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1 A bill to be entitled
2 An act relating to domestic surplus lines insurers;
3 amending s. 626.914, F.S.; defining the term "domestic
4 surplus lines insurer"; revising the definition of the
5 term "eligible surplus lines insurer" to include
6 domestic surplus lines insurers; creating s.
7 626.91805, F.S.; defining the term "nonadmitted
8 insurer"; providing that specified nonadmitted
9 insurers are eligible to transact insurance as
10 domestic surplus lines insurers under certain
11 circumstances; requiring domestic surplus lines
12 insurers to maintain a minimum surplus amount;
13 requiring such insurers to be deemed eligible surplus
14 lines insurers and to be included in the list of
15 eligible surplus lines insurers; authorizing such
16 insurers to write certain kinds of insurance;
17 requiring such insurers to be considered unauthorized
18 insurers for specified purposes; requiring such
19 insurers to be considered nonadmitted insurers for
20 specified purposes; authorizing domestic surplus lines
21 insurers to write only surplus lines insurance under a
22 specified circumstance; prohibiting such insurers from
23 simultaneously holding any certificate of authority to
24 operate as admitted insurers; authorizing such
25 insurers to write surplus lines insurance in any
26 jurisdiction if specified requirements are met;
27 providing applicability of specified requirements of
28 the Florida Insurance Code to such insurers; providing
29 an exception; providing an exemption from a specified

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30 law for such insurers; providing exemptions from
31 specified requirements for surplus lines insurance
32 policies issued by such insurers; providing that such
33 policies are subject to specified taxes but are not
34 subject to certain other taxes; providing that such
35 policies are not subject to the protections and
36 requirements of specified acts and a specified fund;
37 prohibiting such insurers from issuing certain
38 homeowners' policies under a specified circumstance;
39 providing nonapplicability; prohibiting such insurers
40 from issuing certain policies to satisfy specified
41 laws; amending ss. 458.320, 459.0085, and 464.0123,
42 F.S.; conforming cross-references; amending s.
43 629.401, F.S.; specifying cross-references; providing
44 an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Section 626.914, Florida Statutes, is amended to
49 read:

50 626.914 Definitions.—As used in this Surplus Lines Law, the
51 term:

52 (5)(1) "Surplus lines agent" means an individual licensed
53 as provided in this part to handle the placement of insurance
54 coverages with unauthorized insurers and to place such coverages
55 with authorized insurers as to which the licensee is not
56 licensed as an agent.

57 (2) "Domestic surplus lines insurer" means a nonadmitted
58 insurer domiciled in this state which has been deemed eligible

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59 and authorized by the office to write surplus lines insurance in
60 this state. The authorization to write surplus lines insurance
61 is not contingent on the company's holding of an existing
62 certificate of authority.

63 (3) ~~(2)~~ "Eligible surplus lines insurer" means:

64 (a) An unauthorized insurer ~~that which~~ has been made
65 eligible by the office to issue insurance coverage under this
66 Surplus Lines Law; or

67 (b) A domestic surplus lines insurer.

68 (4) ~~(3)~~ "Export" "~~To export~~" means to place, in an
69 unauthorized insurer under this Surplus Lines Law, insurance
70 covering a subject of insurance resident, located, or to be
71 performed in this state.

72 (1) ~~(4)~~ "Diligent effort" means seeking coverage from and
73 having been rejected by at least three authorized insurers
74 currently writing this type of coverage and documenting these
75 rejections. However, if the residential structure has a dwelling
76 replacement cost of \$700,000 or more, the term means seeking
77 coverage from and having been rejected by at least one
78 authorized insurer currently writing this type of coverage and
79 documenting this rejection.

80 Section 2. Section 626.91805, Florida Statutes, is created
81 to read:

82 626.91805 Domestic surplus lines insurers.—

83 (1) As used in this section, the term "nonadmitted insurer"
84 has the same meaning as provided in the federal Nonadmitted and
85 Reinsurance Reform Act of 2010.

86 (2) Notwithstanding any other law, a nonadmitted insurer
87 possessing a policyholder surplus of at least \$15 million is,

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under a resolution by its board of directors and with the written approval of the office, eligible to transact insurance as a domestic surplus lines insurer. A domestic surplus lines insurer must maintain surplus of at least \$15 million at all times.

(3) Notwithstanding s. 626.918(2), a domestic surplus lines insurer shall be deemed an eligible surplus lines insurer and shall be included in the list of eligible surplus lines insurers required by s. 626.918(3). Eligible surplus lines insurers listed in s. 626.918(3) may write any kind of insurance that an unauthorized insurer not domiciled in this state is eligible to write.

(4) For purposes of writing surplus lines insurance pursuant to the Surplus Lines Law, a domestic surplus lines insurer shall be considered an unauthorized insurer.

(5) For purposes of the federal Nonadmitted and Reinsurance Reform Act of 2010, a domestic surplus lines insurer shall be considered a nonadmitted insurer.

(6) A domestic surplus lines insurer may write only surplus lines insurance in this state which is procured from a surplus lines agent pursuant to the Surplus Lines Law. Such insurer may not simultaneously hold any certificate of authority authorizing it to operate as an admitted insurer.

(7) A domestic surplus lines insurer may write surplus lines insurance in any jurisdiction if such insurer complies with the requirements of that jurisdiction.

(8) All requirements imposed by the Florida Insurance Code on admitted domestic insurers apply to domestic surplus lines insurers unless otherwise exempted in this section.

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117 (9) A domestic surplus lines insurer is exempt from s.

118 624.408.

119 (10) A surplus lines insurance policy issued by a domestic
120 surplus lines insurer is exempt from all statutory requirements
121 relating to insurance rating and rating plans; policy forms;
122 premiums charged to insureds; policy cancellation, nonrenewal,
123 and renewal; and other statutory requirements in the same manner
124 and to the same extent as surplus lines policies issued by a
125 surplus lines insurer domiciled in another state.

126 (11) Notwithstanding any other law, a policy issued by a
127 domestic surplus lines insurer is subject to taxes assessed upon
128 surplus lines policies issued by nonadmitted insurers, including
129 surplus lines premium taxes, but is not subject to other taxes
130 levied upon admitted insurers, whether domestic or foreign.

131 (12) A policy issued by a domestic surplus lines insurer is
132 not subject to the protections or requirements of the Florida
133 Insurance Guaranty Association Act, the Florida Life and Health
134 Insurance Guaranty Association Act, the Florida Workers'
135 Compensation Insurance Guaranty Association Act, or the Florida
136 Hurricane Catastrophe Fund.

