

By the Committees on Fiscal Policy; and Banking and Insurance;
and Senator Grall

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1 A bill to be entitled
2 An act relating to financial services; amending s.
3 626.914, F.S.; deleting the definition of the term
4 "diligent effort"; amending s. 626.916, F.S.; revising
5 the conditions for insurance coverage to be eligible
6 for export; providing that an insured is presumed to
7 have been informed of the availability of other
8 coverage under certain circumstances; deleting the
9 Financial Services Commission's authority to adopt
10 rules relating to insurance coverage or risk
11 eligibility for export; deleting applicability;
12 amending ss. 626.918, 626.932, 626.9325, 626.9541, and
13 627.715, F.S.; conforming cross-references and
14 provisions to changes made by the act; amending s.
15 655.047, F.S.; requiring state financial institutions
16 to pay a semiannual assessment for specified time
17 periods; requiring that the semiannual assessment be
18 received by the Office of Financial Regulation in a
19 specified manner and by specified dates; amending s.
20 655.414, F.S.; authorizing the office to issue a
21 specified certificate under certain circumstances;
22 creating s. 655.97, F.S.; authorizing financial
23 institutions to hold funds in specified trust accounts
24 to be used for specified purposes; requiring such
25 financial institutions to pay a certain minimum
26 interest rate or dividend; requiring that the interest
27 rate be a specified percentage; requiring a financial
28 institution to submit a quarterly rate validation
29 sheet and affidavit to the Chief Financial Officer

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30 attesting that it will pay a certain minimum interest
31 rate or dividend; requiring that the affidavit attest
32 that certain information is true and factual;
33 requiring the Chief Financial Officer to verify
34 certain information; providing applicability; amending
35 s. 657.002, F.S.; revising the definition of the term
36 "equity"; amending s. 657.028, F.S.; authorizing
37 certain elected officers, directors, or committee
38 members of a credit union to be reimbursed for certain
39 expenses; amending s. 657.043, F.S.; conforming
40 provisions to changes made by the act; amending s.
41 658.235, F.S.; revising the timeframe for certain
42 requirements by the directors of a proposed bank or
43 trust company; amending s. 658.25, F.S.; revising the
44 timeframe within which a bank or trust company
45 corporation is required to open and conduct specified
46 business; providing effective dates.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Subsection (4) of section 626.914, Florida
51 Statutes, is amended to read:

52 626.914 Definitions.—As used in this Surplus Lines Law, the
53 term:

54 ~~(4) "Diligent effort" means seeking coverage from and~~
55 ~~having been rejected by at least three authorized insurers~~
56 ~~currently writing this type of coverage and documenting these~~
57 ~~rejections. However, if the residential structure has a dwelling~~
58 ~~replacement cost of \$700,000 or more, the term means seeking~~

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59 ~~coverage from and having been rejected by at least one~~
60 ~~authorized insurer currently writing this type of coverage and~~
61 ~~documenting this rejection.~~

62 Section 2. Paragraphs (a) and (e) of subsection (1) and
63 subsections (2) and (3) of section 626.916, Florida Statutes,
64 are amended to read:

65 626.916 Eligibility for export.—

66 (1) No insurance coverage shall be eligible for export
67 unless it meets all of the following conditions:

68 ~~(a) The full amount of insurance required must not be~~
69 ~~procurable, after a diligent effort has been made by the~~
70 ~~producing agent to do so, from among the insurers authorized to~~
71 ~~transact and actually writing that kind and class of insurance~~
72 ~~in this state, and the amount of insurance exported shall be~~
73 ~~only the excess over the amount so procurable from authorized~~
74 ~~insurers. Surplus lines agents must verify that a diligent~~
75 ~~effort has been made by requiring a properly documented~~
76 ~~statement of diligent effort from the retail or producing agent.~~
77 ~~However, to be in compliance with the diligent effort~~
78 ~~requirement, the surplus lines agent's reliance must be~~
79 ~~reasonable under the particular circumstances surrounding the~~
80 ~~export of that particular risk. Reasonableness shall be assessed~~
81 ~~by taking into account factors which include, but are not~~
82 ~~limited to, a regularly conducted program of verification of the~~
83 ~~information provided by the retail or producing agent.~~
84 ~~Declinations must be documented on a risk-by-risk basis. If it~~
85 ~~is not possible to obtain the full amount of insurance required~~
86 ~~by layering the risk, it is permissible to export the full~~
87 ~~amount.~~

