

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"; authorizing specified nonadmitted insurers
9 to transact insurance as domestic surplus lines
10 insurers under certain circumstances; requiring
11 domestic surplus lines insurers to maintain a minimum
12 surplus amount; requiring such insurers to be deemed
13 eligible surplus lines insurers and to be included in
14 the list of eligible surplus lines insurers;
15 authorizing such insurers to write certain kinds of
16 insurance; requiring such insurers to be considered
17 unauthorized insurers for specified purposes;
18 requiring such insurers to be considered nonadmitted
19 insurers for specified purposes; authorizing domestic
20 surplus lines insurers to write only surplus lines
21 insurance under a specified circumstance; prohibiting
22 such insurers from simultaneously holding any
23 certificate of authority to operate as admitted
24 insurers; authorizing such insurers to write surplus
25 lines insurance in any jurisdiction if specified

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

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. Section 626.914, Florida Statutes, is amended
 48 to read:

49 626.914 Definitions.—As used in this Surplus Lines Law,
 50 the term:

51 (1)-(4) "Diligent effort" means seeking coverage from and
 52 having been rejected by at least three authorized insurers
 53 currently writing this type of coverage and documenting these
 54 rejections. However, if the residential structure has a dwelling
 55 replacement cost of \$700,000 or more, the term means seeking
 56 coverage from and having been rejected by at least one
 57 authorized insurer currently writing this type of coverage and
 58 documenting this rejection.

59 (2) "Domestic surplus lines insurer" means a nonadmitted
 60 insurer domiciled in this state that:

61 (a) Has been deemed eligible and authorized by the office
 62 to write surplus lines insurance; and

63 (b) May write surplus lines insurance in any jurisdiction,
 64 including this state. The authorization to write surplus lines
 65 insurance is not contingent on the company's holding of an
 66 existing certificate of authority.

67
 68 The term does not include an authorized insurer as defined in s.
 69 624.09.

70 (3)-(2) "Eligible surplus lines insurer" means:

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

74 (b) A domestic surplus lines insurer.

75 (4)-(3) "Export" ~~"To export"~~ means to place, in an

76 | unauthorized insurer under this Surplus Lines Law, insurance
 77 | covering a subject of insurance resident, located, or to be
 78 | performed in this state.

79 | (5)~~(1)~~ "Surplus lines agent" means an individual licensed
 80 | as provided in this part to handle the placement of insurance
 81 | coverages with unauthorized insurers and to place such coverages
 82 | with authorized insurers as to which the licensee is not
 83 | licensed as an agent.

84 | Section 2. Section 626.91805, Florida Statutes, is created
 85 | to read:

86 | 626.91805 Domestic surplus lines insurers.-

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

90 | (2) Notwithstanding any other law, a nonadmitted insurer
 91 | possessing a policyholder surplus of at least \$15 million may,
 92 | under a resolution by its board of directors and with the
 93 | written approval of the office, be eligible to transact
 94 | insurance as a domestic surplus lines insurer. A domestic
 95 | surplus lines insurer must maintain surplus of at least \$15
 96 | million at all times.

97 | (3) Notwithstanding s. 626.918(2), a domestic surplus
 98 | lines insurer shall be deemed an eligible surplus lines insurer
 99 | and shall be included in the list of eligible surplus lines
 100 | insurers required by s. 626.918(3). Eligible surplus lines

101 insurers listed in s. 626.918(3) may write any kind of insurance
102 that an unauthorized insurer not domiciled in this state is
103 eligible to write.

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

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

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

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

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

121 (9) A domestic surplus lines insurer is exempt from s.
122 624.408.

123 (10) A surplus lines insurance policy issued by a domestic
124 surplus lines insurer is exempt from all statutory requirements
125 relating to insurance rating and rating plans; policy forms;

126 premiums charged to insureds; policy cancellation, nonrenewal,
127 and renewal; and other statutory requirements in the same manner
128 and to the same extent as surplus lines policies issued by a
129 surplus lines insurer domiciled in another state.

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

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

141 (13) A domestic surplus lines insurer may not issue a
142 homeowner's policy covering a personal residential property
143 located in this state within 12 months after the effective date
144 of a nonrenewal or cancellation of a previous policy if the
145 nonrenewal or cancellation of the previous policy was initiated
146 by an affiliate of an admitted insurer. This restriction does
147 not apply to a nonrenewal or cancellation provided at the
148 insured's request. A domestic surplus lines insurer may not
149 issue a policy designed to satisfy the motor vehicle financial
150 responsibility requirements of this state under chapter 324, the

151 Workers' Compensation Law under chapter 440, or any other law of
152 this state mandating insurance coverage by an admitted insurer.

