

1 A bill to be entitled
2 An act relating to property insurance affiliates;
3 creating s. 624.44101, F.S.; providing applicability;
4 defining the term "affiliate"; requiring certain
5 property insurers to provide to the Office of
6 Insurance Regulation documentation demonstrating that
7 financial considerations and payments to affiliates
8 are fair and reasonable; requiring the office to
9 consider certain factors to determine whether such
10 considerations and payments are fair and reasonable;
11 requiring property insurers to submit, and the office
12 to review, audited financial statements; requiring
13 contracts between property insurers and affiliates to
14 contain certain provisions; authorizing the office to
15 issue orders restricting fund transfers from property
16 insurers to affiliates under specified circumstances;
17 providing penalties; requiring affiliates to make
18 certain refunds under certain circumstances; requiring
19 the office to adopt forms, processes, and rules;
20 creating s. 624.44102, F.S.; providing applicability;
21 providing a definition; providing authority of the
22 office over affiliate dividends; providing
23 restrictions on and prohibitions against dividends
24 paid by property insurers to affiliates under certain
25 circumstances; requiring property insurers to provide

notice before pledges of capital and assets to affiliates for loans and financial obligations; providing penalties; requiring affiliates to make certain refunds under certain circumstances; requiring the office to adopt forms, processes, and rules; creating s. 624.44103, F.S.; providing applicability; providing a definition; requiring affiliates to register with the office; specifying requirements to obtain registration; requiring annual renewal; providing administrative penalties; providing criminal penalties; requiring the office to adopt forms, processes, and rules; amending s. 627.062, F.S.; revising factors and standards for the office determination whether a property insurance rate filing is excessive; providing effective dates.

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

Section 1. Section 624.44101, Florida Statutes, is created to read:

624.44101 Oversight of affiliate transactions.—

(1) This section applies to insurers that issue property insurance policies and their affiliates.

(2) (a) As used in this section, the term "affiliate" means an entity that engages in the business of insurance and that

51 exercises control over or is directly or indirectly controlled
52 by the insurer through:

- 53 1. Equity ownership of voting securities;
54 2. Common managerial control as defined in s. 624.10; or
55 3. Participation by the management of the insurer and the
56 affiliate in the management of the insurer or the affiliate.

57 (b) The term also includes an attorney in fact as defined
58 in s. 629.011 and a managing general agent as defined in s.
59 626.015.

60 (3)(a) Each property insurer doing business in this state
61 which pays, directly or indirectly, a fee, commission, or other
62 financial consideration or payment to any affiliate must provide
63 to the office documentation demonstrating that such fee,
64 commission, or other financial consideration or payment is fair
65 and reasonable. The office must determine whether the fee,
66 commission, or other financial consideration or payment is fair
67 and reasonable by considering the following factors:

68 1. The actual cost of each service provided by the
69 affiliate.

70 2. The relative financial condition of the property
71 insurer and the affiliate.

72 3. The level of debt and how that debt is serviced.

73 4. The amount of the dividends paid by the property
74 insurer and the affiliates and for what purpose.

75 5. Whether the terms of the written contract benefit the

76 property insurer and are in the best interest of the
77 policyholders or subscribers.

78 6. Any other information as the office reasonably requires
79 in making the determination.

80 (b) For any contract with an affiliate executed on or
81 after July 1, 2026, the property insurer must annually provide
82 audited financial statements to the office which demonstrate any
83 fee, commission, or other financial consideration or payment
84 from the property insurer to the affiliate is fair and
85 reasonable. The office must review audited financial statements
86 to determine if the fee, commission, or other financial
87 consideration or payment to the affiliate is fair and
88 reasonable.

89 (c) Any contract between a property insurer and an
90 affiliate executed on or after July 1, 2026, must include a
91 termination clause that automatically terminates the contract
92 after 3 years. An agreement between a property insurer and an
93 affiliate may include provisions for extension, but such
94 extension must be approved by the office before becoming
95 effective. Any extension may not remain in effect for longer
96 than 3 years without a review pursuant to paragraph (a) and
97 approval by the office. If the agreement provides for extension,
98 the agreement must clearly state that the extension is subject
99 to approval by the office at least every 3 years.

