A bill to be entitled

An act relating to insurance; amending s. 626.914, F.S.; removing the definition of the term "diligent effort"; amending s. 626.916, F.S.; removing the diligent effort and other requirements for insurance coverage to be eligible for export; providing that insureds are presumed to have been informed and to know of the availability of certain insurance coverage under specified circumstances; creating s. 624.341, F.S.; providing legislative findings and intent; requiring the Department of Law Enforcement to accept certain fingerprints; specifying procedures for fingerprinting; authorizing the department to exchange certain records with the Office of Insurance Regulation; specifying that fingerprints must be submitted in accordance with certain rules; authorizing that the fingerprints be submitted through a third-party vendor authorized by the department; requiring the department to conduct certain background checks; requiring that certain fingerprints be submitted and entered into a specified system; requiring the office to inform the department of any person whose fingerprints no longer must be retained; specifying who bears the costs of fingerprint processing; specifying that certain criminal records

must be used by the office for certain purposes; creating s. 624.347, F.S.; providing definitions; providing applicability; establishing standards for compensation arrangements and oversight of affiliate transactions involving insurers, managing general agents, and attorneys in fact; providing penalties; requiring the office to adopt rules; amending s. 624.424, F.S.; specifying requirements for affiliate compensation arrangements; removing requirements that the office consider a specified factor in determining whether certain affiliate considerations and payments by an insurer are fair and reasonable; amending s. 626.732, F.S.; revising the requirements for licensing and qualifying for general lines agents; amending s. 627.351, F.S.; requiring notification of arbitration before the Division of Administrative Hearings as an option for dispute resolution procedures under Citizens Property Insurance Corporation; removing obsolete language; providing an effective date.

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

Section 1. Section 624.341, Florida Statutes, is created to read:

624.341 Authority of Department of Law Enforcement to

accept fingerprints of, and exchange criminal history records with respect to, certain persons applying to the Office of Insurance Regulation.—

(1) The Legislature finds that criminal activity of insurers poses a particular danger to the residents of this state. Floridians rely, in good faith, on the honest conduct of those who issue and manage insurance policies and other insurance instruments in this state. To safeguard this state's residents, the Legislature finds it necessary to ensure that incorporators, subscribers, officers, employees, contractors, stockholders, directors, owners, members, managers, or volunteers, or in the organization, operation, or management of any insurer that is authorized to sell insurance do not have a criminal background.

(2) The Department of Law Enforcement shall accept and process fingerprints of incorporators, subscribers, officers, employees, contractors, stockholders, directors, owners, members, managers, or volunteers involved in the organization, operation, or management of:

(a) Any insurer or proposed insurer transacting or proposing to transact insurance in this state.

(b) Any entity that is eligible to be examined or investigated under 624.316, F.S.

(3) Each person required to submit fingerprints to the office, must provide a full set of fingerprints to the office or

to a vendor, an entity, or an agency authorized by s. 943.053(13). The office, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing as described in s. 624.34. Fees for state and federal fingerprint processing must be borne by the person submitting the fingerprints. The state cost for fingerprint processing is as provided in s. 943.053(3)(e).

(4) The Department of Law Enforcement may, to the extent provided by federal law, exchange any state or national criminal history records with the office for the purpose of issuance or continuation of a certificate of authority, certification, or license to operate in this state.

(5) Fingerprints must be submitted in accordance with rules adopted by the commission.

(a) Fingerprints may be submitted through a third-party vendor authorized by the Department of Law Enforcement.

(b) The Department of Law Enforcement shall conduct the state criminal history background check, and a federal criminal history background check shall be conducted through the Federal Bureau of Investigation.

(c) All fingerprints submitted to the Department of Law Enforcement must be submitted and entered into the statewide automated fingerprint identification system established in s.

943.05(2)(b) and available for use in accordance with s. 943.05(2)(g) and (h).

(d) The costs of fingerprint processing, including the cost of retaining the fingerprints, must be borne by the person subject to the background checks.