153 Section 3. Paragraph (b) of subsection (1) and paragraph
154 (b) of subsection (2) of section 458.320, Florida Statutes, are
155 amended to read:

156 458.320 Financial responsibility.—

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

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

176 (2) Physicians who perform surgery in an ambulatory
 177 surgical center licensed under chapter 395 and, as a continuing
 178 condition of hospital staff privileges, physicians who have
 179 staff privileges must also establish financial responsibility by
 180 one of the following methods:

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

194
 195 This subsection shall be inclusive of the coverage in subsection
 196 (1).

197 Section 4. Paragraph (b) of subsection (1) and paragraph
 198 (b) of subsection (2) of section 459.0085, Florida Statutes, are
 199 amended to read:

200 459.0085 Financial responsibility.—

201 (1) As a condition of licensing and maintaining an active
 202 license, and prior to the issuance or renewal of an active
 203 license or reactivation of an inactive license for the practice
 204 of osteopathic medicine, an applicant must by one of the
 205 following methods demonstrate to the satisfaction of the board
 206 and the department financial responsibility to pay claims and
 207 costs ancillary thereto arising out of the rendering of, or the
 208 failure to render, medical care or services:

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

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

225 (b) Obtaining and maintaining professional liability

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

238
 239 This subsection shall be inclusive of the coverage in subsection
 240 (1).

241 Section 5. Paragraph (a) of subsection (2) of section
 242 464.0123, Florida Statutes, is amended to read:

243 464.0123 Autonomous practice by an advanced practice
 244 registered nurse.—

245 (2) FINANCIAL RESPONSIBILITY.—

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

251 treatment, or services:

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

260 2. Obtaining and maintaining an unexpired, irrevocable
 261 letter of credit, established pursuant to chapter 675, in an
 262 amount of not less than \$100,000 per claim, with a minimum
 263 aggregate availability of credit of not less than \$300,000. The
 264 letter of credit must be payable to the advanced practice
 265 registered nurse as beneficiary upon presentment of a final
 266 judgment indicating liability and awarding damages to be paid by
 267 the advanced practice registered nurse or upon presentment of a
 268 settlement agreement signed by all parties to such agreement
 269 when such final judgment or settlement is a result of a claim
 270 arising out of the rendering of, or the failure to render,
 271 nursing care and services.

272 Section 6. Paragraph (b) of subsection (6) of section
 273 629.401, Florida Statutes, is amended to read:

274 629.401 Insurance exchange.—

275 (6)

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

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

287 2. Office approval and applications of underwriting
288 members.—No underwriting member shall commence operation without
289 the approval of the office. Before commencing operation, an
290 underwriting member shall provide a written application
291 containing:

292 a. Name, type, and purpose of the underwriting member.

293 b. Name, residence address, business background, and
294 qualifications of each person associated or to be associated in
295 the formation or financing of the underwriting member.

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

301 d. Full disclosure of the terms of all understandings and
 302 agreements existing or proposed for management or exclusive
 303 agency contracts.

304 3. Investigation of underwriting member applications.—In
 305 connection with any proposal to establish an underwriting
 306 member, the office shall make an investigation of:

307 a. The character, reputation, financial standing, and
 308 motives of the organizers, incorporators, or subscribers
 309 organizing the proposed underwriting member.

310 b. The character, financial responsibility, insurance
 311 experience, and business qualifications of its proposed
 312 officers.

313 c. The character, financial responsibility, business
 314 experience, and standing of the proposed stockholders and
 315 directors, or owners.

316 4. Notice of management changes.—An underwriting member
 317 shall promptly give the office written notice of any change
 318 among the directors or principal officers of the underwriting
 319 member within 30 days after such change. The office shall
 320 investigate the new directors or principal officers of the
 321 underwriting member. The office's investigation shall include an
 322 investigation of the character, financial responsibility,
 323 insurance experience, and business qualifications of any new
 324 directors or principal officers. As a result of the
 325 investigation, the office may require the underwriting member to

326 | replace any new directors or principal officers.

327 | 5. Alternate financial statement.—In lieu of any financial
328 | examination, the office may accept an audited financial
329 | statement.

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

338 | 7. Obstruction of examinations.—Any person or entity who
339 | or which willfully obstructs the office or its examiner in an
340 | examination is guilty of a misdemeanor of the second degree,
341 | punishable as provided in s. 775.082 or s. 775.083.

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

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

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

371 10. Examination of agents.—If the department has reason to
372 believe that any agent, as defined in s. 626.015 or s.
373 626.914(5) ~~s. 626.914~~, has violated or is violating any
374 provision of the insurance law, or upon receipt of a written
375 complaint signed by any interested person indicating that any

376 such violation may exist, the department shall conduct such
377 examination as it deems necessary of the accounts, records,
378 documents, and transactions pertaining to or affecting the
379 insurance affairs of such agent.