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88 ~~(d)(e)~~ The insured has signed or otherwise provided
89 documented acknowledgment of a disclosure in substantially the
90 following form: "You are agreeing to place coverage in the
91 surplus lines market. Coverage may be available in the admitted
92 market. Persons insured by surplus lines carriers are not
93 protected under the Florida Insurance Guaranty Act with respect
94 to any right of recovery for the obligation of an insolvent
95 unlicensed insurer. Additionally, surplus lines insurers' policy
96 rates and forms are not approved by any Florida regulatory
97 agency." If the acknowledgment of the disclosure is signed by
98 the insured, the insured is presumed to have been informed and
99 to know that other coverage may be available.

100 ~~(2) The commission may by rule declare eligible for export~~
101 ~~generally, and notwithstanding the provisions of paragraphs (a),~~
102 ~~(b), (c), and (d) of subsection (1), any class or classes of~~
103 ~~insurance coverage or risk for which it finds, after a hearing,~~
104 ~~that there is no reasonable or adequate market among authorized~~
105 ~~insurers. Any such rules shall continue in effect during the~~
106 ~~existence of the conditions upon which predicated, but subject~~
107 ~~to termination by the commission.~~

108 ~~(3)(a) Subsection (1) does not apply to wet marine and~~
109 ~~transportation or aviation risks that are subject to s. 626.917.~~

110 ~~(b) Subsection (1) does not apply to classes of insurance~~
111 ~~which are related to indemnity of deductibles for property~~
112 ~~insurance or are subject to s. 627.062(3)(d)1. These classes may~~
113 ~~be exportable under the following conditions:~~

114 ~~1. The insurance must be placed only by or through a~~
115 ~~surplus lines agent licensed in this state;~~

116 ~~2. The insurer must be made eligible under s. 626.918; and~~

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117 ~~3. The insured has complied with paragraph (1) (c). If the~~
118 ~~disclosure is signed by the insured, the insured is presumed to~~
119 ~~have been informed and to know that other coverage may be~~
120 ~~available, and, with respect to the diligent effort requirement~~
121 ~~under subsection (1), there is no liability on the part of, and~~
122 ~~no cause of action arises against, the retail agent presenting~~
123 ~~the form.~~

124 Section 3. Subsection (5) of section 626.918, Florida
125 Statutes, is amended to read:

126 626.918 Eligible surplus lines insurers.—

127 (5) When it appears that any particular insurance risk
128 which is eligible for export, but on which insurance coverage,
129 in whole or in part, is not procurable from the eligible surplus
130 lines insurers, after a search of eligible surplus lines
131 insurers, then the surplus lines agent may file a supplemental
132 signed statement setting forth such facts and advising the
133 office that such part of the risk as shall be unprocurable, as
134 aforesaid, is being placed with named unauthorized insurers, in
135 the amounts and percentages set forth in the statement. Such
136 named unauthorized insurer shall, however, before accepting any
137 risk in this state, deposit with the department cash or
138 securities acceptable to the office and department of the market
139 value of \$50,000 for each individual risk, contract, or
140 certificate, which deposit shall be held by the department for
141 the benefit of Florida policyholders only; and the surplus lines
142 agent shall procure from such unauthorized insurer and file with
143 the office a certified copy of its statement of condition as of
144 the close of the last calendar year. If such statement reveals,
145 including both capital and surplus, net assets of at least that

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146 amount required for licensure of a domestic insurer, then the
147 surplus lines agent may proceed to consummate such contract of
148 insurance. Whenever any insurance risk, or any part thereof, is
149 placed with an unauthorized insurer, as provided herein, the
150 policy, binder, or cover note shall contain a statement signed
151 by the insured and the agent with the following notation: "The
152 insured is aware that certain insurers participating in this
153 risk have not been approved to transact business in Florida nor
154 have they been declared eligible as surplus lines insurers by
155 the Office of Insurance Regulation of Florida. The placing of
156 such insurance by a duly licensed surplus lines agent in Florida
157 shall not be construed as approval of such insurer by the Office
158 of Insurance Regulation of Florida. Consequently, the insured is
159 aware that the insured has severely limited the assistance
160 available under the insurance laws of Florida. The insured is
161 further aware that he or she may be charged a reasonable per
162 policy fee, as provided in s. 626.916(2) ~~s. 626.916(4)~~, Florida
163 Statutes, for each policy certified for export." All other
164 provisions of this code shall apply to such placement the same
165 as if such risks were placed with an eligible surplus lines
166 insurer.

