

By Senator Burgess

20-00879-22

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1 A bill to be entitled
2 An act relating to domestic surplus lines insurance;
3 amending s. 626.914, F.S.; revising the definition of
4 the term "eligible surplus lines insurer"; defining
5 the term "domestic surplus lines insurer"; creating s.
6 626.9182, F.S.; providing for the eligibility of
7 domestic surplus lines insurers; subjecting and
8 exempting surplus lines insurers and surplus lines
9 policies from certain requirements; providing
10 construction; reenacting ss. 458.320(1)(b) and (2)(b),
11 459.0085 (1)(b) and (2)(b), and 464.0123(2)(a), F.S.,
12 relating to financial responsibility for the practice
13 of medicine, financial responsibility for the practice
14 of osteopathic medicine, and autonomous practice by an
15 advanced practice registered nurse, respectively, to
16 incorporate the amendment made to s. 626.914, F.S., in
17 references thereto; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Subsection (2) of section 626.914, Florida
22 Statutes, is amended, and subsection (5) is added to that
23 section, to read:

24 626.914 Definitions.—As used in this Surplus Lines Law, the
25 term:

26 (2) "Eligible surplus lines insurer" means an unauthorized
27 insurer that ~~which~~ has been made eligible by the office to issue
28 insurance coverage under this Surplus Lines Law; or a domestic
29 surplus lines insurer.

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30 (5) "Domestic surplus lines insurer" means any domestic
31 insurer that has been made eligible by the office to issue
32 surplus lines insurance coverage.

33 Section 2. Section 626.9182, Florida Statutes, is created
34 to read:

35 626.9182 Domestic surplus lines insurers.—

36 (1) Notwithstanding any other law, a domestic insurer
37 possessing surplus as to policyholders of at least \$15 million
38 may, pursuant to a resolution by its board of directors, and
39 with the approval of the office, be made eligible as a domestic
40 surplus lines insurer. Upon approval of the office, a domestic
41 surplus lines insurer:

42 (a) May issue surplus lines insurance coverage in any
43 jurisdiction, including this state.

44 (b) Is deemed an eligible surplus lines insurer and may
45 issue any type of insurance coverage that an unauthorized
46 insurer not domiciled in this state is eligible to issue.

47 (c) May issue surplus lines insurance coverage only if the
48 coverage has been placed with the insurer by a surplus lines
49 agent pursuant to the Surplus Lines Law.

50 (2) A domestic surplus lines insurer is subject to all
51 financial and solvency requirements imposed upon domestic
52 admitted insurers unless otherwise exempted.

53 (3) Surplus lines insurance policies issued by a domestic
54 surplus lines insurer are exempt from all requirements relating
55 to insurance rating and rating plans; policy forms; premiums
56 charged to insureds; policy cancellation, nonrenewal, and
57 renewal; and other requirements in the same manner and to the
58 same extent as surplus lines policies issued by a surplus lines

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59 insurer domiciled in another state.

60 (4) Notwithstanding any other law, policies issued in this
61 state by a domestic surplus lines insurer are subject to taxes
62 assessed upon surplus lines policies issued by nonadmitted
63 insurers, including the surplus lines tax prescribed by s.
64 626.932, but are exempt from other taxes levied upon domestic
65 and foreign admitted insurers.

66 (5) Policies issued in this state by a domestic surplus
67 lines insurer are not subject to part II, part III, or part V of
68 chapter 631.

69 (6) For the purposes of the Surplus Lines Law, a domestic
70 surplus lines insurer is considered an unauthorized insurer.

71 (7) For the purposes of the federal Nonadmitted and
72 Reinsurance Reform Act of 2010 (NRRA), a domestic surplus lines
73 insurer is considered a nonadmitted insurer as defined in 15
74 U.S.C. s. 8206 with respect to risks insured in this state.

75 Section 3. For the purpose of incorporating the amendment
76 made by this act to section 626.914, Florida Statutes, in
77 references thereto, paragraph (b) of subsection (1) and
78 paragraph (b) of subsection (2) of section 458.320, Florida
79 Statutes, are reenacted to read:

80 458.320 Financial responsibility.—

81 (1) As a condition of licensing and maintaining an active
82 license, and prior to the issuance or renewal of an active
83 license or reactivation of an inactive license for the practice
84 of medicine, an applicant must by one of the following methods
85 demonstrate to the satisfaction of the board and the department
86 financial responsibility to pay claims and costs ancillary
87 thereto arising out of the rendering of, or the failure to

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88 render, medical care or services:

89 (b) Obtaining and maintaining professional liability
90 coverage in an amount not less than \$100,000 per claim, with a
91 minimum annual aggregate of not less than \$300,000, from an
92 authorized insurer as defined under s. 624.09, from a surplus
93 lines insurer as defined under s. 626.914(2), from a risk
94 retention group as defined under s. 627.942, from the Joint
95 Underwriting Association established under s. 627.351(4), or
96 through a plan of self-insurance as provided in s. 627.357. The
97 required coverage amount set forth in this paragraph may not be
98 used for litigation costs or attorney's fees for the defense of
99 any medical malpractice claim.