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

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

401 written report of the examination has been either made,
402 furnished, or filed in the office.

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

407 14. Consideration of examination reports by entity
408 examined.—After the examination report of an underwriting member
409 has been filed, an affidavit shall be filed with the office, not
410 more than 30 days after the report has been filed, on a form
411 furnished by the office and signed by the person or a
412 representative of any entity examined, stating that the report
413 has been read and that the recommendations made in the report
414 will be considered within a reasonable time.

415 15. Examination costs.—Each person or entity examined by
416 the office shall pay to the office the expenses incurred in such
417 examination.

418 16. Exchange costs.—An exchange shall reimburse the office
419 for any expenses incurred by it relating to the regulation of
420 the exchange and its members, except as specified in
421 subparagraph 15.

422 17. Powers of examiners.—Any examiner appointed by the
423 office, as to the subject of any examination, investigation, or
424 hearing being conducted by him or her, may administer oaths,
425 examine and cross-examine witnesses, and receive oral and

426 documentary evidence, and shall have the power to subpoena
427 witnesses, compel their attendance and testimony, and require by
428 subpoena the production of books, papers, records, files,
429 correspondence, documents, or other evidence which the examiner
430 deems relevant to the inquiry. If any person refuses to comply
431 with any such subpoena or to testify as to any matter concerning
432 which he or she may be lawfully interrogated, the Circuit Court
433 of Leon County or the circuit court of the county wherein such
434 examination, investigation, or hearing is being conducted, or of
435 the county wherein such person resides, on the office's
436 application may issue an order requiring such person to comply
437 with the subpoena and to testify; and any failure to obey such
438 an order of the court may be punished by the court as a contempt
439 thereof. Subpoenas shall be served, and proof of such service
440 made, in the same manner as if issued by a circuit court.
441 Witness fees and mileage, if claimed, shall be allowed the same
442 as for testimony in a circuit court.

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

447 19. Self-incrimination.—

448 a. If any person asks to be excused from attending or
449 testifying or from producing any books, papers, records,
450 contracts, documents, or other evidence in connection with any

451 examination, hearing, or investigation being conducted by the
452 office or its examiner, on the ground that the testimony or
453 evidence required of the person may tend to incriminate him or
454 her or subject him or her to a penalty or forfeiture, and the
455 person notwithstanding is directed to give such testimony or
456 produce such evidence, he or she shall, if so directed by the
457 office and the Department of Legal Affairs, nonetheless comply
458 with such direction; but the person shall not thereafter be
459 prosecuted or subjected to any penalty or forfeiture for or on
460 account of any transaction, matter, or thing concerning which he
461 or she may have so testified or produced evidence, and no
462 testimony so given or evidence so produced shall be received
463 against him or her upon any criminal action, investigation, or
464 proceeding; except that no such person so testifying shall be
465 exempt from prosecution or punishment for any perjury committed
466 by him or her in such testimony, and the testimony or evidence
467 so given or produced shall be admissible against him or her upon
468 any criminal action, investigation, or proceeding concerning
469 such perjury, nor shall he or she be exempt from the refusal,
470 suspension, or revocation of any license, permission, or
471 authority conferred, or to be conferred, pursuant to the
472 insurance law.

473 b. Any such individual may execute, acknowledge, and file
474 with the office a statement expressly waiving such immunity or
475 privilege in respect to any transaction, matter, or thing

476 specified in such statement, and thereupon the testimony of such
477 individual or such evidence in relation to such transaction,
478 matter, or thing may be received or produced before any judge or
479 justice, court, tribunal, grand jury, or otherwise; and if such
480 testimony or evidence is so received or produced, such
481 individual shall not be entitled to any immunity or privileges
482 on account of any testimony so given or evidence so produced.

483 20. Penalty for failure to testify.—Any person who refuses
484 or fails, without lawful cause, to testify relative to the
485 affairs of any member, associate broker, or other person when
486 subpoenaed and requested by the office to so testify, as
487 provided in subparagraph 17., shall, in addition to the penalty
488 provided in subparagraph 17., be guilty of a misdemeanor of the
489 second degree, punishable as provided in s. 775.082 or s.
490 775.083.

491 21. Name selection.—No underwriting member shall be formed
492 or authorized to transact insurance in this state under a name
493 which is the same as that of any authorized insurer or is so
494 nearly similar thereto as to cause or tend to cause confusion or
495 under a name which would tend to mislead as to the type of
496 organization of the insurer. Before incorporating under or using
497 any name, the underwriting syndicate or proposed underwriting
498 syndicate shall submit its name or proposed name to the office
499 for the approval of the office.