167 Section 4. Subsection (6) of section 626.932, Florida
168 Statutes, is amended to read:

169 626.932 Surplus lines tax.—

170 (6) For the purposes of this section, the term "premium"
171 means the consideration for insurance by whatever name called
172 and includes any assessment, or any membership, policy, survey,
173 inspection, service, or similar fee or charge in consideration
174 for an insurance contract, which items are deemed to be a part

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175 of the premium. The per-policy fee authorized by s. 626.916(2)
176 ~~s. 626.916(4)~~ is specifically included within the meaning of the
177 term "premium." However, the service fee imposed pursuant to s.
178 626.9325 is excluded from the meaning of the term "premium."

179 Section 5. Subsection (6) of section 626.9325, Florida
180 Statutes, is amended to read:

181 626.9325 Service fee.—

182 (6) For the purposes of this section, the term "premium"
183 means the consideration for insurance by whatever name called
184 and includes any assessment, or any membership, policy, survey,
185 inspection, service, or similar fee or charge in consideration
186 for an insurance contract, which items are deemed to be a part
187 of the premium. The per-policy fee authorized by s. 626.916(2)
188 ~~s. 626.916(4)~~ is specifically included within the meaning of the
189 term "premium."

190 Section 6. Paragraph (o) of subsection (1) of section
191 626.9541, Florida Statutes, is amended to read:

192 626.9541 Unfair methods of competition and unfair or
193 deceptive acts or practices defined.—

194 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
195 ACTS.—The following are defined as unfair methods of competition
196 and unfair or deceptive acts or practices:

197 (o) *Illegal dealings in premiums; excess or reduced charges*
198 *for insurance.*—

199 1. Knowingly collecting any sum as a premium or charge for
200 insurance, which is not then provided, or is not in due course
201 to be provided, subject to acceptance of the risk by the
202 insurer, by an insurance policy issued by an insurer as
203 permitted by this code.

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204 2. Knowingly collecting as a premium or charge for
205 insurance any sum in excess of or less than the premium or
206 charge applicable to such insurance, in accordance with the
207 applicable classifications and rates as filed with and approved
208 by the office, and as specified in the policy; or, in cases when
209 classifications, premiums, or rates are not required by this
210 code to be so filed and approved, premiums and charges collected
211 from a Florida resident in excess of or less than those
212 specified in the policy and as fixed by the insurer.

213 Notwithstanding any other provision of law, this provision shall
214 not be deemed to prohibit the charging and collection, by
215 surplus lines agents licensed under part VIII of this chapter,
216 of the amount of applicable state and federal taxes, or fees as
217 authorized by s. 626.916(2) ~~s. 626.916(4)~~, in addition to the
218 premium required by the insurer or the charging and collection,
219 by licensed agents, of the exact amount of any discount or other
220 such fee charged by a credit card facility in connection with
221 the use of a credit card, as authorized by subparagraph (q)3.,
222 in addition to the premium required by the insurer. This
223 subparagraph shall not be construed to prohibit collection of a
224 premium for a universal life or a variable or indeterminate
225 value insurance policy made in accordance with the terms of the
226 contract.

227 3.a. Imposing or requesting an additional premium for a
228 policy of motor vehicle liability, personal injury protection,
229 medical payment, or collision insurance or any combination
230 thereof or refusing to renew the policy solely because the
231 insured was involved in a motor vehicle accident unless the
232 insurer's file contains information from which the insurer in

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233 good faith determines that the insured was substantially at
234 fault in the accident.

