A bill to be entitled
An act relating to insurance; amending s. 624.307, F.S.; specifying certain persons are not consumers for purposes of calculating complaint ratios; amending s. 625.151, F.S.; providing an exception from valuation rules for stocks in subsidiaries for certain foreign insurers under certain conditions; amending s. 625.325, F.S.; exempting foreign insurers from investment requirements relating to subsidiaries and corporations under certain conditions; amending s. 626.914, F.S.; revising the definition of the term “diligent effort” to decrease the replacement cost threshold for a residential structure for purposes of proving rejection of coverage by authorized insurers; amending s. 626.918, F.S.; increasing the amount of capital and surplus required for an insurer to waive a requirement to be an eligible surplus lines insurer; amending s. 626.932, F.S.; deleting a provision relating to a surplus lines tax threshold; amending s. 626.9651, F.S.; revising requirements for rules adopted by the Department of Financial Services and the Financial Services Commission relating to the privacy of certain consumer information; amending s. 626.9891, F.S.; authorizing, rather than requiring, an insurer to report certain data; amending s. 627.4136, F.S.; providing applicability; amending s. 627.7015, F.S.; authorizing insurers to participate in mediations requested by third parties; revising terminology; revising the definition of the term
“claim” to specify that any material issue of fact
must relate to a loss arising from a declared state of
emergency; amending s. 627.728, F.S.; providing that
an Intelligent Mail barcode or a similar United States
Postal Service tracking method is sufficient proof of
notice for certain motor vehicle insurance notices;
amending s. 627.748, F.S.; revising circumstances in
which insurers may exclude coverage for owners or
operators of transportation network company vehicles;
amending s. 628.8015, F.S.; revising the type of
documents that are confidential; amending s. 636.044,
F.S.; providing an exemption from licensing
requirements for a person who sells certain prepaid
limited health service contracts; providing an
effective date.

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

Section 1. Paragraph (e) is added to subsection (10) of
section 624.307, Florida Statutes, to read:

624.307 General powers; duties.—
(10)

(e) For purposes of this subsection, a third-party vendor,
as an assignee of policy benefits, is not a consumer. Inquiries
or complaints from a third-party vendor, as an assignee of
policy benefits, may not be used when calculating a complaint
ratio pursuant to s. 624.313.

Section 2. Paragraph (c) is added to subsection (3) of
section 625.151, Florida Statutes, to read:
625.151 Valuation of other securities.—

(3) Stock of a subsidiary corporation of an insurer may not be valued at an amount in excess of the net value thereof as based upon those assets only of the subsidiary which would be eligible under part II for investment of the funds of the insurer directly.

(c) This subsection does not apply to stock of a subsidiary corporation or related entities of a foreign insurer that is permissible under the laws of its state of domicile if the state of domicile is a member of the National Association of Insurance Commissioners.

Section 3. Subsection (7) is added to section 625.325, Florida Statutes, to read:

625.325 Investments in subsidiaries and related corporations.—

(7) APPLICABILITY.—This section does not apply to a foreign insurer’s investments in its subsidiaries or related corporations if:

(a) The foreign insurer is domiciled in a state that is a member of the National Association of Insurance Commissioners (NAIC).

(b) Such investments in the foreign insurer’s subsidiaries or related corporations are:

1. Permitted under the laws of the foreign insurer’s state of domicile.

2.a. Assigned a rating of 1, 2, or 3 by the NAIC’s Securities Valuation Office (SVO); or

b. Qualify for the NAIC’s filing exemption rule and assigned a rating by a nationally recognized statistical rating
organization that would be equivalent to a rating of 1, 2, or 3 by the SVO.

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 $750,000 or $1 million 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. Paragraph (b) of subsection (2) of section 626.918, Florida Statutes, is amended to read:

626.918 Eligible surplus lines insurers.—

(2) An unauthorized insurer may not be or become an eligible surplus lines insurer unless made eligible by the office in accordance with the following conditions:

(b) The insurer must be currently an authorized insurer in the state or country of its domicile as to the kind or kinds of insurance proposed to be so placed and must have been such an insurer for not less than the 3 years next preceding or must be the wholly owned subsidiary of such authorized insurer or must be the wholly owned subsidiary of an already eligible surplus lines insurer as to the kind or kinds of insurance proposed for a period of not less than the 3 years next preceding. However, the office may waive the 3-year requirement if the insurer
provides a product or service not readily available to the consumers of this state or has operated successfully for a period of at least 1 year next preceding and has capital and surplus of not less than $30 $25 million.

Section 6. Subsection (3) of section 626.932, Florida Statutes, is amended to read:

626.932 Surplus lines tax.—

(3) If a surplus lines policy covers risks or exposures only partially in this state and the state is the home state as defined in the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA), the tax payable must **shall** be computed on the gross premium. The tax must not exceed the tax rate where the risk or exposure is located.