500 22. Capitalization.—An underwriting member approved on or

501 after July 2, 1987, shall provide an initial paid-in capital and
502 surplus of \$3 million and thereafter shall maintain a minimum
503 policyholder surplus of \$2 million in order to be permitted to
504 write insurance. Underwriting members approved prior to July 2,
505 1987, shall maintain a minimum policyholder surplus of \$1
506 million. After June 29, 1988, underwriting members approved
507 prior to July 2, 1987, must maintain a minimum policyholder
508 surplus of \$1.5 million to write insurance. After June 29, 1989,
509 underwriting members approved prior to July 2, 1987, must
510 maintain a minimum policyholder surplus of \$1.75 million to
511 write insurance. After December 30, 1989, all underwriting
512 members, regardless of the date they were approved, must
513 maintain a minimum policyholder surplus of \$2 million to write
514 insurance. Except for that portion of the paid-in capital and
515 surplus which shall be maintained in a security fund of an
516 exchange, the paid-in capital and surplus shall be invested by
517 an underwriting member in a manner consistent with ss. 625.301-
518 625.340. The portion of the paid-in capital and surplus in any
519 security fund of an exchange shall be invested in a manner
520 limited to investments for life insurance companies under the
521 Florida insurance laws.

522 23. Limitations on coverage written.—

523 a. Limit of risk.—No underwriting member shall expose
524 itself to any loss on any one risk in an amount exceeding 10
525 percent of its surplus to policyholders. Any risk or portion of

526 any risk which shall have been reinsured in an assuming
527 reinsurer authorized or approved to do such business in this
528 state shall be deducted in determining the limitation of risk
529 prescribed in this section.

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

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

543 (II) For purposes of this sub-subparagraph, the term
544 "gross written premiums" means direct premiums written and
545 reinsurance assumed.

546 c. Surplus as to policyholders.—For the purpose of
547 determining the limitation on coverage written, surplus as to
548 policyholders shall be deemed to include any voluntary reserves,
549 or any part thereof, which are not required by or pursuant to
550 law and shall be determined from the last sworn statement of

551 such underwriting member with the office, or by the last report
552 or examination filed by the office, whichever is more recent at
553 the time of assumption of such risk.

554 24. Unearned premium reserves.—An underwriting member must
555 at all times maintain an unearned premium reserve equal to 50
556 percent of the net written premiums of the subscribers on
557 policies having 1 year or less to run, and pro rata on those for
558 longer periods, except that all premiums on any marine or
559 transportation insurance trip risk shall be deemed unearned
560 until the trip is terminated. For the purpose of this
561 subparagraph, the term "net written premiums" means the premium
562 payments made by subscribers plus the premiums due from
563 subscribers, after deducting the amounts specifically provided
564 in the subscribers' agreements for expenses, including
565 reinsurance costs and fees paid to the attorney in fact,
566 provided that the power of attorney agreement contains an
567 explicit provision requiring the attorney in fact to refund any
568 unearned subscribers fees on a pro-rata basis for canceled
569 policies. If there is no such provision, the unearned premium
570 reserve shall be calculated without any adjustment for fees paid
571 to the attorney in fact. If the unearned premium reserves at any
572 time do not amount to \$100,000, there shall be maintained on
573 deposit at the exchange at all times additional funds in cash or
574 eligible securities which, together with the unearned premium
575 reserves, equal \$100,000. In calculating the foregoing reserves,

576 the amount of the attorney's bond, as filed with the office and
577 as required by s. 629.121, shall be included in such reserves.
578 If at any time the unearned premium reserves are less than the
579 foregoing requirements, the subscribers, or the attorney in
580 fact, shall advance funds to make up the deficiency. Such
581 advances shall only be repaid out of the surplus of the exchange
582 and only after receiving written approval from the office.

583 25. Loss reserves.—All underwriting members of an exchange
584 shall maintain loss reserves, including a reserve for incurred
585 but not reported claims. The reserves shall be subject to review
586 by the office, and, if loss experience shows that an
587 underwriting member's loss reserves are inadequate, the office
588 shall require the underwriting member to maintain loss reserves
589 in such additional amount as is needed to make them adequate.

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

600 27. Stock dividends.—A stock dividend may be paid by an

601 | underwriting member out of any available surplus funds in excess
602 | of the aggregate amount of surplus advanced to the underwriting
603 | member under subparagraph 29.

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

610 | 29. Borrowing of money by underwriting members.—

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

624 | b. Money so borrowed, together with any interest thereon
625 | if so stipulated in the agreement, shall not form a part of the

626 | underwriting member's legal liabilities except as to its surplus
627 | in excess of the amount thereof stipulated in the agreement, nor
628 | be the basis of any setoff; but until repayment, financial
629 | statements filed or published by an underwriting member shall
630 | show as a footnote thereto the amount thereof then unpaid,
631 | together with any interest thereon accrued but unpaid.

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

643 | 31. Prohibited conduct.—The following acts by a member,
644 | associate broker, or affiliated person shall constitute
645 | prohibited conduct:

646 | a. Fraud.