(e) The office shall review the results of the state and federal criminal history background checks and determine whether the applicant meets the requirements for the certificate of authority, certification, or license to operate in this state.

(6) Statewide criminal records obtained through the Department of Law Enforcement, federal criminal records obtained through the Federal Bureau of Investigation, and local criminal records obtained through local law enforcement agencies must be used by the office for the purpose of issuance, denial, suspension, or revocation of certificates of authority, certifications, or licenses issued to operate in this state.

Section 2. Section 624.347, Florida Statutes, is created to read:

624.347 Affiliate transactions; managing general agents; attorneys in fact; oversight.—

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

(a) "Affiliated entity" means any affiliate of an insurer. The term includes a managing general agent, attorney in fact, and reciprocal insurer when acting in a capacity that involves compensation from the insurer.

(b) "Attorney in fact" has the same meaning as in s. 629.011.

(c) "Managing general agent" has the same meaning as in s. 626.015.

(d) "Reciprocal insurer" has the same meaning as in s. 629.011.

(e) "Insurer" means an authorized property insurer.

(2) APPLICABILITY.—This section applies to any insurer that contracts with or makes payments to an affiliated entity.

(3) COMPENSATION ARRANGEMENTS WITH AFFILIATED ENTITIES.—

(a) Each insurer doing business in this state which pays, directly or indirectly, a fee, commission, or other financial consideration or payment to any affiliated entity must provide to the office documentation demonstrating that such fee, commission, or other financial consideration or payment is fair and reasonable for each service being provided. In determining whether the fee, commission, or other financial consideration or payment is fair and reasonable, the office must consider all of the following:

1. The actual cost of each service provided by an affiliated entity.

2. The relative financial condition of the insurer and the affiliated entity.

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

4. The amount of the dividends paid by the insurer and the

affiliated entity and for what purpose.

5. Whether the terms of the written contract benefit the insurer and are in the best interest of the policyholders or subscribers.

6. Any other such information as the office reasonably requires in making this determination.

(b) For each agreement with an affiliated entity in force on July 1, 2025, each insurer shall provide to the office no later than October 1, 2025, the cost incurred by the affiliated entity to provide each service, the dollar amount charged to the insurer for each service, and the dollar amount of fees forgiven, waived, or reimbursed by the affiliated entity for the 2 most recent preceding years. If the total dollar amount charged to the insurer was greater than the total cost to provide services for either year, the insurer must explain how it determined the fee was fair and reasonable. For any proposed contract with an affiliated entity effective after July 1, 2025, the insurer must provide documentation to support that the fee, commission, or other financial consideration or payment to the affiliated entity is fair and reasonable.

(c)1. Beginning July 1, 2026, the office may require specific types of compensation arrangements between an insurer and any affiliated entity to be be structured as fee for service. As used in this subparagraph, the term "fee for service" means fixed amounts or hourly rates for itemized

services.

2. Compensation as a fee for service may not be based on:

a. Commission;

b. Premium volume;

c. Underwriting profit; or

d. Financial results of the insurer.

(d) This subsection does not prohibit an insurer from paying a dividend or other financial arrangement to an affiliated entity if such dividend or financial arrangement has been reviewed and approved by the office pursuant to this section, s. 628.372, or any other applicable law.

(e) An agreement between an insurer and an affiliated entity must include a termination clause and may not exceed a term of 3 years. Any extension of such an agreement must be approved by the office before becoming effective. An agreement between an insurer and an affiliated entity may include provisions for extension, but may not remain in effect for longer than 3 years without a review pursuant to paragraph (a) and approval by the office. If the agreement provides for extension, the agreement must clearly state that the extension is subject to approval by the office at least every 3 years.

(4) EMERGENCY RESTRICTIONS.—

(a) During a declared emergency, the office may issue orders restricting fund transfers from an insurer to an affiliated entity without prior approval.

(b) Orders under paragraph (a) may apply to all or specified insurers and may not exceed 90 days unless extended by the office.