137 (13) A domestic surplus lines insurer may not issue a
138 homeowner's policy covering personal residential property
139 located in this state within 12 months following the effective
140 date of the nonrenewal or cancellation of such policy by an
141 admitted carrier affiliate as that term is defined in s. 624.10.
142 This restriction does not apply to a nonrenewal or cancellation
143 provided at the insured's request. A domestic surplus lines
144 insurer may not issue a policy designed to satisfy the motor
145 vehicle financial responsibility requirements of this state

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146 under chapter 324, the Workers' Compensation Law under chapter
147 440, or any other law of this state mandating insurance coverage
148 by an admitted insurer.

149 Section 3. Paragraph (b) of subsection (1) and paragraph
150 (b) of subsection (2) of section 458.320, Florida Statutes, are
151 amended to read:

152 458.320 Financial responsibility.—

153 (1) As a condition of licensing and maintaining an active
154 license, and prior to the issuance or renewal of an active
155 license or reactivation of an inactive license for the practice
156 of medicine, an applicant must by one of the following methods
157 demonstrate to the satisfaction of the board and the department
158 financial responsibility to pay claims and costs ancillary
159 thereto arising out of the rendering of, or the failure to
160 render, medical care or services:

161 (b) Obtaining and maintaining professional liability
162 coverage in an amount not less than \$100,000 per claim, with a
163 minimum annual aggregate of not less than \$300,000, from an
164 authorized insurer as defined under s. 624.09, from a surplus
165 lines insurer as defined under s. 626.914 ~~s. 626.914(2)~~, from a
166 risk retention group as defined under s. 627.942, from the Joint
167 Underwriting Association established under s. 627.351(4), or
168 through a plan of self-insurance as provided in s. 627.357. The
169 required coverage amount set forth in this paragraph may not be
170 used for litigation costs or attorney's fees for the defense of
171 any medical malpractice claim.

172 (2) Physicians who perform surgery in an ambulatory
173 surgical center licensed under chapter 395 and, as a continuing
174 condition of hospital staff privileges, physicians who have

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175 staff privileges must also establish financial responsibility by
176 one of the following methods:

177 (b) Obtaining and maintaining professional liability
178 coverage in an amount not less than \$250,000 per claim, with a
179 minimum annual aggregate of not less than \$750,000 from an
180 authorized insurer as defined under s. 624.09, from a surplus
181 lines insurer as defined under s. 626.914 ~~s. 626.914(2)~~, from a
182 risk retention group as defined under s. 627.942, from the Joint
183 Underwriting Association established under s. 627.351(4),
184 through a plan of self-insurance as provided in s. 627.357, or
185 through a plan of self-insurance which meets the conditions
186 specified for satisfying financial responsibility in s. 766.110.
187 The required coverage amount set forth in this paragraph may not
188 be used for litigation costs or attorney attorney's fees for the
189 defense of any medical malpractice claim.

190
191 This subsection shall be inclusive of the coverage in subsection
192 (1).

193 Section 4. Paragraph (b) of subsection (1) and paragraph
194 (b) of subsection (2) of section 459.0085, Florida Statutes, are
195 amended to read:

196 459.0085 Financial responsibility.—

197 (1) As a condition of licensing and maintaining an active
198 license, and prior to the issuance or renewal of an active
199 license or reactivation of an inactive license for the practice
200 of osteopathic medicine, an applicant must by one of the
201 following methods demonstrate to the satisfaction of the board
202 and the department financial responsibility to pay claims and
203 costs ancillary thereto arising out of the rendering of, or the

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204 failure to render, medical care or services:

205 (b) Obtaining and maintaining professional liability
206 coverage in an amount not less than \$100,000 per claim, with a
207 minimum annual aggregate of not less than \$300,000, from an
208 authorized insurer as defined under s. 624.09, from a surplus
209 lines insurer as defined under s. 626.914 ~~s. 626.914(2)~~, from a
210 risk retention group as defined under s. 627.942, from the Joint
211 Underwriting Association established under s. 627.351(4), or
212 through a plan of self-insurance as provided in s. 627.357. The
213 required coverage amount set forth in this paragraph may not be
214 used for litigation costs or attorney's fees for the defense of
215 any medical malpractice claim.

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

221 (b) Obtaining and maintaining professional liability
222 coverage in an amount not less than \$250,000 per claim, with a
223 minimum annual aggregate of not less than \$750,000 from an
224 authorized insurer as defined under s. 624.09, from a surplus
225 lines insurer as defined under s. 626.914 ~~s. 626.914(2)~~, from a
226 risk retention group as defined under s. 627.942, from the Joint
227 Underwriting Association established under s. 627.351(4),
228 through a plan of self-insurance as provided in s. 627.357, or
229 through a plan of self-insurance that meets the conditions
230 specified for satisfying financial responsibility in s. 766.110.
231 The required coverage amount set forth in this paragraph may not
232 be used for litigation costs or attorney's fees for the defense

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233 of any medical malpractice claim.

234

235 This subsection shall be inclusive of the coverage in subsection
236 (1).

237 Section 5. Paragraph (a) of subsection (2) of section
238 464.0123, Florida Statutes, is amended to read:

239 464.0123 Autonomous practice by an advanced practice
240 registered nurse.—

241 (2) FINANCIAL RESPONSIBILITY.—

242 (a) An advanced practice registered nurse registered under
243 this section must, by one of the following methods, demonstrate
244 to the satisfaction of the board and the department financial
245 responsibility to pay claims and costs ancillary thereto arising
246 out of the rendering of, or the failure to render, nursing care,
247 treatment, or services:

248 1. Obtaining and maintaining professional liability
249 coverage in an amount not less than \$100,000 per claim, with a
250 minimum annual aggregate of not less than \$300,000, from an
251 authorized insurer as defined in s. 624.09, from a surplus lines
252 insurer as defined in s. 626.914(3) ~~s. 626.914(2)~~, from a risk
253 retention group as defined in s. 627.942, from the Joint
254 Underwriting Association established under s. 627.351(4), or
255 through a plan of self-insurance as provided in s. 627.357; or

256 2. Obtaining and maintaining an unexpired, irrevocable
257 letter of credit, established pursuant to chapter 675, in an
258 amount of not less than \$100,000 per claim, with a minimum
259 aggregate availability of credit of not less than \$300,000. The
260 letter of credit must be payable to the advanced practice
261 registered nurse as beneficiary upon presentment of a final

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262 judgment indicating liability and awarding damages to be paid by
263 the advanced practice registered nurse or upon presentment of a
264 settlement agreement signed by all parties to such agreement
265 when such final judgment or settlement is a result of a claim
266 arising out of the rendering of, or the failure to render,
267 nursing care and services.

268 Section 6. Paragraph (b) of subsection (6) of section
269 629.401, Florida Statutes, is amended to read:

270 629.401 Insurance exchange.—

271 (6)

272 (b) In addition to the insurance laws specified in
273 paragraph (a), the office shall regulate the exchange pursuant
274 to the following powers, rights, and duties:

275 1. General examination powers.—The office shall examine the
276 affairs, transactions, accounts, records, and assets of any
277 security fund, exchange, members, and associate brokers as often
278 as it deems advisable. The examination may be conducted by the
279 accredited examiners of the office at the offices of the entity
280 or person being examined. The office shall examine in like
281 manner each prospective member or associate broker applying for
282 membership in an exchange.