647 | b. Fraudulent or dishonest acts committed by a member or
648 | associate broker prior to admission to an exchange, if the facts
649 | and circumstances were not disclosed to the office upon
650 | application to become a member or associate broker.

- 651 c. Conduct detrimental to the welfare of an exchange.
- 652 d. Unethical or improper practices or conduct,
- 653 inconsistent with just and equitable principles of trade as set
- 654 forth in, but not limited to, ss. 626.951-626.9641 and 626.973.
- 655 e. Failure to use due diligence to ascertain the insurance
- 656 needs of a client or a principal.
- 657 f. Misstatements made under oath or upon an application
- 658 for membership on an exchange.
- 659 g. Failure to testify or produce documents when requested
- 660 by the office.
- 661 h. Willful violation of any law of this state.
- 662 i. Failure of an officer or principal to testify under
- 663 oath concerning a member, associate broker, or other person's
- 664 affairs as they relate to the operation of an exchange.
- 665 j. Violation of the constitution and bylaws of the
- 666 exchange.
- 667 32. Penalties for participating in prohibited conduct.—
- 668 a. The office may order the suspension of further
- 669 transaction of business on the exchange of any member or
- 670 associate broker found to have engaged in prohibited conduct. In
- 671 addition, any member or associate broker found to have engaged
- 672 in prohibited conduct may be subject to reprimand, censure,
- 673 and/or a fine not exceeding \$25,000 imposed by the office.
- 674 b. Any member which has an affiliated person who is found
- 675 to have engaged in prohibited conduct shall be subject to

676 involuntary withdrawal or in addition thereto may be subject to
677 suspension, reprimand, censure, and/or a fine not exceeding
678 \$25,000.

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

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

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

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

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

698 38. Changes in ownership or assets.—In the event of a
699 major change in the ownership or a major change in the assets of
700 an underwriting member, the underwriting member shall report

701 such change in writing to the office within 30 days of the
702 effective date thereof. The report shall set forth the details
703 of the change. Any change in ownership or assets of more than 5
704 percent shall be considered a major change.

705 39. Retaliation.—

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

726 b. Any tax, license, or other obligation imposed by any
 727 city, county, or other political subdivision or agency of a
 728 state, jurisdiction, or foreign country on an exchange, or on
 729 the agents or representatives on an exchange, shall be deemed to
 730 be imposed by such state, jurisdiction, or foreign country
 731 within the meaning of sub-subparagraph a.

732 40. Agents.—

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

746 b. Premium payments and other requirements.—If an
 747 underwriting member has assumed the risk as to a surplus lines
 748 coverage and if the premium therefor has been received by the
 749 surplus lines agent who placed such insurance, then in all
 750 questions thereafter arising under the coverage as between the

751 | underwriting member and the insured, the underwriting member
 752 | shall be deemed to have received the premium due to it for such
 753 | coverage; and the underwriting member shall be liable to the
 754 | insured as to losses covered by such insurance, and for unearned
 755 | premiums which may become payable to the insured upon
 756 | cancellation of such insurance, whether or not in fact the
 757 | surplus lines agent is indebted to the underwriting member with
 758 | respect to such insurance or for any other cause.

759 | 41. Improperly issued contracts, riders, and
 760 | endorsements.—

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

774 | b. Any insurance contract delivered or issued for delivery
 775 | in this state governing a subject or subjects of insurance

776 resident, located, or to be performed in this state which,
777 pursuant to the provisions of this section, the underwriting
778 member may not lawfully insure under such a contract shall be
779 cancelable at any time by the underwriting member, any provision
780 of the contract to the contrary notwithstanding; and the
781 underwriting member shall promptly cancel the contract in
782 accordance with the request of the office therefor. No such
783 illegality or cancellation shall be deemed to relieve the
784 underwriting syndicate of any liability incurred by it under the
785 contract while in force or to prohibit the underwriting
786 syndicate from retaining the pro rata earned premium thereon.
787 This provision does not relieve the underwriting syndicate from
788 any penalty otherwise incurred by the underwriting syndicate.

789 42. Satisfaction of judgments.—

790 a. Every judgment or decree for the recovery of money
791 heretofore or hereafter entered in any court of competent
792 jurisdiction against any underwriting member shall be fully
793 satisfied within 60 days from and after the entry thereof or, in
794 the case of an appeal from such judgment or decree, within 60
795 days from and after the affirmance of the judgment or decree by
796 the appellate court.