235 b. An insurer which imposes and collects such a surcharge
236 or which refuses to renew such policy shall, in conjunction with
237 the notice of premium due or notice of nonrenewal, notify the
238 named insured that he or she is entitled to reimbursement of
239 such amount or renewal of the policy under the conditions listed
240 below and will subsequently reimburse him or her or renew the
241 policy, if the named insured demonstrates that the operator
242 involved in the accident was:

243 (I) Lawfully parked;

244 (II) Reimbursed by, or on behalf of, a person responsible
245 for the accident or has a judgment against such person;

246 (III) Struck in the rear by another vehicle headed in the
247 same direction and was not convicted of a moving traffic
248 violation in connection with the accident;

249 (IV) Hit by a "hit-and-run" driver, if the accident was
250 reported to the proper authorities within 24 hours after
251 discovering the accident;

252 (V) Not convicted of a moving traffic violation in
253 connection with the accident, but the operator of the other
254 automobile involved in such accident was convicted of a moving
255 traffic violation;

256 (VI) Finally adjudicated not to be liable by a court of
257 competent jurisdiction;

258 (VII) In receipt of a traffic citation which was dismissed
259 or nolle prossed; or

260 (VIII) Not at fault as evidenced by a written statement
261 from the insured establishing facts demonstrating lack of fault

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262 which are not rebutted by information in the insurer's file from
263 which the insurer in good faith determines that the insured was
264 substantially at fault.

265 c. In addition to the other provisions of this
266 subparagraph, an insurer may not fail to renew a policy if the
267 insured has had only one accident in which he or she was at
268 fault within the current 3-year period. However, an insurer may
269 nonrenew a policy for reasons other than accidents in accordance
270 with s. 627.728. This subparagraph does not prohibit nonrenewal
271 of a policy under which the insured has had three or more
272 accidents, regardless of fault, during the most recent 3-year
273 period.

274 4. Imposing or requesting an additional premium for, or
275 refusing to renew, a policy for motor vehicle insurance solely
276 because the insured committed a noncriminal traffic infraction
277 as described in s. 318.14 unless the infraction is:

278 a. A second infraction committed within an 18-month period,
279 or a third or subsequent infraction committed within a 36-month
280 period.

281 b. A violation of s. 316.183, when such violation is a
282 result of exceeding the lawful speed limit by more than 15 miles
283 per hour.

284 5. Upon the request of the insured, the insurer and
285 licensed agent shall supply to the insured the complete proof of
286 fault or other criteria which justifies the additional charge or
287 cancellation.

288 6. No insurer shall impose or request an additional premium
289 for motor vehicle insurance, cancel or refuse to issue a policy,
290 or refuse to renew a policy because the insured or the applicant

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291 is a handicapped or physically disabled person, so long as such
292 handicap or physical disability does not substantially impair
293 such person's mechanically assisted driving ability.

294 7. No insurer may cancel or otherwise terminate any
295 insurance contract or coverage, or require execution of a
296 consent to rate endorsement, during the stated policy term for
297 the purpose of offering to issue, or issuing, a similar or
298 identical contract or coverage to the same insured with the same
299 exposure at a higher premium rate or continuing an existing
300 contract or coverage with the same exposure at an increased
301 premium.

302 8. No insurer may issue a nonrenewal notice on any
303 insurance contract or coverage, or require execution of a
304 consent to rate endorsement, for the purpose of offering to
305 issue, or issuing, a similar or identical contract or coverage
306 to the same insured at a higher premium rate or continuing an
307 existing contract or coverage at an increased premium without
308 meeting any applicable notice requirements.

309 9. No insurer shall, with respect to premiums charged for
310 motor vehicle insurance, unfairly discriminate solely on the
311 basis of age, sex, marital status, or scholastic achievement.

312 10. Imposing or requesting an additional premium for motor
313 vehicle comprehensive or uninsured motorist coverage solely
314 because the insured was involved in a motor vehicle accident or
315 was convicted of a moving traffic violation.

316 11. No insurer shall cancel or issue a nonrenewal notice on
317 any insurance policy or contract without complying with any
318 applicable cancellation or nonrenewal provision required under
319 the Florida Insurance Code.

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320 12. No insurer shall impose or request an additional
321 premium, cancel a policy, or issue a nonrenewal notice on any
322 insurance policy or contract because of any traffic infraction
323 when adjudication has been withheld and no points have been
324 assessed pursuant to s. 318.14(9) and (10). However, this
325 subparagraph does not apply to traffic infractions involving
326 accidents in which the insurer has incurred a loss due to the
327 fault of the insured.