283 2. Office approval and applications of underwriting
284 members.—No underwriting member shall commence operation without
285 the approval of the office. Before commencing operation, an
286 underwriting member shall provide a written application
287 containing:

288 a. Name, type, and purpose of the underwriting member.
289 b. Name, residence address, business background, and
290 qualifications of each person associated or to be associated in

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291 the formation or financing of the underwriting member.

292 c. Full disclosure of the terms of all understandings and
293 agreements existing or proposed among persons so associated
294 relative to the underwriting member, or the formation or
295 financing thereof, accompanied by a copy of each such agreement
296 or understanding.

297 d. Full disclosure of the terms of all understandings and
298 agreements existing or proposed for management or exclusive
299 agency contracts.

300 3. Investigation of underwriting member applications.—In
301 connection with any proposal to establish an underwriting
302 member, the office shall make an investigation of:

303 a. The character, reputation, financial standing, and
304 motives of the organizers, incorporators, or subscribers
305 organizing the proposed underwriting member.

306 b. The character, financial responsibility, insurance
307 experience, and business qualifications of its proposed
308 officers.

309 c. The character, financial responsibility, business
310 experience, and standing of the proposed stockholders and
311 directors, or owners.

312 4. Notice of management changes.—An underwriting member
313 shall promptly give the office written notice of any change
314 among the directors or principal officers of the underwriting
315 member within 30 days after such change. The office shall
316 investigate the new directors or principal officers of the
317 underwriting member. The office's investigation shall include an
318 investigation of the character, financial responsibility,
319 insurance experience, and business qualifications of any new

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320 directors or principal officers. As a result of the
321 investigation, the office may require the underwriting member to
322 replace any new directors or principal officers.

323 5. Alternate financial statement.—In lieu of any financial
324 examination, the office may accept an audited financial
325 statement.

326 6. Correction and reconstruction of records.—If the office
327 finds any accounts or records to be inadequate, or inadequately
328 kept or posted, it may employ experts to reconstruct, rewrite,
329 post, or balance them at the expense of the person or entity
330 being examined if such person or entity has failed to maintain,
331 complete, or correct such records or accounts after the office
332 has given him or her or it notice and reasonable opportunity to
333 do so.

334 7. Obstruction of examinations.—Any person or entity who or
335 which willfully obstructs the office or its examiner in an
336 examination is guilty of a misdemeanor of the second degree,
337 punishable as provided in s. 775.082 or s. 775.083.

338 8. Filing of annual statement.—Each underwriting member
339 shall file with the office a full and true statement of its
340 financial condition, transactions, and affairs. The statement
341 shall be filed on or before March 1 of each year, or within such
342 extension of time as the office for good cause grants, and shall
343 be for the preceding calendar year. The statement shall contain
344 information generally included in insurer financial statements
345 prepared in accordance with generally accepted insurance
346 accounting principles and practices and in a form generally
347 utilized by insurers for financial statements, sworn to by at
348 least two executive officers of the underwriting member. The

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349 form of the financial statements shall be the approved form of
350 the National Association of Insurance Commissioners or its
351 successor organization. The commission may by rule require each
352 insurer to submit any part of the information contained in the
353 financial statement in a computer-readable form compatible with
354 the office's electronic data processing system. In addition to
355 information furnished in connection with its annual statement,
356 an underwriting member must furnish to the office as soon as
357 reasonably possible such information about its transactions or
358 affairs as the office requests in writing. All information
359 furnished pursuant to the office's request must be verified by
360 the oath of two executive officers of the underwriting member.

361 9. Record maintenance.—Each underwriting member shall have
362 and maintain its principal place of business in this state and
363 shall keep therein complete records of its assets, transactions,
364 and affairs in accordance with such methods and systems as are
365 customary for or suitable to the kind or kinds of insurance
366 transacted.

367 10. Examination of agents.—If the department has reason to
368 believe that any agent, as defined in s. 626.015 or s.
369 626.914(5) ~~s. 626.914~~, has violated or is violating any
370 provision of the insurance law, or upon receipt of a written
371 complaint signed by any interested person indicating that any
372 such violation may exist, the department shall conduct such
373 examination as it deems necessary of the accounts, records,
374 documents, and transactions pertaining to or affecting the
375 insurance affairs of such agent.

376 11. Written reports of office.—The office or its examiner
377 shall make a full and true written report of any examination.

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378 The report shall contain only information obtained from
379 examination of the records, accounts, files, and documents of or
380 relative to the person or entity examined or from testimony of
381 individuals under oath, together with relevant conclusions and
382 recommendations of the examiner based thereon. The office shall
383 furnish a copy of the report to the person or entity examined
384 not less than 30 days prior to filing the report in its office.
385 If such person or entity so requests in writing within such 30-
386 day period, the office shall grant a hearing with respect to the
387 report and shall not file the report until after the hearing and
388 after such modifications have been made therein as the office
389 deems proper.

390 12. Admissibility of reports.—The report of an examination
391 when filed shall be admissible in evidence in any action or
392 proceeding brought by the office against the person or entity
393 examined, or against his or her or its officers, employees, or
394 agents. The office or its examiners may at any time testify and
395 offer other proper evidence as to information secured or matters
396 discovered during the course of an examination, whether or not a
397 written report of the examination has been either made,
398 furnished, or filed in the office.

399 13. Publication of reports.—After an examination report has
400 been filed, the office may publish the results of any such
401 examination in one or more newspapers published in this state
402 whenever it deems it to be in the public interest.

403 14. Consideration of examination reports by entity
404 examined.—After the examination report of an underwriting member
405 has been filed, an affidavit shall be filed with the office, not
406 more than 30 days after the report has been filed, on a form

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407 furnished by the office and signed by the person or a
408 representative of any entity examined, stating that the report
409 has been read and that the recommendations made in the report
410 will be considered within a reasonable time.

411 15. Examination costs.—Each person or entity examined by
412 the office shall pay to the office the expenses incurred in such
413 examination.

414 16. Exchange costs.—An exchange shall reimburse the office
415 for any expenses incurred by it relating to the regulation of
416 the exchange and its members, except as specified in
417 subparagraph 15.