100 (2) Physicians who perform surgery in an ambulatory
101 surgical center licensed under chapter 395 and, as a continuing
102 condition of hospital staff privileges, physicians who have
103 staff privileges must also establish financial responsibility by
104 one of the following methods:

105 (b) Obtaining and maintaining professional liability
106 coverage in an amount not less than \$250,000 per claim, with a
107 minimum annual aggregate of not less than \$750,000 from an
108 authorized insurer as defined under s. 624.09, from a surplus
109 lines insurer as defined under s. 626.914(2), from a risk
110 retention group as defined under s. 627.942, from the Joint
111 Underwriting Association established under s. 627.351(4),
112 through a plan of self-insurance as provided in s. 627.357, or
113 through a plan of self-insurance which meets the conditions
114 specified for satisfying financial responsibility in s. 766.110.
115 The required coverage amount set forth in this paragraph may not
116 be used for litigation costs or attorney's fees for the defense

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117 of any medical malpractice claim.

118

119 This subsection shall be inclusive of the coverage in subsection
120 (1).

121 Section 4. For the purpose of incorporating the amendment
122 made by this act to section 626.914, Florida Statutes, in
123 references thereto, paragraph (b) of subsection (1) and
124 paragraph (b) of subsection (2) of section 459.0085, Florida
125 Statutes, are reenacted to read:

126 459.0085 Financial responsibility.—

127 (1) As a condition of licensing and maintaining an active
128 license, and prior to the issuance or renewal of an active
129 license or reactivation of an inactive license for the practice
130 of osteopathic medicine, an applicant must by one of the
131 following methods demonstrate to the satisfaction of the board
132 and the department financial responsibility to pay claims and
133 costs ancillary thereto arising out of the rendering of, or the
134 failure to render, medical care or services:

135 (b) Obtaining and maintaining professional liability
136 coverage in an amount not less than \$100,000 per claim, with a
137 minimum annual aggregate of not less than \$300,000, from an
138 authorized insurer as defined under s. 624.09, from a surplus
139 lines insurer as defined under s. 626.914(2), from a risk
140 retention group as defined under s. 627.942, from the Joint
141 Underwriting Association established under s. 627.351(4), or
142 through a plan of self-insurance as provided in s. 627.357. The
143 required coverage amount set forth in this paragraph may not be
144 used for litigation costs or attorney's fees for the defense of
145 any medical malpractice claim.

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146 (2) Osteopathic physicians who perform surgery in an
147 ambulatory surgical center licensed under chapter 395 and, as a
148 continuing condition of hospital staff privileges, osteopathic
149 physicians who have staff privileges must also establish
150 financial responsibility by one of the following methods:

151 (b) Obtaining and maintaining professional liability
152 coverage in an amount not less than \$250,000 per claim, with a
153 minimum annual aggregate of not less than \$750,000 from an
154 authorized insurer as defined under s. 624.09, from a surplus
155 lines insurer as defined under s. 626.914(2), from a risk
156 retention group as defined under s. 627.942, from the Joint
157 Underwriting Association established under s. 627.351(4),
158 through a plan of self-insurance as provided in s. 627.357, or
159 through a plan of self-insurance that meets the conditions
160 specified for satisfying financial responsibility in s. 766.110.
161 The required coverage amount set forth in this paragraph may not
162 be used for litigation costs or attorney's fees for the defense
163 of any medical malpractice claim.

164
165 This subsection shall be inclusive of the coverage in subsection
166 (1).

167 Section 5. For the purpose of incorporating the amendment
168 made by this act to section 626.914, Florida Statutes, in a
169 reference thereto, paragraph (a) of subsection (2) of section
170 464.0123, Florida Statutes, is reenacted to read:

171 464.0123 Autonomous practice by an advanced practice
172 registered nurse.—

173 (2) FINANCIAL RESPONSIBILITY.—

174 (a) An advanced practice registered nurse registered under

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175 this section must, by one of the following methods, demonstrate
176 to the satisfaction of the board and the department financial
177 responsibility to pay claims and costs ancillary thereto arising
178 out of the rendering of, or the failure to render, nursing care,
179 treatment, or services:

180 1. Obtaining and maintaining professional liability
181 coverage in an amount not less than \$100,000 per claim, with a
182 minimum annual aggregate of not less than \$300,000, from an
183 authorized insurer as defined in s. 624.09, from a surplus lines
184 insurer as defined in s. 626.914(2), from a risk retention group
185 as defined in s. 627.942, from the Joint Underwriting
186 Association established under s. 627.351(4), or through a plan
187 of self-insurance as provided in s. 627.357; or

188 2. Obtaining and maintaining an unexpired, irrevocable
189 letter of credit, established pursuant to chapter 675, in an
190 amount of not less than \$100,000 per claim, with a minimum
191 aggregate availability of credit of not less than \$300,000. The
192 letter of credit must be payable to the advanced practice
193 registered nurse as beneficiary upon presentment of a final
194 judgment indicating liability and awarding damages to be paid by
195 the advanced practice registered nurse or upon presentment of a
196 settlement agreement signed by all parties to such agreement
197 when such final judgment or settlement is a result of a claim
198 arising out of the rendering of, or the failure to render,
199 nursing care and services.

200 Section 6. This act shall take effect July 1, 2022.