797 b. If the judgment or decree is not satisfied as required
798 under sub-subparagraph a., and proof of such failure to satisfy
799 is made by filing with the office a certified transcript of the
800 docket of the judgment or the decree together with a certificate

801 by the clerk of the court wherein the judgment or decree remains
802 unsatisfied, in whole or in part, after the time provided in
803 sub-subparagraph a., the office shall forthwith prohibit the
804 underwriting member from transacting business. The office shall
805 not permit such underwriting member to write any new business
806 until the judgment or decree is wholly paid and satisfied and
807 proof thereof is filed with the office under the official
808 certificate of the clerk of the court wherein the judgment was
809 recovered, showing that the judgment or decree is satisfied of
810 record, and until the expenses and fees incurred in the case are
811 also paid by the underwriting syndicate.

812 43. Tender and exchange offers.—No person shall conclude a
813 tender offer or an exchange offer or otherwise acquire 5 percent
814 or more of the outstanding voting securities of an underwriting
815 member or controlling company or purchase 5 percent or more of
816 the ownership of an underwriting member or controlling company
817 unless such person has filed with, and obtained the approval of,
818 the office and sent to such underwriting member a statement
819 setting forth:

820 a. The identity of, and background information on, each
821 person by whom, or on whose behalf, the acquisition is to be
822 made; and, if the acquisition is to be made by or on behalf of a
823 corporation, association, or trust, the identity of and
824 background information on each director, officer, trustee, or
825 other natural person performing duties similar to those of a

826 | director, officer, or trustee for the corporation, association,
827 | or trust.

828 | b. The source and amount of the funds or other
829 | consideration used, or to be used, in making the acquisition.

830 | c. Any plans or proposals which such person may have to
831 | liquidate such member, to sell its assets, or to merge or
832 | consolidate it.

833 | d. The percentage of ownership which such person proposes
834 | to acquire and the terms of the offer or exchange, as the case
835 | may be.

836 | e. Information as to any contracts, arrangements, or
837 | understandings with any party with respect to any securities of
838 | such member or controlling company, including, but not limited
839 | to, information relating to the transfer of any securities,
840 | option arrangements, or puts or calls or the giving or
841 | withholding of proxies, naming the party with whom such
842 | contract, arrangements, or understandings have been entered and
843 | giving the details thereof.

844 | f. The office may disapprove any acquisition subject to
845 | the provisions of this subparagraph by any person or any
846 | affiliated person of such person who:

847 | (I) Willfully violates this subparagraph;

848 | (II) In violation of an order of the office issued
849 | pursuant to sub-subparagraph j., fails to divest himself or
850 | herself of any stock obtained in violation of this subparagraph,

851 or fails to divest himself or herself of any direct or indirect
 852 control of such stock, within 25 days after such order; or

853 (III) In violation of an order issued by the office
 854 pursuant to sub-subparagraph j., acquires additional stock of
 855 the underwriting member or controlling company, or direct or
 856 indirect control of such stock, without complying with this
 857 subparagraph.

858 g. The person or persons filing the statement required by
 859 this subparagraph have the burden of proof. The office shall
 860 approve any such acquisition if it finds, on the basis of the
 861 record made during any proceeding or on the basis of the filed
 862 statement if no proceeding is conducted, that:

863 (I) Upon completion of the acquisition, the underwriting
 864 member will be able to satisfy the requirements for the approval
 865 to write the line or lines of insurance for which it is
 866 presently approved;

867 (II) The financial condition of the acquiring person or
 868 persons will not jeopardize the financial stability of the
 869 underwriting member or prejudice the interests of its
 870 policyholders or the public;

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

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

876 (B) To liquidate any controlling company, sell its assets,
877 or merge or consolidate it with any person, or to make any major
878 change in its business or corporate structure or management
879 which would have an effect upon the underwriting member

880

881 is fair and free of prejudice to the policyholders of the
882 underwriting member or to the public;

883 (IV) The competence, experience, and integrity of those
884 persons who will control directly or indirectly the operation of
885 the underwriting member indicate that the acquisition is in the
886 best interest of the policyholders of the underwriting member
887 and in the public interest;

888 (V) The natural persons for whom background information is
889 required to be furnished pursuant to this subparagraph have such
890 backgrounds as to indicate that it is in the best interests of
891 the policyholders of the underwriting member, and in the public
892 interest, to permit such persons to exercise control over such
893 underwriting member;

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

897 (VII) The management of the underwriting member after the
898 acquisition will be competent and trustworthy and will possess
899 sufficient managerial experience so as to make the proposed
900 operation of the underwriting member not hazardous to the

901 insurance-buying public;

902 (VIII) The management of the underwriting member after the
 903 acquisition will not include any person who has directly or
 904 indirectly through ownership, control, reinsurance transactions,
 905 or other insurance or business relations unlawfully manipulated
 906 the assets, accounts, finances, or books of any insurer or
 907 underwriting member or otherwise acted in bad faith with respect
 908 thereto;

909 (IX) The acquisition is not likely to be hazardous or
 910 prejudicial to the underwriting member's policyholders or the
 911 public; and