418 17. Powers of examiners.—Any examiner appointed by the
419 office, as to the subject of any examination, investigation, or
420 hearing being conducted by him or her, may administer oaths,
421 examine and cross-examine witnesses, and receive oral and
422 documentary evidence, and shall have the power to subpoena
423 witnesses, compel their attendance and testimony, and require by
424 subpoena the production of books, papers, records, files,
425 correspondence, documents, or other evidence which the examiner
426 deems relevant to the inquiry. If any person refuses to comply
427 with any such subpoena or to testify as to any matter concerning
428 which he or she may be lawfully interrogated, the Circuit Court
429 of Leon County or the circuit court of the county wherein such
430 examination, investigation, or hearing is being conducted, or of
431 the county wherein such person resides, on the office's
432 application may issue an order requiring such person to comply
433 with the subpoena and to testify; and any failure to obey such
434 an order of the court may be punished by the court as a contempt
435 thereof. Subpoenas shall be served, and proof of such service

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436 made, in the same manner as if issued by a circuit court.
437 Witness fees and mileage, if claimed, shall be allowed the same
438 as for testimony in a circuit court.

439 18. False testimony.—Any person willfully testifying
440 falsely under oath as to any matter material to any examination,
441 investigation, or hearing shall upon conviction thereof be
442 guilty of perjury and shall be punished accordingly.

443 19. Self-incrimination.—

444 a. If any person asks to be excused from attending or
445 testifying or from producing any books, papers, records,
446 contracts, documents, or other evidence in connection with any
447 examination, hearing, or investigation being conducted by the
448 office or its examiner, on the ground that the testimony or
449 evidence required of the person may tend to incriminate him or
450 her or subject him or her to a penalty or forfeiture, and the
451 person notwithstanding is directed to give such testimony or
452 produce such evidence, he or she shall, if so directed by the
453 office and the Department of Legal Affairs, nonetheless comply
454 with such direction; but the person shall not thereafter be
455 prosecuted or subjected to any penalty or forfeiture for or on
456 account of any transaction, matter, or thing concerning which he
457 or she may have so testified or produced evidence, and no
458 testimony so given or evidence so produced shall be received
459 against him or her upon any criminal action, investigation, or
460 proceeding; except that no such person so testifying shall be
461 exempt from prosecution or punishment for any perjury committed
462 by him or her in such testimony, and the testimony or evidence
463 so given or produced shall be admissible against him or her upon
464 any criminal action, investigation, or proceeding concerning

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465 such perjury, nor shall he or she be exempt from the refusal,
466 suspension, or revocation of any license, permission, or
467 authority conferred, or to be conferred, pursuant to the
468 insurance law.

469 b. Any such individual may execute, acknowledge, and file
470 with the office a statement expressly waiving such immunity or
471 privilege in respect to any transaction, matter, or thing
472 specified in such statement, and thereupon the testimony of such
473 individual or such evidence in relation to such transaction,
474 matter, or thing may be received or produced before any judge or
475 justice, court, tribunal, grand jury, or otherwise; and if such
476 testimony or evidence is so received or produced, such
477 individual shall not be entitled to any immunity or privileges
478 on account of any testimony so given or evidence so produced.

479 20. Penalty for failure to testify.—Any person who refuses
480 or fails, without lawful cause, to testify relative to the
481 affairs of any member, associate broker, or other person when
482 subpoenaed and requested by the office to so testify, as
483 provided in subparagraph 17., shall, in addition to the penalty
484 provided in subparagraph 17., be guilty of a misdemeanor of the
485 second degree, punishable as provided in s. 775.082 or s.
486 775.083.

487 21. Name selection.—No underwriting member shall be formed
488 or authorized to transact insurance in this state under a name
489 which is the same as that of any authorized insurer or is so
490 nearly similar thereto as to cause or tend to cause confusion or
491 under a name which would tend to mislead as to the type of
492 organization of the insurer. Before incorporating under or using
493 any name, the underwriting syndicate or proposed underwriting

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494 syndicate shall submit its name or proposed name to the office
495 for the approval of the office.

496 22. Capitalization.—An underwriting member approved on or
497 after July 2, 1987, shall provide an initial paid-in capital and
498 surplus of \$3 million and thereafter shall maintain a minimum
499 policyholder surplus of \$2 million in order to be permitted to
500 write insurance. Underwriting members approved prior to July 2,
501 1987, shall maintain a minimum policyholder surplus of \$1
502 million. After June 29, 1988, underwriting members approved
503 prior to July 2, 1987, must maintain a minimum policyholder
504 surplus of \$1.5 million to write insurance. After June 29, 1989,
505 underwriting members approved prior to July 2, 1987, must
506 maintain a minimum policyholder surplus of \$1.75 million to
507 write insurance. After December 30, 1989, all underwriting
508 members, regardless of the date they were approved, must
509 maintain a minimum policyholder surplus of \$2 million to write
510 insurance. Except for that portion of the paid-in capital and
511 surplus which shall be maintained in a security fund of an
512 exchange, the paid-in capital and surplus shall be invested by
513 an underwriting member in a manner consistent with ss. 625.301-
514 625.340. The portion of the paid-in capital and surplus in any
515 security fund of an exchange shall be invested in a manner
516 limited to investments for life insurance companies under the
517 Florida insurance laws.

518 23. Limitations on coverage written.—

519 a. Limit of risk.—No underwriting member shall expose
520 itself to any loss on any one risk in an amount exceeding 10
521 percent of its surplus to policyholders. Any risk or portion of
522 any risk which shall have been reinsured in an assuming

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523 reinsurer authorized or approved to do such business in this
524 state shall be deducted in determining the limitation of risk
525 prescribed in this section.

526 b. Restrictions on premiums written.—If the office has
527 reason to believe that the underwriting member's ratio of actual
528 or projected annual gross written premiums to policyholder
529 surplus exceeds 8 to 1 or the underwriting member's ratio of
530 actual or projected annual net premiums to policyholder surplus
531 exceeds 4 to 1, the office may establish maximum gross or net
532 annual premiums to be written by the underwriting member
533 consistent with maintaining the ratios specified in this sub-
534 subparagraph.

535 (I) Projected annual net or gross premiums shall be based
536 on the actual writings to date for the underwriting member's
537 current calendar year, its writings for the previous calendar
538 year, or both. Ratios shall be computed on an annualized basis.

539 (II) For purposes of this sub-subparagraph, the term "gross
540 written premiums" means direct premiums written and reinsurance
541 assumed.

542 c. Surplus as to policyholders.—For the purpose of
543 determining the limitation on coverage written, surplus as to
544 policyholders shall be deemed to include any voluntary reserves,
545 or any part thereof, which are not required by or pursuant to
546 law and shall be determined from the last sworn statement of
547 such underwriting member with the office, or by the last report
548 or examination filed by the office, whichever is more recent at
549 the time of assumption of such risk.