100 (4) (a) During a state of emergency declared by the

101 Governor pursuant to chapter 252, the office may issue orders
102 restricting fund transfers from a property insurer to an
103 affiliate.

104 (b) Orders under paragraph (a) may apply to all or
105 specified property insurers and may not exceed 60 days unless
106 extended by the office.

107 (5) The office may impose penalties on a property insurer
108 for violations of this section, including administrative fines
109 of up to \$10,000 for each violation, as well as suspension or
110 revocation of the property insurer's license or authority to do
111 business in this state.

112 (6) In addition to any penalties imposed by the office
113 under subsection (5), the affiliate must refund the property
114 insurer any fee, commission, or other financial consideration or
115 payment that is determined by the office not to be fair and
116 reasonable.

117 (7) The office shall adopt forms, processes, and rules
118 necessary to implement this section.

119 **Section 2. Section 624.44102, Florida Statutes, is created**
120 **to read:**

121 624.44102 Authority over affiliate dividends and loans.—

122 (1) This section applies to insurers that issue property
123 insurance policies and their affiliates.

124 (2) As used in this section, the term "affiliate" has the
125 same meaning as in s. 624.44101(2).

126 (3) The office has oversight and regulatory authority over
127 the issuance of dividends paid to an affiliate.

128 (4) There may be no declaration or distribution of
129 dividends paid to an affiliate without prior approval of the
130 office. The office shall make a determination within 7 days
131 after a property insurer submits all documents required by the
132 office.

133 (5) Dividends may not be made for the purpose of
134 manipulating the property insurer's financial position, and they
135 may be made only if the property insurer is solvent.

136 (6) Dividends must be fair and reasonable as determined by
137 the office in accordance with s. 624.44101(3) (a).

138 (7) A property insurer must provide notice to the office
139 at least 30 days before a pledge of capital or assets to any
140 affiliate for a loan or financial obligation. Such notice must
141 include a description of the collateral, the nature of the
142 obligation, and the parties involved. The office may reject and
143 prohibit the pledge if the office determines that such financial
144 arrangement is not in the best interest of the financial
145 condition of the property insurer.

146 (8) The office may impose penalties on a property insurer
147 for any unauthorized dividend, distribution, or pledge of
148 capital or assets, including administrative fines of up to
149 \$10,000 for each violation, as well as suspension or revocation
150 of the property insurer's license or authority to do business in

this state.

(9) In addition to any penalties imposed by the office under subsection (8), the affiliate must refund the property insurer any payment that is determined by the office to violate this section.

(10) The office shall adopt forms, processes, and rules necessary to approve dividends and pledges of capital or assets from property insurers to affiliates.

Section 3. Effective January 1, 2027, section 624.44103, Florida Statutes, is created to read:

624.44103 Affiliate registration.—

(1) This section applies to insurers that issue property insurance policies and their affiliates.

(2) As used in this section, the term "affiliate" has the same meaning as in s. 624.44101(2).

(3) Before doing business in this state, an affiliate must obtain registration from the office.

(4) To obtain registration, the affiliate must file with the office an application for registration upon a form to be adopted by the commission and furnished by the office. The office may not require an applicant to pay a fee for the registration or for filing an application for such registration. The application must include the following information and documents:

(a) A statement of duties the applicant is expected to

176 perform on behalf of the property insurer, and the lines of
177 insurance for which the applicant is to be authorized to act.

178 (b) All basic organizational documents of the affiliate,
179 such as the articles of incorporation, articles of association,
180 partnership agreement, trade name certificate, trust agreement,
181 shareholder agreement, or other applicable documents, and all
182 amendments to those documents.

183 (c) The names, addresses, official positions, and
184 professional qualifications of the individuals employed or
185 retained by the affiliate who are responsible for the conduct of
186 the affairs of the affiliate, including all members of the board
187 of directors, board of trustees, executive committee, or other
188 governing board or committee, and the principal officers in the
189 case of a corporation or the partners or members in the case of
190 a partnership or association of the affiliate.

