amount so procurable from authorized~~
77 | ~~insurers. Surplus lines agents must verify that a diligent~~
78 | ~~effort has been made by requiring a properly documented~~
79 | ~~statement of diligent effort from the retail or producing agent.~~
80 | ~~However, to be in compliance with the diligent effort~~
81 | ~~requirement, the surplus lines agent's reliance must be~~
82 | ~~reasonable under the particular circumstances surrounding the~~
83 | ~~export of that particular risk. Reasonableness shall be assessed~~
84 | ~~by taking into account factors which include, but are not~~
85 | ~~limited to, a regularly conducted program of verification of the~~
86 | ~~information provided by the retail or producing agent.~~
87 | ~~Declinations must be documented on a risk-by-risk basis. If it~~
88 | ~~is not possible to obtain the full amount of insurance required~~
89 | ~~by layering the risk, it is permissible to export the full~~
90 | ~~amount.~~

91 | (d)-(e) The insured has signed or otherwise provided
92 | documented acknowledgment of a disclosure in substantially the
93 | following form: "You are agreeing to place coverage in the
94 | surplus lines market. Coverage may be available in the admitted
95 | market. Persons insured by surplus lines carriers are not
96 | protected under the Florida Insurance Guaranty Act with respect
97 | to any right of recovery for the obligation of an insolvent
98 | unlicensed insurer. Additionally, surplus lines insurers' policy
99 | rates and forms are not approved by any Florida regulatory
100 | agency." If the acknowledgment of the disclosure is signed by

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101 the insured, the insured is presumed to have been informed and
102 to know that other coverage may be available.

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

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

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

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

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

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

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126 ~~the form.~~

127 Section 4. Subsection (5) of section 626.918, Florida
128 Statutes, is amended to read:

129 626.918 Eligible surplus lines insurers.—

130 (5) When it appears that any particular insurance risk
131 which is eligible for export, but on which insurance coverage,
132 in whole or in part, is not procurable from the eligible surplus
133 lines insurers, after a search of eligible surplus lines
134 insurers, then the surplus lines agent may file a supplemental
135 signed statement setting forth such facts and advising the
136 office that such part of the risk as shall be unprocurable, as
137 aforesaid, is being placed with named unauthorized insurers, in
138 the amounts and percentages set forth in the statement. Such
139 named unauthorized insurer shall, however, before accepting any
140 risk in this state, deposit with the department cash or
141 securities acceptable to the office and department of the market
142 value of \$50,000 for each individual risk, contract, or
143 certificate, which deposit shall be held by the department for
144 the benefit of Florida policyholders only; and the surplus lines
145 agent shall procure from such unauthorized insurer and file with
146 the office a certified copy of its statement of condition as of
147 the close of the last calendar year. If such statement reveals,
148 including both capital and surplus, net assets of at least that
149 amount required for licensure of a domestic insurer, then the
150 surplus lines agent may proceed to consummate such contract of

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

Section 5. Subsection (6) of section 626.932, Florida Statutes, is amended to read:

626.932 Surplus lines tax.—

(6) For the purposes of this section, the term "premium" means the consideration for insurance by whatever name called and includes any assessment, or any membership, policy, survey,

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176 inspection, service, or similar fee or charge in consideration
177 for an insurance contract, which items are deemed to be a part
178 of the premium. The per-policy fee authorized by s. 626.916(2)
179 ~~s. 626.916(4)~~ is specifically included within the meaning of the
180 term "premium." However, the service fee imposed pursuant to s.
181 626.9325 is excluded from the meaning of the term "premium."

182 Section 6. Subsection (6) of section 626.9325, Florida
183 Statutes, is amended to read:

184 626.9325 Service fee.—

185 (6) For the purposes of this section, the term "premium"
186 means the consideration for insurance by whatever name called
187 and includes any assessment, or any membership, policy, survey,
188 inspection, service, or similar fee or charge in consideration
189 for an insurance contract, which items are deemed to be a part
190 of the premium. The per-policy fee authorized by s. 626.916(2)
191 ~~s. 626.916(4)~~ is specifically included within the meaning of the
192 term "premium."

193 Section 7. Paragraph (o) of subsection (1) of section
194 626.9541, Florida Statutes, is amended to read:

195 626.9541 Unfair methods of competition and unfair or
196 deceptive acts or practices defined.—

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

200 (o) *Illegal dealings in premiums; excess or reduced*

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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

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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;

(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

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276 period.

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

281 a. A second infraction committed within an 18-month
282 period, or a third or subsequent infraction committed within a
283 36-month period.

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

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

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

298 7. No insurer may cancel or otherwise terminate any
299 insurance contract or coverage, or require execution of a
300 consent to rate endorsement, during the stated policy term for

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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 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

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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 8. Subsection (4) of section 627.715, Florida 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 9. Section 655.047, Florida Statutes, is amended to read:

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655.047 Assessments; financial institutions.—

(1) Each state financial institution shall pay to the office a semiannual assessment for the 6-month periods beginning January 1 and July 1. Assessments must be based on the total assets as shown on the statement of condition of the financial institution on the last business day in December and the last business day in June of each year.