550 24. Unearned premium reserves.—An underwriting member must
551 at all times maintain an unearned premium reserve equal to 50

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percent of the net written premiums of the subscribers on policies having 1 year or less to run, and pro rata on those for longer periods, except that all premiums on any marine or transportation insurance trip risk shall be deemed unearned until the trip is terminated. For the purpose of this subparagraph, the term "net written premiums" means the premium payments made by subscribers plus the premiums due from subscribers, after deducting the amounts specifically provided in the subscribers' agreements for expenses, including reinsurance costs and fees paid to the attorney in fact, provided that the power of attorney agreement contains an explicit provision requiring the attorney in fact to refund any unearned subscribers fees on a pro-rata basis for canceled policies. If there is no such provision, the unearned premium reserve shall be calculated without any adjustment for fees paid to the attorney in fact. If the unearned premium reserves at any time do not amount to \$100,000, there shall be maintained on deposit at the exchange at all times additional funds in cash or eligible securities which, together with the unearned premium reserves, equal \$100,000. In calculating the foregoing reserves, the amount of the attorney's bond, as filed with the office and as required by s. 629.121, shall be included in such reserves. If at any time the unearned premium reserves are less than the foregoing requirements, the subscribers, or the attorney in fact, shall advance funds to make up the deficiency. Such advances shall only be repaid out of the surplus of the exchange and only after receiving written approval from the office.

25. Loss reserves.—All underwriting members of an exchange shall maintain loss reserves, including a reserve for incurred

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581 but not reported claims. The reserves shall be subject to review
582 by the office, and, if loss experience shows that an
583 underwriting member's loss reserves are inadequate, the office
584 shall require the underwriting member to maintain loss reserves
585 in such additional amount as is needed to make them adequate.

586 26. Distribution of profits.—An underwriting member shall
587 not distribute any profits in the form of cash or other assets
588 to owners except out of that part of its available and
589 accumulated surplus funds which is derived from realized net
590 operating profits on its business and realized capital gains. In
591 any one year such payments to owners shall not exceed 30 percent
592 of such surplus as of December 31 of the immediately preceding
593 year, unless otherwise approved by the office. No distribution
594 of profits shall be made that would render an underwriting
595 member either impaired or insolvent.

596 27. Stock dividends.—A stock dividend may be paid by an
597 underwriting member out of any available surplus funds in excess
598 of the aggregate amount of surplus advanced to the underwriting
599 member under subparagraph 29.

600 28. Dividends from earned surplus.—A dividend otherwise
601 lawful may be payable out of an underwriting member's earned
602 surplus even though the total surplus of the underwriting member
603 is then less than the aggregate of its past contributed surplus
604 resulting from issuance of its capital stock at a price in
605 excess of the par value thereof.

606 29. Borrowing of money by underwriting members.—

607 a. An underwriting member may borrow money to defray the
608 expenses of its organization, provide it with surplus funds, or
609 for any purpose of its business, upon a written agreement that

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610 such money is required to be repaid only out of the underwriting
611 member's surplus in excess of that stipulated in such agreement.
612 The agreement may provide for interest not exceeding 15 percent
613 simple interest per annum. The interest shall or shall not
614 constitute a liability of the underwriting member as to its
615 funds other than such excess of surplus, as stipulated in the
616 agreement. No commission or promotion expense shall be paid in
617 connection with any such loan. The use of any surplus note and
618 any repayments thereof shall be subject to the approval of the
619 office.

620 b. Money so borrowed, together with any interest thereon if
621 so stipulated in the agreement, shall not form a part of the
622 underwriting member's legal liabilities except as to its surplus
623 in excess of the amount thereof stipulated in the agreement, nor
624 be the basis of any setoff; but until repayment, financial
625 statements filed or published by an underwriting member shall
626 show as a footnote thereto the amount thereof then unpaid,
627 together with any interest thereon accrued but unpaid.

628 30. Liquidation, rehabilitation, and restrictions.—The
629 office, upon a showing that a member or associate broker of an
630 exchange has met one or more of the grounds contained in part I
631 of chapter 631, may restrict sales by type of risk, policy or
632 contract limits, premium levels, or policy or contract
633 provisions; increase surplus or capital requirements of
634 underwriting members; issue cease and desist orders; suspend or
635 restrict a member's or associate broker's right to transact
636 business; place an underwriting member under conservatorship or
637 rehabilitation; or seek an order of liquidation as authorized by
638 part I of chapter 631.

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639 31. Prohibited conduct.—The following acts by a member,
640 associate broker, or affiliated person shall constitute
641 prohibited conduct:

642 a. Fraud.

643 b. Fraudulent or dishonest acts committed by a member or
644 associate broker prior to admission to an exchange, if the facts
645 and circumstances were not disclosed to the office upon
646 application to become a member or associate broker.

647 c. Conduct detrimental to the welfare of an exchange.

648 d. Unethical or improper practices or conduct, inconsistent
649 with just and equitable principles of trade as set forth in, but
650 not limited to, ss. 626.951-626.9641 and 626.973.

651 e. Failure to use due diligence to ascertain the insurance
652 needs of a client or a principal.

653 f. Misstatements made under oath or upon an application for
654 membership on an exchange.

655 g. Failure to testify or produce documents when requested
656 by the office.

657 h. Willful violation of any law of this state.

658 i. Failure of an officer or principal to testify under oath
659 concerning a member, associate broker, or other person's affairs
660 as they relate to the operation of an exchange.

661 j. Violation of the constitution and bylaws of the
662 exchange.

663 32. Penalties for participating in prohibited conduct.—

664 a. The office may order the suspension of further
665 transaction of business on the exchange of any member or
666 associate broker found to have engaged in prohibited conduct. In
667 addition, any member or associate broker found to have engaged

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668 in prohibited conduct may be subject to reprimand, censure,
669 and/or a fine not exceeding \$25,000 imposed by the office.

670 b. Any member which has an affiliated person who is found
671 to have engaged in prohibited conduct shall be subject to
672 involuntary withdrawal or in addition thereto may be subject to
673 suspension, reprimand, censure, and/or a fine not exceeding
674 \$25,000.

675 33. Reduction of penalties.—Any suspension, reprimand,
676 censure, or fine may be remitted or reduced by the office on
677 such terms and conditions as are deemed fair and equitable.

678 34. Other offenses.—Any member or associate broker that is
679 suspended shall be deprived, during the period of suspension, of
680 all rights and privileges of a member or of an associate broker
681 and may be proceeded against by the office for any offense
682 committed either before or after the date of suspension.

683 35. Reinstatement.—Any member or associate broker that is
684 suspended may be reinstated at any time on such terms and
685 conditions as the office may specify.

686 36. Remittance of fines.—Fines imposed under this section
687 shall be remitted to the office and shall be paid into the
688 Insurance Regulatory Trust Fund.

689 37. Failure to pay fines.—When a member or associate broker
690 has failed to pay a fine for 15 days after it becomes payable,
691 such member or associate broker shall be suspended, unless the
692 office has granted an extension of time to pay such fine.