191 (d) An independent background report as prescribed by the
192 office detailing the involvement of the individuals employed or
193 retained by the affiliate who are responsible for the conduct of
194 the affairs of the affiliate, including all members of the board
195 of directors, board of trustees, executive committee, or other
196 governing board or committee, and the principal officers in the
197 case of a corporation or the partners or members in the case of
198 a partnership or association of the affiliate.

199 (e) A self-disclosure of any administrative, civil, or
200 criminal complaints, settlements, or discipline of the affiliate

201 which relate to a violation of the insurance code or the
202 insurance laws of any other state.

203 (5) Affiliate registrations must be renewed annually. The
204 office may not require an affiliate to pay a fee for the renewal
205 or pay a fee to file an application for such renewal.

206 (6) The office may, in its discretion, deny an application
207 for, suspend, revoke, or refuse to renew an affiliate's
208 registration; impose an administrative fine of up to \$10,000
209 against an affiliate; and suspend or revoke the eligibility of
210 an affiliate for registration, if the office finds any of the
211 following applicable grounds:

212 (a) Any cause for which issuance of the registration could
213 have been refused had it then existed and been known to the
214 office.

215 (b) Violation of any provision of the insurance code or
216 any other law applicable to the business of insurance in the
217 course of doing business as an affiliate in this state.

218 (c) The registration is used, or to be used, to circumvent
219 any of the requirements or prohibitions of the insurance code.

220 (d) Any of the individuals employed or retained by the
221 affiliate who are responsible for the conduct of the affairs of
222 the affiliate have been found guilty of, or having pleaded
223 guilty or nolo contendere to, a felony in this state or any
224 other state relating to the business of insurance or an
225 insurance agency, without regard to whether a judgment of

conviction has been entered by the court having jurisdiction of such cases.

(e) Knowingly employing any individual in a managerial capacity or in a capacity dealing with the public who is under an order of revocation by the office or the department.

(f) In the conduct of business under the registration, engaging in unfair methods of competition or in unfair or deceptive acts or practices, prohibited under part IX of chapter 626.

(g) Knowingly aiding, assisting, procuring, advising, or abetting any person in the violation of or in the attempt to violate a provision of the insurance code or any other order or rule of the department, commission, or office.

(h) Receiving a fee, commission, or other financial consideration or payment that violates the requirements of s. 624.44101 or s. 624.44102.

(i) Receiving any dividend or pledges of capital assets for a loan or financial obligation in violation of s. 624.44101 or s. 624.44102.

(j) Failing to annually renew a registration.

(k) Failing to refund a fee, commission, or other financial consideration or payment to a property insurer under s. 624.44101(6) or s. 624.44102(9).

(7) A person who does business as an affiliate in this state without a current registration from the office commits a

251 misdemeanor of the first degree, punishable as provided in s.
252 775.082 or s. 775.083, for the first offense, and, for a second
253 or subsequent offense, commits a felony of the third degree,
254 punishable as provided in s. 775.082 or s. 775.083.

255 (8) The office shall adopt forms, processes, and rules
256 necessary for affiliates to obtain and renew their registration
257 and for the regulation, investigation, and discipline of
258 affiliates.

259 **Section 4. Paragraphs (b) and (e) of subsection (2) of**
260 **section 627.062, Florida Statutes, are amended to read:**

261 627.062 Rate standards.—

262 (2) As to all such classes of insurance:

263 (b) Upon receiving a rate filing, the office shall review
264 the filing to determine if a rate is excessive, inadequate, or
265 unfairly discriminatory. In making that determination, the
266 office shall, in accordance with generally accepted and
267 reasonable actuarial techniques, consider the following factors:

268 1. Past and prospective loss experience within and without
269 this state.

270 2. Past and prospective expenses.

271 3. The degree of competition among insurers for the risk
272 insured.