(2) ~~If mailed,~~ The semiannual assessment must be received by the office by mail, wire transfer, automated clearinghouse, or other electronic means approved by the office on or before March January 31 and September 30 July 31 of each year following the semiannual assessment period. ~~If transmitted through a wire transfer, an automated clearinghouse, or other electronic means approved by the office, the semiannual assessment must be transmitted to the office on or before January 31 and July 31 of each year.~~ The office may levy a late payment penalty of up to \$100 per day or part thereof that a semiannual assessment payment is overdue, unless it is excused for good cause. However, for intentional late payment of a semiannual assessment, the office shall levy an administrative fine of up to \$1,000 a day for each day the semiannual assessment is overdue.

(3) ~~The assessments required by this section cover the 6-month period following the first day of the month in which they are due.~~ The office may prorate the amount of the semiannual

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assessment; however, no portion of a semiannual assessment is refundable.

Section 10. Subsection (5) of section 655.414, Florida Statutes, is amended to read:

655.414 Acquisition of assets; assumption of liabilities.— With prior approval of the office, and upon such conditions as the commission prescribes by rule, a financial institution may acquire 50 percent or more of the assets of, liabilities of, or a combination of assets and liabilities of any other financial institution in accordance with the procedures and subject to the following conditions and limitations:

(5) ADOPTED PLAN; APPROVAL CERTIFICATION ~~CERTIFICATE;~~
~~ABANDONMENT; CERTIFICATE OF ACQUISITION, ASSUMPTION, OR SALE.~~—

(a) If the plan is adopted by the members or stockholders of the transferring financial institution, the president or vice president and the cashier, manager, or corporate secretary of such institution shall submit the adopted plan to the office, together with a certified copy of the resolution of the members or stockholders approving it.

(b) Upon receipt of the certified copies and evidence that the participating financial institutions have complied with all applicable state and federal law and rules, the office shall certify, in writing, to the participants that the plan has been approved.

(c) Notwithstanding approval of the members or

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stockholders or certification by the office, the board of directors of the transferring financial institution may abandon ~~the such a~~ transaction without further action or approval by the members or stockholders, subject to the rights of third parties under any contracts relating thereto.

(d) After the acquiring financial institution completes the plan and submits a request with any evidence required by the office to confirm the transaction's completion, the office may issue a certificate to the acquiring financial institution confirming that the acquisition, assumption, or sale transaction has been completed.

Section 11. Subsection (6) of section 657.002, Florida Statutes, is amended to read:

657.002 Definitions.—As used in this chapter:

(6) "Equity" means undivided earnings, ~~regular reserves,~~ and other reserves.

Section 12. Subsection (2) of section 657.028, Florida Statutes, is amended to read:

657.028 Activities of directors, officers, committee members, employees, and agents.—

(2) An elected officer, director, or committee member, other than the chief executive officer, may not be compensated for her or his service to the credit union, but an elected officer, director, or committee member may be reimbursed for necessary expenses incidental to performing official business

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426 for the credit union as such.

427 Section 13. Subsections (2) and (4) of section 657.043,
428 Florida Statutes, are amended to read:

429 657.043 Reserves.—

430 ~~(2) REGULAR RESERVE.—The regular reserve shall belong to~~
431 ~~the credit union and shall be used to meet losses. The regular~~
432 ~~reserve may not be decreased without the prior written approval~~
433 ~~of the office or as provided by rule of the commission.~~

434 (3) ~~(4)~~ SPECIAL RESERVES.—~~In addition to such regular~~
435 ~~reserve,~~ Special reserves shall be established:

436 (a) To protect members against losses resulting from
437 credit extended or from risk assets when required by rule, or
438 when found by the office, in any special case, to be necessary
439 for that purpose; or

440 (b) As authorized by the board of directors.

441 Section 14. Subsection (1) of section 658.235, Florida
442 Statutes, is amended to read:

443 658.235 Subscriptions for stock; approval of major
444 shareholders.—

445 (1) ~~Within 6 months after commencement of corporate~~
446 ~~existence, and~~ At least 30 days before ~~prior to~~ opening, the
447 directors shall have completed the stock offering and shall file
448 with the office a final list of subscribers to all of the
449 capital stock of the proposed bank or trust company showing the
450 name and residence of each subscriber and the amount of stock of

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every class subscribed for by each.

Section 15. Subsection (1) of section 658.25, Florida Statutes, is amended to read:

658.25 Opening for business.—

(1) A bank or trust company corporation shall open and conduct a general commercial bank or trust business within 18 months after the issuance of a final order of approval by the office ~~no later than 12 months after the commencement of its corporate existence.~~

Section 16. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2025.