693 38. Changes in ownership or assets.—In the event of a major
694 change in the ownership or a major change in the assets of an
695 underwriting member, the underwriting member shall report such
696 change in writing to the office within 30 days of the effective

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697 date thereof. The report shall set forth the details of the
698 change. Any change in ownership or assets of more than 5 percent
699 shall be considered a major change.

700 39. Retaliation.—

701 a. When by or pursuant to the laws of any other state or
702 foreign country any taxes, licenses, or other fees, in the
703 aggregate, and any fines, penalties, deposit requirements, or
704 other material obligations, prohibitions, or restrictions are or
705 would be imposed upon an exchange or upon the agents or
706 representatives of such exchange which are in excess of such
707 taxes, licenses, and other fees, in the aggregate, or which are
708 in excess of such fines, penalties, deposit requirements, or
709 other obligations, prohibitions, or restrictions directly
710 imposed upon similar exchanges or upon the agents or
711 representatives of such exchanges of such other state or country
712 under the statutes of this state, so long as such laws of such
713 other state or country continue in force or are so applied, the
714 same taxes, licenses, and other fees, in the aggregate, or
715 fines, penalties, deposit requirements, or other material
716 obligations, prohibitions, or restrictions of whatever kind
717 shall be imposed by the office upon the exchanges, or upon the
718 agents or representatives of such exchanges, of such other state
719 or country doing business or seeking to do business in this
720 state.

721 b. Any tax, license, or other obligation imposed by any
722 city, county, or other political subdivision or agency of a
723 state, jurisdiction, or foreign country on an exchange, or on
724 the agents or representatives on an exchange, shall be deemed to
725 be imposed by such state, jurisdiction, or foreign country

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726 within the meaning of sub-subparagraph a.

727 40. Agents.—

728 a. Agents as defined in ss. 626.015 and 626.914(5) ~~626.914~~
729 who are broker members or associate broker members of an
730 exchange shall be allowed only to place on an exchange the same
731 kind or kinds of business that the agent is licensed to place
732 pursuant to Florida law. Direct Florida business as defined in
733 s. 626.916 or s. 626.917 shall be written through a broker
734 member who is a surplus lines agent as defined in s. 626.914.
735 The activities of each broker member or associate broker with
736 regard to an exchange shall be subject to all applicable
737 provisions of the insurance laws of this state, and all such
738 activities shall constitute transactions under his or her
739 license as an insurance agent for purposes of the Florida
740 insurance law.

741 b. Premium payments and other requirements.—If an
742 underwriting member has assumed the risk as to a surplus lines
743 coverage and if the premium therefor has been received by the
744 surplus lines agent who placed such insurance, then in all
745 questions thereafter arising under the coverage as between the
746 underwriting member and the insured, the underwriting member
747 shall be deemed to have received the premium due to it for such
748 coverage; and the underwriting member shall be liable to the
749 insured as to losses covered by such insurance, and for unearned
750 premiums which may become payable to the insured upon
751 cancellation of such insurance, whether or not in fact the
752 surplus lines agent is indebted to the underwriting member with
753 respect to such insurance or for any other cause.

754 41. Improperly issued contracts, riders, and endorsements.—

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755 a. Any insurance policy, rider, or endorsement issued by an
756 underwriting member and otherwise valid which contains any
757 condition or provision not in compliance with the requirements
758 of this section shall not be thereby rendered invalid, except as
759 provided in s. 627.415, but shall be construed and applied in
760 accordance with such conditions and provisions as would have
761 applied had such policy, rider, or endorsement been in full
762 compliance with this section. In the event an underwriting
763 member issues or delivers any policy for an amount which exceeds
764 any limitations otherwise provided in this section, the
765 underwriting member shall be liable to the insured or his or her
766 beneficiary for the full amount stated in the policy in addition
767 to any other penalties that may be imposed.

768 b. Any insurance contract delivered or issued for delivery
769 in this state governing a subject or subjects of insurance
770 resident, located, or to be performed in this state which,
771 pursuant to the provisions of this section, the underwriting
772 member may not lawfully insure under such a contract shall be
773 cancelable at any time by the underwriting member, any provision
774 of the contract to the contrary notwithstanding; and the
775 underwriting member shall promptly cancel the contract in
776 accordance with the request of the office therefor. No such
777 illegality or cancellation shall be deemed to relieve the
778 underwriting syndicate of any liability incurred by it under the
779 contract while in force or to prohibit the underwriting
780 syndicate from retaining the pro rata earned premium thereon.
781 This provision does not relieve the underwriting syndicate from
782 any penalty otherwise incurred by the underwriting syndicate.

783 42. Satisfaction of judgments.—

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784 a. Every judgment or decree for the recovery of money
785 heretofore or hereafter entered in any court of competent
786 jurisdiction against any underwriting member shall be fully
787 satisfied within 60 days from and after the entry thereof or, in
788 the case of an appeal from such judgment or decree, within 60
789 days from and after the affirmance of the judgment or decree by
790 the appellate court.

791 b. If the judgment or decree is not satisfied as required
792 under sub subparagraph a., and proof of such failure to satisfy
793 is made by filing with the office a certified transcript of the
794 docket of the judgment or the decree together with a certificate
795 by the clerk of the court wherein the judgment or decree remains
796 unsatisfied, in whole or in part, after the time provided in
797 sub subparagraph a., the office shall forthwith prohibit the
798 underwriting member from transacting business. The office shall
799 not permit such underwriting member to write any new business
800 until the judgment or decree is wholly paid and satisfied and
801 proof thereof is filed with the office under the official
802 certificate of the clerk of the court wherein the judgment was
803 recovered, showing that the judgment or decree is satisfied of
804 record, and until the expenses and fees incurred in the case are
805 also paid by the underwriting syndicate.

806 43. Tender and exchange offers.—No person shall conclude a
807 tender offer or an exchange offer or otherwise acquire 5 percent
808 or more of the outstanding voting securities of an underwriting
809 member or controlling company or purchase 5 percent or more of
810 the ownership of an underwriting member or controlling company
811 unless such person has filed with, and obtained the approval of,
812 the office and sent to such underwriting member a statement

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813 setting forth:

814 a. The identity of, and background information on, each
815 person by whom, or on whose behalf, the acquisition is to be
816 made; and, if the acquisition is to be made by or on behalf of a
817 corporation, association, or trust, the identity of and
818 background information on each director, officer, trustee, or
819 other natural person performing duties similar to those of a
820 director, officer, or trustee for the corporation, association,
821 or trust.

822 b. The source and amount of the funds or other
823 consideration used, or to be used, in making the acquisition.

824 c. Any plans or proposals which such person may have to
825 liquidate such member, to sell its assets, or to merge or
826 consolidate it.

827 d. The percentage of ownership which such person proposes
828 to acquire and the terms of the offer or exchange, as the case
829 may be.