Section 7. Section 626.9651, Florida Statutes, is amended to read:

626.9651 Privacy.—The department and commission **must shall** each adopt rules consistent with other provisions of the Florida Insurance Code to govern the use of a consumer’s nonpublic personal financial and health information. These rules must be based on, consistent with, and not more restrictive than the Privacy of Consumer Financial and Health Information Regulation, adopted September 26, 2000, by the National Association of Insurance Commissioners; however, the rules must permit the use and disclosure of nonpublic personal health information for scientific, medical, or public policy research, in accordance with federal law. In addition, these rules must be consistent with, and not more restrictive than, the standards contained in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102, as amended in Title LXXV of the Fixing America’s Surface
Transportation (FAST) Act, Pub. L. No. 114-94. If the office
determines that a health insurer or health maintenance
organization is in compliance with, or is actively undertaking
compliance with, the consumer privacy protection rules adopted
by the United States Department of Health and Human Services, in
conformance with the Health Insurance Portability and
Affordability Act, that health insurer or health maintenance
organization is in compliance with this section.

Section 8. Subsection (5) of section 626.9891, Florida
Statutes, is amended to read:

626.9891 Insurer anti-fraud investigative units; reporting
requirements; penalties for noncompliance.—

(5) Each insurer is required to report data related to
fraud for each identified line of business written by the
insurer during the prior calendar year. The data must shall be
reported to the department by March 1, 2019, and annually
thereafter, and may must include, at a minimum:
(a) The number of policies in effect;
(b) The amount of premiums written for policies;
(c) The number of claims received;
(d) The number of claims referred to the anti-fraud
investigative unit;
(e) The number of other insurance fraud matters referred to
the anti-fraud investigative unit that were not claim related;
(f) The number of claims investigated or accepted by the
anti-fraud investigative unit;
(g) The number of other insurance fraud matters
investigated or accepted by the anti-fraud investigative unit
that were not claim related;
(h) The number of cases referred to the Division of Investigative and Forensic Services;

(i) The number of cases referred to other law enforcement agencies;

(j) The number of cases referred to other entities; and

(k) The estimated dollar amount or range of damages on cases referred to the Division of Investigative and Forensic Services or other agencies.

Section 9. Subsection (5) is added to section 627.4136, Florida Statutes, to read:

627.4136 Nonjoinder of insurers.—

(5) This section applies to surplus lines liability insurers.

Section 10. Subsections (1), (3), (6), and (9) of section 627.7015, Florida Statutes, are amended to read:

627.7015 Alternative procedure for resolution of disputed property insurance claims.—

(1) This section sets forth a nonadversarial alternative dispute resolution procedure for a mediated claim resolution conference prompted by the need for effective, fair, and timely handling of property insurance claims. There is a particular need for an informal, nonthreatening forum for helping parties who elect this procedure to resolve their claims disputes because most homeowner and commercial residential insurance policies obligate policyholders to participate in a potentially expensive and time-consuming adversarial appraisal process before litigation. The procedure set forth in this section is designed to bring the parties together for a mediated claims settlement conference without any of the trappings or drawbacks...
of an adversarial process. Before resorting to these procedures, policyholders and insurers are encouraged to resolve claims as quickly and fairly as possible. This section is available with respect to claims under personal lines and commercial residential policies before commencing the appraisal process, or before commencing litigation. Mediation may be requested only by the policyholder, as a first-party claimant, or the insurer. An insurer may, but is not required to, participate in mediation requested by a third party, as an assignee of policy benefits. If requested by the policyholder, participation by legal counsel is permitted. Mediation under this section is also available to litigants referred to the department by a county court or circuit court. This section does not apply to commercial coverages, to private passenger motor vehicle insurance coverages, or to disputes relating to liability coverages in policies of property insurance.

(3) The costs of mediation must shall be reasonable, and the insurer must shall bear all of the cost of conducting mediation conferences, except as otherwise provided in this section. If a policyholder an insured fails to appear at the conference, the conference must shall be rescheduled upon the policyholder’s insured’s payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference, the insurer must shall pay the policyholder’s insured’s actual cash expenses incurred in attending the conference if the insurer’s failure to attend was not due to a good cause acceptable to the department. An insurer will be deemed to have failed to appear if the insurer’s representative lacks authority to settle the full value of the claim. The insurer shall incur
an additional fee for a rescheduled conference necessitated by the insurer’s failure to appear at a scheduled conference. The fees assessed by the administrator must include a charge necessary to defray the expenses of the department related to its duties under this section and must be deposited in the Insurance Regulatory Trust Fund.

(6) Mediation is nonbinding; however, if a written settlement is reached, the policyholder may rescind the settlement unless the policyholder has cashed or deposited any check or draft disbursed to the policyholder for the disputed matters as a result of the conference. If a settlement agreement is reached and is not rescinded, it shall be binding and acts as a release of all specific claims that were presented in that mediation conference.