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

915 h. No vote by the stockholder of record, or by any other
 916 person, of any security acquired in contravention of the
 917 provisions of this subparagraph is valid. Any acquisition of any
 918 security contrary to the provisions of this subparagraph is
 919 void. Upon the petition of the underwriting member or
 920 controlling company, the circuit court for the county in which
 921 the principal office of such underwriting member is located may,
 922 without limiting the generality of its authority, order the
 923 issuance or entry of an injunction or other order to enforce the
 924 provisions of this subparagraph. There shall be a private right
 925 of action in favor of the underwriting member or controlling

926 company to enforce the provisions of this subparagraph. No
927 demand upon the office that it perform its functions shall be
928 required as a prerequisite to any suit by the underwriting
929 member or controlling company against any other person, and in
930 no case shall the office be deemed a necessary party to any
931 action by such underwriting member or controlling company to
932 enforce the provisions of this subparagraph. Any person who
933 makes or proposes an acquisition requiring the filing of a
934 statement pursuant to this subparagraph, or who files such a
935 statement, shall be deemed to have thereby designated the Chief
936 Financial Officer as such person's agent for service of process
937 under this subparagraph and shall thereby be deemed to have
938 submitted himself or herself to the administrative jurisdiction
939 of the office and to the jurisdiction of the circuit court.

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

949 j. Upon notification to the office by the underwriting
950 member or a controlling company that any person or any

951 affiliated person of such person has acquired 5 percent or more
952 of the outstanding voting securities of the underwriting member
953 or controlling company without complying with the provisions of
954 this subparagraph, the office shall order that the person and
955 any affiliated person of such person cease acquisition of any
956 further securities of the underwriting member or controlling
957 company; however, the person or any affiliated person of such
958 person may request a proceeding, which proceeding shall be
959 convened within 7 days after the rendering of the order for the
960 sole purpose of determining whether the person, individually or
961 in connection with any affiliated person of such person, has
962 acquired 5 percent or more of the outstanding voting securities
963 of an underwriting member or controlling company. Upon the
964 failure of the person or affiliated person to request a hearing
965 within 7 days, or upon a determination at a hearing convened
966 pursuant to this sub-subparagraph that the person or affiliated
967 person has acquired voting securities of an underwriting member
968 or controlling company in violation of this subparagraph, the
969 office may order the person and affiliated person to divest
970 themselves of any voting securities so acquired.

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

974 (A) The control of which is acquired in violation of this
975 subparagraph;

976 (B) That is controlled, directly or indirectly, by any
 977 person or any affiliated person of such person who, in violation
 978 of this subparagraph, has obtained control of an underwriting
 979 member or controlling company; or

980 (C) That is controlled, directly or indirectly, by any
 981 person who, directly or indirectly, controls any other person
 982 who, in violation of this subparagraph, acquires control of an
 983 underwriting member or controlling company.

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

991 1.(I) For the purpose of this sub-sub-subparagraph, the
 992 term "affiliated person" of another person means:

993 (A) The spouse of such other person;

994 (B) The parents of such other person and their lineal
 995 descendants and the parents of such other person's spouse and
 996 their lineal descendants;

997 (C) Any person who directly or indirectly owns or
 998 controls, or holds with power to vote, 5 percent or more of the
 999 outstanding voting securities of such other person;

1000 (D) Any person 5 percent or more of the outstanding voting

1001 securities of which are directly or indirectly owned or
 1002 controlled, or held with power to vote, by such other person;

1003 (E) Any person or group of persons who directly or
 1004 indirectly control, are controlled by, or are under common
 1005 control with such other person; or any officer, director,
 1006 partner, copartner, or employee of such other person;

1007 (F) If such other person is an investment company, any
 1008 investment adviser of such company or any member of an advisory
 1009 board of such company;

1010 (G) If such other person is an unincorporated investment
 1011 company not having a board of directors, the depositor of such
 1012 company; or

1013 (H) Any person who has entered into an agreement, written
 1014 or unwritten, to act in concert with such other person in
 1015 acquiring or limiting the disposition of securities of an
 1016 underwriting member or controlling company.

1017 (II) For the purposes of this section, the term
 1018 "controlling company" means any corporation, trust, or
 1019 association owning, directly or indirectly, 25 percent or more
 1020 of the voting securities of one or more underwriting members.

1021 m. The commission may adopt, amend, or repeal rules that
 1022 are necessary to implement the provisions of this subparagraph,
 1023 pursuant to chapter 120.

1024 44. Background information.—The information as to the
 1025 background and identity of each person about whom information is

1026 required to be furnished pursuant to sub-subparagraph 43.a.
1027 shall include, but shall not be limited to:

1028 a. Such person's occupations, positions of employment, and
1029 offices held during the past 10 years.