273 4. Investment income reasonably expected by the insurer,
274 consistent with the insurer's investment practices, from
275 investable premiums anticipated in the filing, plus any other

276 expected income from currently invested assets representing the
277 amount expected on unearned premium reserves and loss reserves.
278 The commission may adopt rules using reasonable techniques of
279 actuarial science and economics to specify the manner in which
280 insurers calculate investment income attributable to classes of
281 insurance written in this state and the manner in which
282 investment income is used to calculate insurance rates. Such
283 manner must contemplate allowances for an underwriting profit
284 factor and full consideration of investment income that produces
285 a reasonable rate of return; however, investment income from
286 invested surplus may not be considered.

287 5. The reasonableness of the judgment reflected in the
288 filing.

289 6. Dividends, savings, or unabsorbed premium deposits
290 allowed or returned to policyholders, members, or subscribers in
291 this state.

292 7. The adequacy of loss reserves.

293 8. The cost of reinsurance. The office may not disapprove
294 a rate as excessive solely due to the insurer having obtained
295 catastrophic reinsurance to cover the insurer's estimated 250-
296 year probable maximum loss or any lower level of loss.

297 9. Trend factors, including trends in actual losses per
298 insured unit for the insurer making the filing.

299 10. Conflagration and catastrophe hazards, if applicable.

300 11. Projected hurricane losses, if applicable, which must

301 be estimated using a model or method found to be acceptable or
302 reliable by the Florida Commission on Hurricane Loss Projection
303 Methodology, and as further provided in s. 627.0628.

304 12. Projected flood losses for personal residential
305 property insurance, if applicable, which may be estimated using
306 a model or method, or a straight average of model results or
307 output ranges, independently found to be acceptable or reliable
308 by the Florida Commission on Hurricane Loss Projection
309 Methodology and as further provided in s. 627.0628.

310 13. A reasonable margin for underwriting profit and
311 contingencies.

312 14. The cost of medical services, if applicable.

313 15. For property insurance filings, the profits, revenues,
314 and investment income of any affiliate, as defined in s.
315 624.44101(2), which are attributable or materially related to
316 the insurer's business in this state.

317 ~~16.15.~~ Other relevant factors that affect the frequency or
318 severity of claims or expenses.

319 (e) After consideration of the rate factors provided in
320 paragraphs (b), (c), and (d), the office may find a rate to be
321 excessive, inadequate, or unfairly discriminatory based upon the
322 following standards:

323 1. Rates shall be deemed excessive if they are likely to
324 produce a profit from Florida business which is unreasonably
325 high in relation to the risk involved in the class of business

326 or if expenses are unreasonably high in relation to services
327 rendered.

328 2. Rates shall be deemed excessive if, among other things,
329 the rate structure established by a stock insurance company
330 provides for replenishment of surpluses from premiums, if the
331 replenishment is attributable to investment losses.

332 3. For property insurance filings, rates may be deemed
333 excessive if they do not reflect the profits, revenues, and
334 investment income of any affiliate, as defined in s.
335 624.44101(2), which are attributable or materially related to
336 the insurer's business in this state.

337 ~~4.3.~~ Rates shall be deemed inadequate if they are clearly
338 insufficient, together with the investment income attributable
339 to them, to sustain projected losses and expenses in the class
340 of business to which they apply.

341 ~~5.4.~~ A rating plan, including discounts, credits, or
342 surcharges, shall be deemed unfairly discriminatory if it fails
343 to clearly and equitably reflect consideration of the
344 policyholder's participation in a risk management program
345 adopted pursuant to s. 627.0625.

346 ~~6.5.~~ A rate shall be deemed inadequate as to the premium
347 charged to a risk or group of risks if discounts or credits are
348 allowed which exceed a reasonable reflection of expense savings
349 and reasonably expected loss experience from the risk or group
350 of risks.

351 ~~7.6.~~ A rate shall be deemed unfairly discriminatory as to
352 a risk or group of risks if the application of premium
353 discounts, credits, or surcharges among such risks does not bear
354 a reasonable relationship to the expected loss and expense
355 experience among the various risks.

356
357 The provisions of this subsection do not apply to workers'
358 compensation, employer's liability insurance, and motor vehicle
359 insurance.

360 **Section 5.** Except as otherwise expressly provided in this
361 act, this act shall take effect July 1, 2026.