830 e. Information as to any contracts, arrangements, or
831 understandings with any party with respect to any securities of
832 such member or controlling company, including, but not limited
833 to, information relating to the transfer of any securities,
834 option arrangements, or puts or calls or the giving or
835 withholding of proxies, naming the party with whom such
836 contract, arrangements, or understandings have been entered and
837 giving the details thereof.

838 f. The office may disapprove any acquisition subject to the
839 provisions of this subparagraph by any person or any affiliated
840 person of such person who:

841 (I) Willfully violates this subparagraph;

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842 (II) In violation of an order of the office issued pursuant
843 to sub-subparagraph j., fails to divest himself or herself of
844 any stock obtained in violation of this subparagraph, or fails
845 to divest himself or herself of any direct or indirect control
846 of such stock, within 25 days after such order; or

847 (III) In violation of an order issued by the office
848 pursuant to sub-subparagraph j., acquires additional stock of
849 the underwriting member or controlling company, or direct or
850 indirect control of such stock, without complying with this
851 subparagraph.

852 g. The person or persons filing the statement required by
853 this subparagraph have the burden of proof. The office shall
854 approve any such acquisition if it finds, on the basis of the
855 record made during any proceeding or on the basis of the filed
856 statement if no proceeding is conducted, that:

857 (I) Upon completion of the acquisition, the underwriting
858 member will be able to satisfy the requirements for the approval
859 to write the line or lines of insurance for which it is
860 presently approved;

861 (II) The financial condition of the acquiring person or
862 persons will not jeopardize the financial stability of the
863 underwriting member or prejudice the interests of its
864 policyholders or the public;

865 (III) Any plan or proposal which the acquiring person has,
866 or acquiring persons have, made:

867 (A) To liquidate the insurer, sell its assets, or merge or
868 consolidate it with any person, or to make any other major
869 change in its business or corporate structure or management; or

870 (B) To liquidate any controlling company, sell its assets,

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871 or merge or consolidate it with any person, or to make any major
872 change in its business or corporate structure or management
873 which would have an effect upon the underwriting member

874
875 is fair and free of prejudice to the policyholders of the
876 underwriting member or to the public;

877 (IV) The competence, experience, and integrity of those
878 persons who will control directly or indirectly the operation of
879 the underwriting member indicate that the acquisition is in the
880 best interest of the policyholders of the underwriting member
881 and in the public interest;

882 (V) The natural persons for whom background information is
883 required to be furnished pursuant to this subparagraph have such
884 backgrounds as to indicate that it is in the best interests of
885 the policyholders of the underwriting member, and in the public
886 interest, to permit such persons to exercise control over such
887 underwriting member;

888 (VI) The officers and directors to be employed after the
889 acquisition have sufficient insurance experience and ability to
890 assure reasonable promise of successful operation;

891 (VII) The management of the underwriting member after the
892 acquisition will be competent and trustworthy and will possess
893 sufficient managerial experience so as to make the proposed
894 operation of the underwriting member not hazardous to the
895 insurance-buying public;

896 (VIII) The management of the underwriting member after the
897 acquisition will not include any person who has directly or
898 indirectly through ownership, control, reinsurance transactions,
899 or other insurance or business relations unlawfully manipulated

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900 the assets, accounts, finances, or books of any insurer or
901 underwriting member or otherwise acted in bad faith with respect
902 thereto;

903 (IX) The acquisition is not likely to be hazardous or
904 prejudicial to the underwriting member's policyholders or the
905 public; and

906 (X) The effect of the acquisition of control would not
907 substantially lessen competition in insurance in this state or
908 would not tend to create a monopoly therein.

909 h. No vote by the stockholder of record, or by any other
910 person, of any security acquired in contravention of the
911 provisions of this subparagraph is valid. Any acquisition of any
912 security contrary to the provisions of this subparagraph is
913 void. Upon the petition of the underwriting member or
914 controlling company, the circuit court for the county in which
915 the principal office of such underwriting member is located may,
916 without limiting the generality of its authority, order the
917 issuance or entry of an injunction or other order to enforce the
918 provisions of this subparagraph. There shall be a private right
919 of action in favor of the underwriting member or controlling
920 company to enforce the provisions of this subparagraph. No
921 demand upon the office that it perform its functions shall be
922 required as a prerequisite to any suit by the underwriting
923 member or controlling company against any other person, and in
924 no case shall the office be deemed a necessary party to any
925 action by such underwriting member or controlling company to
926 enforce the provisions of this subparagraph. Any person who
927 makes or proposes an acquisition requiring the filing of a
928 statement pursuant to this subparagraph, or who files such a

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929 statement, shall be deemed to have thereby designated the Chief
930 Financial Officer as such person's agent for service of process
931 under this subparagraph and shall thereby be deemed to have
932 submitted himself or herself to the administrative jurisdiction
933 of the office and to the jurisdiction of the circuit court.

934 i. Any approval by the office under this subparagraph does
935 not constitute a recommendation by the office for an
936 acquisition, tender offer, or exchange offer. It is unlawful for
937 a person to represent that the office's approval constitutes a
938 recommendation. A person who violates the provisions of this
939 sub-subparagraph is guilty of a felony of the third degree,
940 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
941 The statute-of-limitations period for the prosecution of an
942 offense committed under this sub-subparagraph is 5 years.

943 j. Upon notification to the office by the underwriting
944 member or a controlling company that any person or any
945 affiliated person of such person has acquired 5 percent or more
946 of the outstanding voting securities of the underwriting member
947 or controlling company without complying with the provisions of
948 this subparagraph, the office shall order that the person and
949 any affiliated person of such person cease acquisition of any
950 further securities of the underwriting member or controlling
951 company; however, the person or any affiliated person of such
952 person may request a proceeding, which proceeding shall be
953 convened within 7 days after the rendering of the order for the
954 sole purpose of determining whether the person, individually or
955 in connection with any affiliated person of such person, has
956 acquired 5 percent or more of the outstanding voting securities
957 of an underwriting member or controlling company. Upon the

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958 failure of the person or affiliated person to request a hearing
959 within 7 days, or upon a determination at a hearing convened
960 pursuant to this sub-subparagraph that the person or affiliated
961 person has acquired voting securities of an underwriting member
962 or controlling company in violation of this subparagraph, the
963 office may order the person and affiliated person to divest
964 themselves of any voting securities so acquired.

965 k.(I) The office shall, if necessary to protect the public
966 interest, suspend or revoke the certificate of authority of any
967 underwriting member or controlling company:

968 (A) The control of which is acquired in violation of this
969 subparagraph;

970 (B) That is controlled, directly or indirectly, by any
971 person or any affiliated person of such person who, in violation
972 of this subparagraph, has obtained control of an underwriting
973 member or controlling company; or

974 (C) That is controlled, directly or indirectly, by any
975 person who, directly or indirectly, controls any other person
976 who, in violation of this subparagraph, acquires control of an
977 underwriting member or controlling company.