1030 b. The principal business and address of any business,
1031 corporation, or other organization in which each such office was
1032 held or in which such occupation or position of employment was
1033 carried on.

1034 c. Whether, at any time during such 10-year period, such
1035 person was convicted of any crime other than a traffic
1036 violation.

1037 d. Whether, during such 10-year period, such person has
1038 been the subject of any proceeding for the revocation of any
1039 license and, if so, the nature of such proceeding and the
1040 disposition thereof.

1041 e. Whether, during such 10-year period, such person has
1042 been the subject of any proceeding under the federal Bankruptcy
1043 Act or whether, during such 10-year period, any corporation,
1044 partnership, firm, trust, or association in which such person
1045 was a director, officer, trustee, partner, or other official has
1046 been subject to any such proceeding, either during the time in
1047 which such person was a director, officer, trustee, partner, or
1048 other official, or within 12 months thereafter.

1049 f. Whether, during such 10-year period, such person has
1050 been enjoined, either temporarily or permanently, by a court of

1051 competent jurisdiction from violating any federal or state law
 1052 regulating the business of insurance, securities, or banking, or
 1053 from carrying out any particular practice or practices in the
 1054 course of the business of insurance, securities, or banking,
 1055 together with details of any such event.

1056 45. Security fund.—All underwriting members shall be
 1057 members of the security fund of any exchange.

1058 46. Underwriting member defined.—Whenever the term
 1059 "underwriting member" is used in this subsection, it shall be
 1060 construed to mean "underwriting syndicate."

1061 47. Offsets.—Any action, requirement, or constraint
 1062 imposed by the office shall reduce or offset similar actions,
 1063 requirements, or constraints of any exchange.

1064 48. Restriction on member ownership.—

1065 a. Investments existing prior to July 2, 1987.—The
 1066 investment in any member by brokers, agents, and intermediaries
 1067 transacting business on the exchange, and the investment in any
 1068 such broker, agent, or intermediary by any member, directly or
 1069 indirectly, shall in each case be limited in the aggregate to
 1070 less than 20 percent of the total investment in such member,
 1071 broker, agent, or intermediary, as the case may be. After
 1072 December 31, 1987, the aggregate percent of the total investment
 1073 in such member by any broker, agent, or intermediary and the
 1074 aggregate percent of the total investment in any such broker,
 1075 agent, or intermediary by any member, directly or indirectly,

1076 shall not exceed 15 percent. After June 30, 1988, such aggregate
 1077 percent shall not exceed 10 percent and after December 31, 1988,
 1078 such aggregate percent shall not exceed 5 percent.

1079 b. Investments arising on or after July 2, 1987.—The
 1080 investment in any underwriting member by brokers, agents, or
 1081 intermediaries transacting business on the exchange, and the
 1082 investment in any such broker, agent, or intermediary by any
 1083 underwriting member, directly or indirectly, shall in each case
 1084 be limited in the aggregate to less than 5 percent of the total
 1085 investment in such underwriting member, broker, agent, or
 1086 intermediary.

1087 49. "Underwriting manager" defined.—"Underwriting manager"
 1088 as used in this subparagraph includes any person, partnership,
 1089 corporation, or organization providing any of the following
 1090 services to underwriting members of the exchange:

1091 a. Office management and allied services, including
 1092 correspondence and secretarial services.

1093 b. Accounting services, including bookkeeping and
 1094 financial report preparation.

1095 c. Investment and banking consultations and services.

1096 d. Underwriting functions and services including the
 1097 acceptance, rejection, placement, and marketing of risk.

1098 50. Prohibition of underwriting manager investment.—Any
 1099 direct or indirect investment in any underwriting manager by a
 1100 broker member or any affiliated person of a broker member or any

1101 direct or indirect investment in a broker member by an
1102 underwriting manager or any affiliated person of an underwriting
1103 manager is prohibited. "Affiliated person" for purposes of this
1104 subparagraph is defined in subparagraph 43.

1105 51. An underwriting member may not accept reinsurance on
1106 an assumed basis from an affiliate or a controlling company, nor
1107 may a broker member or management company place reinsurance from
1108 an affiliate or controlling company of theirs with an
1109 underwriting member. "Affiliate and controlling company" for
1110 purposes of this subparagraph is defined in subparagraph 43.

1111 52. Premium defined.—"Premium" is the consideration for
1112 insurance, by whatever name called. Any "assessment" or any
1113 "membership," "policy," "survey," "inspection," "service" fee or
1114 charge or similar fee or charge in consideration for an
1115 insurance contract is deemed part of the premium.

1116 53. Rules.—The commission shall adopt rules necessary for
1117 or as an aid to the effectuation of any provision of this
1118 section.

1119 Section 7. This act shall take effect July 1, 2022.