328 Section 7. Subsection (4) of section 627.715, Florida
329 Statutes, is amended to read:

330 627.715 Flood insurance.—An authorized insurer may issue an
331 insurance policy, contract, or endorsement providing personal
332 lines residential coverage for the peril of flood or excess
333 coverage for the peril of flood on any structure or the contents
334 of personal property contained therein, subject to this section.
335 This section does not apply to commercial lines residential or
336 commercial lines nonresidential coverage for the peril of flood.
337 An insurer may issue flood insurance policies, contracts,
338 endorsements, or excess coverage on a standard, preferred,
339 customized, flexible, or supplemental basis.

340 (4) An agent may export a contract or an endorsement
341 providing flood coverage to an eligible surplus lines insurer
342 ~~without making a diligent effort to seek such coverage from~~
343 ~~three or more authorized insurers under s. 626.916 s.~~
344 ~~626.916(1)(a).~~

345 Section 8. Section 655.047, Florida Statutes, is amended to
346 read:

347 655.047 Assessments; financial institutions.—

348 (1) Each state financial institution shall pay to the

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349 office a semiannual assessment for the 6-month periods beginning
350 January 1 and July 1. Assessments must be based on the total
351 assets as shown on the statement of condition of the financial
352 institution on the last business day in December and the last
353 business day in June of each year.

354 (2) ~~If mailed,~~ The semiannual assessment must be received
355 by the office by mail, wire transfer, automated clearinghouse,
356 or other electronic means approved by the office on or before
357 March January 31 and September 30 July 31 of each year following
358 the semiannual assessment period. ~~If transmitted through a wire~~
359 ~~transfer, an automated clearinghouse, or other electronic means~~
360 ~~approved by the office, the semiannual assessment must be~~
361 ~~transmitted to the office on or before January 31 and July 31 of~~
362 ~~each year.~~ The office may levy a late payment penalty of up to
363 \$100 per day or part thereof that a semiannual assessment
364 payment is overdue, unless it is excused for good cause.
365 However, for intentional late payment of a semiannual
366 assessment, the office shall levy an administrative fine of up
367 to \$1,000 a day for each day the semiannual assessment is
368 overdue.

369 (3) ~~The assessments required by this section cover the 6-~~
370 ~~month period following the first day of the month in which they~~
371 ~~are due.~~ The office may prorate the amount of the semiannual
372 assessment; however, no portion of a semiannual assessment is
373 refundable.

374 Section 9. Subsection (5) of section 655.414, Florida
375 Statutes, is amended to read:

376 655.414 Acquisition of assets; assumption of liabilities.-
377 With prior approval of the office, and upon such conditions as

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378 the commission prescribes by rule, a financial institution may
379 acquire 50 percent or more of the assets of, liabilities of, or
380 a combination of assets and liabilities of any other financial
381 institution in accordance with the procedures and subject to the
382 following conditions and limitations:

383 (5) ADOPTED PLAN; APPROVAL CERTIFICATION ~~CERTIFICATE;~~
384 ~~ABANDONMENT; CERTIFICATE OF ACQUISITION, ASSUMPTION, OR SALE.~~-

385 (a) If the plan is adopted by the members or stockholders
386 of the transferring financial institution, the president or vice
387 president and the cashier, manager, or corporate secretary of
388 such institution shall submit the adopted plan to the office,
389 together with a certified copy of the resolution of the members
390 or stockholders approving it.

391 (b) Upon receipt of the certified copies and evidence that
392 the participating financial institutions have complied with all
393 applicable state and federal law and rules, the office shall
394 certify, in writing, to the participants that the plan has been
395 approved.

396 (c) Notwithstanding approval of the members or stockholders
397 or certification by the office, the board of directors of the
398 transferring financial institution may abandon the ~~such a~~
399 transaction without further action or approval by the members or
400 stockholders, subject to the rights of third parties under any
401 contracts relating thereto.

402 (d) After the acquiring financial institution completes the
403 plan and submits a request with any evidence required by the
404 office to confirm the transaction's completion, the office may
405 issue a certificate to the acquiring financial institution
406 confirming that the acquisition, assumption, or sale transaction

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407 has been completed.