978 (II) If any underwriting member is subject to suspension or
979 revocation pursuant to sub-sub-subparagraph (I), the
980 underwriting member shall be deemed to be in such condition, or
981 to be using or to have been subject to such methods or practices
982 in the conduct of its business, as to render its further
983 transaction of insurance presently or prospectively hazardous to
984 its policyholders, creditors, or stockholders or to the public.

985 l.(I) For the purpose of this sub-sub-subparagraph, the
986 term "affiliated person" of another person means:

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- 987 (A) The spouse of such other person;
- 988 (B) The parents of such other person and their lineal
989 descendants and the parents of such other person's spouse and
990 their lineal descendants;
- 991 (C) Any person who directly or indirectly owns or controls,
992 or holds with power to vote, 5 percent or more of the
993 outstanding voting securities of such other person;
- 994 (D) Any person 5 percent or more of the outstanding voting
995 securities of which are directly or indirectly owned or
996 controlled, or held with power to vote, by such other person;
- 997 (E) Any person or group of persons who directly or
998 indirectly control, are controlled by, or are under common
999 control with such other person; or any officer, director,
1000 partner, copartner, or employee of such other person;
- 1001 (F) If such other person is an investment company, any
1002 investment adviser of such company or any member of an advisory
1003 board of such company;
- 1004 (G) If such other person is an unincorporated investment
1005 company not having a board of directors, the depositor of such
1006 company; or
- 1007 (H) Any person who has entered into an agreement, written
1008 or unwritten, to act in concert with such other person in
1009 acquiring or limiting the disposition of securities of an
1010 underwriting member or controlling company.
- 1011 (II) For the purposes of this section, the term
1012 "controlling company" means any corporation, trust, or
1013 association owning, directly or indirectly, 25 percent or more
1014 of the voting securities of one or more underwriting members.
- 1015 m. The commission may adopt, amend, or repeal rules that

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1016 are necessary to implement the provisions of this subparagraph,
1017 pursuant to chapter 120.

1018 44. Background information.—The information as to the
1019 background and identity of each person about whom information is
1020 required to be furnished pursuant to sub subparagraph 43.a.
1021 shall include, but shall not be limited to:

1022 a. Such person's occupations, positions of employment, and
1023 offices held during the past 10 years.

1024 b. The principal business and address of any business,
1025 corporation, or other organization in which each such office was
1026 held or in which such occupation or position of employment was
1027 carried on.

1028 c. Whether, at any time during such 10-year period, such
1029 person was convicted of any crime other than a traffic
1030 violation.

1031 d. Whether, during such 10-year period, such person has
1032 been the subject of any proceeding for the revocation of any
1033 license and, if so, the nature of such proceeding and the
1034 disposition thereof.

1035 e. Whether, during such 10-year period, such person has
1036 been the subject of any proceeding under the federal Bankruptcy
1037 Act or whether, during such 10-year period, any corporation,
1038 partnership, firm, trust, or association in which such person
1039 was a director, officer, trustee, partner, or other official has
1040 been subject to any such proceeding, either during the time in
1041 which such person was a director, officer, trustee, partner, or
1042 other official, or within 12 months thereafter.

1043 f. Whether, during such 10-year period, such person has
1044 been enjoined, either temporarily or permanently, by a court of

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1045 competent jurisdiction from violating any federal or state law
1046 regulating the business of insurance, securities, or banking, or
1047 from carrying out any particular practice or practices in the
1048 course of the business of insurance, securities, or banking,
1049 together with details of any such event.

1050 45. Security fund.—All underwriting members shall be
1051 members of the security fund of any exchange.

1052 46. Underwriting member defined.—Whenever the term
1053 “underwriting member” is used in this subsection, it shall be
1054 construed to mean “underwriting syndicate.”

1055 47. Offsets.—Any action, requirement, or constraint imposed
1056 by the office shall reduce or offset similar actions,
1057 requirements, or constraints of any exchange.

1058 48. Restriction on member ownership.—

1059 a. Investments existing prior to July 2, 1987.—The
1060 investment in any member by brokers, agents, and intermediaries
1061 transacting business on the exchange, and the investment in any
1062 such broker, agent, or intermediary by any member, directly or
1063 indirectly, shall in each case be limited in the aggregate to
1064 less than 20 percent of the total investment in such member,
1065 broker, agent, or intermediary, as the case may be. After
1066 December 31, 1987, the aggregate percent of the total investment
1067 in such member by any broker, agent, or intermediary and the
1068 aggregate percent of the total investment in any such broker,
1069 agent, or intermediary by any member, directly or indirectly,
1070 shall not exceed 15 percent. After June 30, 1988, such aggregate
1071 percent shall not exceed 10 percent and after December 31, 1988,
1072 such aggregate percent shall not exceed 5 percent.

1073 b. Investments arising on or after July 2, 1987.—The

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1074 investment in any underwriting member by brokers, agents, or
1075 intermediaries transacting business on the exchange, and the
1076 investment in any such broker, agent, or intermediary by any
1077 underwriting member, directly or indirectly, shall in each case
1078 be limited in the aggregate to less than 5 percent of the total
1079 investment in such underwriting member, broker, agent, or
1080 intermediary.

1081 49. "Underwriting manager" defined.—"Underwriting manager"
1082 as used in this subparagraph includes any person, partnership,
1083 corporation, or organization providing any of the following
1084 services to underwriting members of the exchange:

1085 a. Office management and allied services, including
1086 correspondence and secretarial services.

1087 b. Accounting services, including bookkeeping and financial
1088 report preparation.

1089 c. Investment and banking consultations and services.

1090 d. Underwriting functions and services including the
1091 acceptance, rejection, placement, and marketing of risk.

1092 50. Prohibition of underwriting manager investment.—Any
1093 direct or indirect investment in any underwriting manager by a
1094 broker member or any affiliated person of a broker member or any
1095 direct or indirect investment in a broker member by an
1096 underwriting manager or any affiliated person of an underwriting
1097 manager is prohibited. "Affiliated person" for purposes of this
1098 subparagraph is defined in subparagraph 43.

1099 51. An underwriting member may not accept reinsurance on an
1100 assumed basis from an affiliate or a controlling company, nor
1101 may a broker member or management company place reinsurance from
1102 an affiliate or controlling company of theirs with an

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1103 underwriting member. "Affiliate and controlling company" for
1104 purposes of this subparagraph is defined in subparagraph 43.

1105 52. Premium defined.—"Premium" is the consideration for
1106 insurance, by whatever name called. Any "assessment" or any
1107 "membership," "policy," "survey," "inspection," "service" fee or
1108 charge or similar fee or charge in consideration for an
1109 insurance contract is deemed part of the premium.

1110 53. Rules.—The commission shall adopt rules necessary for
1111 or as an aid to the effectuation of any provision of this
1112 section.

1113 Section 7. This act shall take effect July 1, 2022.