A bill to be entitled

An act relating to residual market insurers; amending s. 624.155, F.S.; sufficient evidence to demonstrate an insurance claim for purposes of a bad faith action; clarifying the requirement of sufficient evidence; 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 presumption of being informed and of knowing of certain insurance coverage under specified circumstances; amending s. 627.351, F.S.; dispute resolution procedures under Citizens Property Insurance Corporation; providing an effective date.

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

Section 1. 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 2. Section 626.916, Florida Statutes, is 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 obtain a statement verify that a diligent effort has been made by requiring a properly documented statement of diligent effort from the retail or producing agent that the coverage is not available from authorized insurers. 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.~~

(b) The premium rate at which the coverage is exported shall not be lower than that rate applicable, if any, in actual and current use by a majority of the authorized insurers for the same coverage on a similar risk.

(c) The policy or contract form under which the insurance is exported shall not be more favorable to the insured as to the coverage or rate than under similar contracts on file and in actual current use in this state by the majority of authorized insurers actually writing similar coverages on similar risks; except that a coverage may be exported under a unique form of policy designed for use with respect to a particular subject of insurance if a copy of such form is filed with the office by the surplus lines agent desiring to use the same and is subject to the disapproval of the office within 10 days of filing such form exclusive of Saturdays, Sundays, and legal holidays if it finds that the use of such special form is not reasonably necessary for the principal purposes of the coverage or that its use would be contrary to the purposes of this Surplus Lines Law with

respect to the reasonable protection of authorized insurers from unwarranted competition by unauthorized insurers.

(d) Except as to extended coverage in connection with fire insurance policies and except as to windstorm insurance, the policy or contract under which the insurance is exported shall not provide for deductible amounts, in determining the existence or extent of the insurer's liability, other than those available under similar policies or contracts in actual and current use by one or more authorized insurers.

(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.

Section 3. 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 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 they must decide whether to resolve disputes through arbitration before the Division of Administrative Hearings. Such notification must be included, in boldfaced 12-point type immediately preceding the insured's signature, in the following statement:

"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."

Any such policies are not subject to s. 627.70154. All 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 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 4. This act shall take effect July 1, 2025.