

1 A bill to be entitled
 2 An act relating to residual market insurers; amending
 3 s. 626.914, F.S.; removing the definition of the term
 4 "diligent effort"; amending s. 626.916, F.S.; removing
 5 the diligent effort and other requirements for
 6 insurance coverage to be eligible for export;
 7 providing that insureds are presumed to have been
 8 informed and to know of the availability of certain
 9 insurance coverage under specified circumstances;
 10 amending s. 627.351, F.S.; requiring notification of
 11 arbitration before the Division of Administrative
 12 Hearings as an option for dispute resolution
 13 procedures under Citizens Property Insurance
 14 Corporation; removing obsolete language; providing an
 15 effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 **Section 1. Subsection (4) of section 626.914, Florida**
 20 **Statutes, is amended to read:**

21 626.914 Definitions.—As used in this Surplus Lines Law,
 22 the term:

23 ~~(4) "Diligent effort" means seeking coverage from and~~
 24 ~~having been rejected by at least three authorized insurers~~
 25 ~~currently writing this type of coverage and documenting these~~

26 ~~rejections. However, if the residential structure has a dwelling~~
27 ~~replacement cost of \$700,000 or more, the term means seeking~~
28 ~~coverage from and having been rejected by at least one~~
29 ~~authorized insurer currently writing this type of coverage and~~
30 ~~documenting this rejection.~~

31 **Section 2. Paragraphs (a) and (e) of subsection (1) and**
32 **paragraph (b) of subsection (3) of section 626.916, Florida**
33 **Statutes, are amended to read:**

34 626.916 Eligibility for export.—

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

37 (a) The coverage must be of a kind or class not generally
38 available from authorized insurers transacting insurance in this
39 state ~~The full amount of insurance required must not be~~
40 ~~procurable, after a diligent effort has been made by the~~
41 ~~producing agent to do so, from among the insurers authorized to~~
42 ~~transact and actually writing that kind and class of insurance~~
43 ~~in this state, and the amount of insurance exported shall be~~
44 ~~only the excess over the amount so procurable from authorized~~
45 ~~insurers. Surplus lines agents must verify that a diligent~~
46 ~~effort has been made by requiring a properly documented~~
47 ~~statement of diligent effort from the retail or producing agent.~~
48 ~~However, to be in compliance with the diligent effort~~
49 ~~requirement, the surplus lines agent's reliance must be~~
50 ~~reasonable under the particular circumstances surrounding the~~

51 ~~export of that particular risk. Reasonableness shall be assessed~~
52 ~~by taking into account factors which include, but are not~~
53 ~~limited to, a regularly conducted program of verification of the~~
54 ~~information provided by the retail or producing agent.~~
55 ~~Declinations must be documented on a risk-by-risk basis. If it~~
56 ~~is not possible to obtain the full amount of insurance required~~
57 ~~by layering the risk, it is permissible to export the full~~
58 ~~amount.~~

59 (e) The insured has signed or otherwise provided
60 documented acknowledgment of a disclosure in substantially the
61 following form: "You are agreeing to place coverage in the
62 surplus lines market. Coverage may be available in the admitted
63 market. Persons insured by surplus lines carriers are not
64 protected under the Florida Insurance Guaranty Act with respect
65 to any right of recovery for the obligation of an insolvent
66 unlicensed insurer." If the acknowledgment of the disclosure is
67 signed by the insured, the insured is presumed to have been
68 informed and to know that other coverage may be available.

69 (3)

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

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

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

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

84 **Section 3. Paragraph (11) of subsection (6) of section**
 85 **627.351, Florida Statutes, is amended to read:**

86 627.351 Insurance risk apportionment plans.—

87 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

88 (11)1. In addition to any other method of alternative
 89 dispute resolution authorized by state law, the corporation may
 90 adopt policy forms that provide an option for the insured to
 91 select, at the time of entering into the policy or upon renewal,
 92 to have disputes regarding the corporation's claim
 93 determinations for the resolution of disputes regarding its
 94 claim determinations, including disputes regarding coverage for,
 95 or the scope and value of, a claim, resolved through arbitration
 96 in a proceeding before the Division of Administrative Hearings.
 97 Each insured must be notified in writing, at the time of
 98 entering into a policy with the corporation and upon each
 99 renewal, that the insured must decide whether to resolve
 100 disputes through arbitration before the Division of

101 Administrative Hearings. Such notification must be in at least
102 12-point boldfaced type, immediately preceding the insured's
103 signature in substantially the following form:

104
105 AN INSURED MUST CHOOSE AT THE TIME OF ENTERING INTO THIS POLICY
106 OR UPON RENEWAL WHETHER TO RESOLVE DISPUTES THROUGH ARBITRATION
107 BEFORE THE DIVISION OF ADMINISTRATIVE HEARINGS. THE INSURED MUST
108 INDICATE THIS SELECTION BY MARKING 'ACCEPT' OR 'DECLINE' BELOW.
109 THIS DECISION CANNOT BE CHANGED DURING THE TERM OF THE POLICY.
110

111 2. Any such policies are not subject to s. 627.70154. All
112 arbitrations before ~~proceedings~~ in the Division of
113 Administrative Hearings pursuant to such policies are subject to
114 ss. 57.105 and 768.79 as if filed in the courts of this state
115 and are not considered chapter 120 administrative proceedings.
116 Rule 1.442, Florida Rules of Civil Procedure, applies to any
117 offer served pursuant to s. 768.79, except that, notwithstanding
118 any provision in Rule 1.442, Florida Rules of Civil Procedure,
119 to the contrary, an offer shall not be served earlier than 10
120 days after filing the request for hearing with the Division of
121 Administrative Hearings and shall not be served later than 10
122 days before the date set for the final hearing. The
123 administrative law judge in such arbitrations ~~proceedings~~ shall
124 award attorney fees and other relief pursuant to ss. 57.105 and
125 768.79. The corporation may not seek, and the office may not

126 | approve, a maximum hourly rate for attorney fees.

127 | ~~2. The corporation may contract with the division to~~
128 | ~~conduct proceedings to resolve disputes regarding its claim~~
129 | ~~determinations as may be provided for in the applicable policies~~
130 | ~~of insurance. This subparagraph expires July 1, 2025.~~

131 | **Section 4.** This act shall take effect July 1, 2025.