408 Section 10. Effective upon becoming a law, section 655.97,
409 Florida Statutes, is created to read:

410 655.97 Lawyer or law firm trust account interest rates.—

411 (1) A financial institution may hold funds in an interest-
412 bearing trust account of a lawyer or law firm in which the
413 institution remits interest or dividends on the balance of the
414 deposited funds to an entity established by the Supreme Court
415 for the purpose of providing or facilitating the provision of
416 free legal services to low-income individuals or for other
417 purposes authorized by the Supreme Court. If the institution
418 holds such an account, it must pay the highest interest rate or
419 dividend generally available from the institution to its
420 comparable business or consumer accounts or nonmaturing deposit
421 accounts, provided that the trust account meets or exceeds the
422 same minimum balance or other account requirements. The trust
423 account interest rate must be at least 0.25 percent if the
424 Federal Funds Effective Rate is less than 4 percent. The trust
425 account interest rate must be at least 0.5 percent if the
426 Federal Funds Effective Rate is 4 percent or greater.

427 (a) The financial institution must submit a rate validation
428 sheet and affidavit to the Chief Financial Officer by the 10th
429 day of each quarter attesting that it will pay the same interest
430 rate or dividend on the lawyer or law firm trust accounts that
431 it is paying on its comparable business or consumer accounts or
432 nonmaturing deposit accounts and that the rate will be at least
433 0.25 percent if the Federal Funds Effective Rate is less than 4
434 percent or at least 0.5 percent if the Federal Funds Effective
435 Rate is 4 percent or greater.

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436 (b) The affidavit must attest that the rate information
437 submitted on the rate validation sheet is true and factual.

438 (c) The Chief Financial Officer shall verify that the rate
439 validation sheet and affidavit have been received by the
440 Department of Financial Services.

441 (2) This section does not apply to interest rates
442 established by written contract or obligations unrelated to the
443 trust accounts described by this section.

444 Section 11. Subsection (6) of section 657.002, Florida
445 Statutes, is amended to read:

446 657.002 Definitions.—As used in this chapter:

447 (6) "Equity" means undivided earnings, ~~regular reserves,~~
448 and other reserves.

449 Section 12. Subsection (2) of section 657.028, Florida
450 Statutes, is amended to read:

451 657.028 Activities of directors, officers, committee
452 members, employees, and agents.—

453 (2) An elected officer, director, or committee member,
454 other than the chief executive officer, may not be compensated
455 for her or his service to the credit union, but an elected
456 officer, director, or committee member may be reimbursed for
457 necessary expenses incidental to performing official business
458 for the credit union as such.

459 Section 13. Subsections (2) and (4) of section 657.043,
460 Florida Statutes, are amended to read:

461 657.043 Reserves.—

462 ~~(2) REGULAR RESERVE. The regular reserve shall belong to~~
463 ~~the credit union and shall be used to meet losses. The regular~~
464 ~~reserve may not be decreased without the prior written approval~~

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465 ~~of the office or as provided by rule of the commission.~~

466 ~~(3)(4) SPECIAL RESERVES. In addition to such regular~~
467 ~~reserve,~~ Special reserves shall be established:

468 (a) To protect members against losses resulting from credit
469 extended or from risk assets when required by rule, or when
470 found by the office, in any special case, to be necessary for
471 that purpose; or

472 (b) As authorized by the board of directors.

473 Section 14. Subsection (1) of section 658.235, Florida
474 Statutes, is amended to read:

475 658.235 Subscriptions for stock; approval of major
476 shareholders.—

477 (1) ~~Within 6 months after commencement of corporate~~
478 ~~existence, and~~ At least 30 days before ~~prior to~~ opening, the
479 directors shall have completed the stock offering and shall file
480 with the office a final list of subscribers to all of the
481 capital stock of the proposed bank or trust company showing the
482 name and residence of each subscriber and the amount of stock of
483 every class subscribed for by each.

484 Section 15. Subsection (1) of section 658.25, Florida
485 Statutes, is amended to read:

486 658.25 Opening for business.—

487 (1) A bank or trust company corporation shall open and
488 conduct a general commercial bank or trust business within 18
489 months after the issuance of a final order of approval by the
490 office ~~no later than 12 months after the commencement of its~~
491 ~~corporate existence.~~

492 Section 16. Except as otherwise expressly provided in this
493 act and except for this section, which shall take effect upon

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494 this act becoming a law, this act shall take effect July 1,
495 2025.