(5) ADDITIONAL OVERSIGHT.—

(a) The office may recover improper affiliated entity payment transfers, including, but not limited to, both of the following:

1. Transfers that violate the approved compensation, approved dividend, or any other approved financial arrangement.

2. Transfers made while the insurer was undercapitalized.

(b) An insurer must provide notice to the office at least 30 days before any pledge of capital or assets to any affiliated entity for a loan or financial obligation. Such notice must include a description of the collateral, the nature of the obligation, and the parties involved. The office may reject and prohibit the pledge if such financial arrangement is not in the best interest of the insurer.

(6) ENFORCEMENT.—

(a) The office may impose penalties for violations of this section.

(b) The office shall adopt rules to implement this section.

Section 3. Subsection (13) of section 624.424, Florida Statutes, is amended to read:

624.424 Annual statement and other information.—

(13) Each insurer doing business in this state which pays

a fee, commission, or other financial consideration or payment to any affiliate directly or indirectly is required upon request to provide to the office any information the office deems necessary. The fee, commission, or other financial consideration or payment to any affiliate must be fair and reasonable. Affiliate compensation arrangements must comply with s. 624.347 and with the requirements of this subsection ~~In determining whether the fee, commission, or other financial consideration or payment is fair and reasonable, the office shall consider, among other things, the actual cost of the service being provided~~.

Section 4. 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 5. Paragraphs (a) and (e) of subsection (1) and paragraph (b) of subsection (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 coverage must be of a kind or class not generally available from authorized insurers transacting insurance in this state ~~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 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~~.

(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." 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.

(3)

(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)(e). ~~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 6. Paragraph (ll) of subsection (6) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(ll)1. In addition to any other method of alternative dispute resolution authorized by state law, the corporation may adopt policy forms that provide an option for the insured to select, at the time of entering into the policy or upon renewal, to have disputes regarding the corporation's claim determinations ~~for the resolution of disputes regarding its claim determinations~~, including disputes regarding coverage for, or the scope and value of, a claim, resolved through arbitration ~~in a proceeding~~ before the Division of Administrative Hearings. Each insured must be notified in writing, at the time of entering into a policy with the corporation and upon each renewal, that the insured must decide whether to resolve disputes through arbitration before the Division of Administrative Hearings. Such notification must be in at least 12-point boldfaced type, immediately preceding the insured's signature in substantially the following form:

AN INSURED MUST CHOOSE AT THE TIME OF ENTERING INTO THIS POLICY OR UPON RENEWAL WHETHER TO RESOLVE DISPUTES THROUGH ARBITRATION BEFORE THE DIVISION OF ADMINISTRATIVE HEARINGS. THE INSURED MUST INDICATE THIS SELECTION BY MARKING 'ACCEPT' OR 'DECLINE' BELOW.

THIS DECISION CANNOT BE CHANGED DURING THE TERM OF THE POLICY.

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

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

Section 7. Subsection (1) of section 626.732, Florida Statutes, is amended to read:

626.732 Requirement as to knowledge, experience, or

instruction.—

(1) Except as provided in subsection (4), an applicant for a license as a general lines agent, except for a chartered property and casualty underwriter (CPCU), may not be qualified or licensed unless, within the 4 years immediately preceding the date the application for license is filed with the department, the applicant has satisfied, at a minimum, one of the following requirements:

(a) Taught or successfully completed 60 ~~200~~ hours of coursework in property, casualty, surety, health, and marine insurance approved by the department, 3 hours of which must be on the subject matter of ethics.~~;~~

(b) Completed at least 1 year in responsible insurance duties as a substantially full-time bona fide employee in all lines of property and casualty insurance as set forth in the definition of a general lines agent under s. 626.015, but without the education requirement described in paragraph (a).~~;~~ ~~or~~

(c) Completed at least 1 year of responsible insurance duties as a licensed and appointed customer representative, service representative, or personal lines agent and 40 hours of coursework approved by the department covering the areas of property, casualty, surety, health, and marine insurance.

Section 8. This act shall take effect July 1, 2025.