(9) For purposes of this section, the term “claim” refers to any dispute between an insurer and a policyholder relating to a material issue of fact other than a dispute:

(a) With respect to which the insurer has a reasonable basis to suspect fraud;

(b) Where, based on agreed-upon facts as to the cause of loss, there is no coverage under the policy;

(c) With respect to which the insurer has a reasonable basis to believe that the policyholder has intentionally made a material misrepresentation of fact which is relevant to the claim, and the entire request for payment of a loss has been denied on the basis of the material misrepresentation;

(d) With respect to which the amount in controversy is less than $500, unless the parties agree to mediate a dispute.
involving a lesser amount; or

(e) With respect to a windstorm or hurricane loss that does not comply with s. 627.70132.

Section 11. Subsection (5) of section 627.728, Florida Statutes, is amended to read:

627.728 Cancellations; nonrenewals.—

(5) United States postal proof of mailing, or certified or registered mailing, or other mailing using the Intelligent Mail barcode or other similar tracking method used or approved by the United States Postal Service of notice of cancellation, of intention not to renew, or of reasons for cancellation, or of the intention of the insurer to issue a policy by an insurer under the same ownership or management, to the first-named insured at the address shown in the policy is sufficient proof of notice.

Section 12. Paragraph (b) of subsection (8) of section 627.748, Florida Statutes, is amended to read:

627.748 Transportation network companies.—

(8) TRANSPORTATION NETWORK COMPANY AND INSURER; DISCLOSURE; EXCLUSIONS.—

(b)1. An insurer that provides an automobile liability insurance policy under this part may exclude any and all coverage afforded under the policy issued to an owner or operator of a TNC vehicle while driving that vehicle for any loss or injury that occurs while a TNC driver is logged on to a digital network and driving a motor vehicle, or when a TNC driver provides a prearranged ride. Exclusions imposed under this subsection are limited to coverage while a TNC driver is logged on to a digital network or while a TNC driver provides a
prearranged ride. This right to exclude all coverage may apply
to any coverage included in an automobile insurance policy,
including, but not limited to:
a. Liability coverage for bodily injury and property
damage;
b. Uninsured and underinsured motorist coverage;
c. Medical payments coverage;
d. Comprehensive physical damage coverage;
e. Collision physical damage coverage; and
f. Personal injury protection.
2. The exclusions described in subparagraph 1. apply
notwithstanding any requirement under chapter 324. These
exclusions do not affect or diminish coverage otherwise
available for permissive drivers or resident relatives under the
personal automobile insurance policy of the TNC driver or owner
of the TNC vehicle who are not occupying the TNC vehicle at the
time of loss. This section does not require that a personal
automobile insurance policy provide coverage while the TNC
driver is logged on to a digital network, while the TNC driver
is engaged in a prearranged ride, or while the TNC driver
otherwise uses a vehicle to transport riders for compensation.
3. This section must not be construed to require an insurer
to use any particular policy language or reference to this
section in order to exclude any and all coverage for any loss or
injury that occurs while a TNC driver is logged on to a digital
network or while a TNC driver provides a prearranged ride.
4. This section does not preclude an insurer from providing
primary or excess coverage for the TNC driver’s vehicle by
contract or endorsement.
Section 13. Subsection (4) of section 628.8015, Florida Statutes, is amended to read:

628.8015 Own-risk and solvency assessment; corporate governance annual disclosure.—

(4) CONFIDENTIALITY.—The required filings and related documents submitted pursuant to subsections (2) and (3) are privileged such that they may not be produced in response to a subpoena or other discovery directed to the office, and any such filings and related documents, if obtained from the office, are not admissible in evidence in any private civil action. However, the department or office may use these filings and related documents in the furtherance of any regulatory or legal action brought against an insurer as part of the official duties of the department or office. A waiver of any applicable claim of privilege in these filings and related documents may not occur because of a disclosure to the office under this section, because of any other provision of the Insurance Code, or because of sharing under s. 624.4212. The office or a person receiving these filings and related documents, while acting under the authority of the office, or with whom such filings and related documents are shared pursuant to s. 624.4212, is not permitted or required to testify in any private civil action concerning any such filings or related documents.

Section 14. Subsection (5) of section 636.044, Florida Statutes, is amended to read:

636.044 Agent licensing.—

(5) A person who sells registered as a seller of travel under s. 559.928 is not required to be licensed under this section in order to sell prepaid limited health service
contracts that only cover the cost of transportation provided by an air ambulance service licensed pursuant to s. 401.251 is not required to be licensed under this section. The prepaid limited health service contract for such coverage is, however, subject to all applicable provisions of this chapter.

Section 15. This act shall take effect upon becoming a law.