

By Senator Brandes

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1 A bill to be entitled
2 An act relating to the regulation of insurance
3 companies; amending s. 215.555, F.S.; deleting a
4 future repeal of an exemption of medical malpractice
5 insurance premiums from certain emergency assessments
6 by the State Board of Administration relating to the
7 Florida Hurricane Catastrophe Fund; amending s.
8 625.012, F.S.; revising a definition of "assets" of an
9 insurer to include certain assessments levied by the
10 Office of Insurance Regulation; amending s. 627.062,
11 F.S.; revising requirements for certain rate filings
12 by medical malpractice insurers; amending s. 627.0645,
13 F.S.; adding certain medical malpractice insurance to
14 casualty insurance excluded from an annual base rate
15 filing requirement for rating organizations; amending
16 s. 627.4035, F.S.; revising the methods of paying
17 premiums for insurance contracts; authorizing an
18 insurer to impose a specified insufficient funds fee
19 if certain premium payment methods are returned,
20 declined, or cannot be processed; amending s. 627.421,
21 F.S.; providing that an electronically delivered
22 document in an insurance policy meets formatting
23 requirements for printed documents under certain
24 conditions; amending s. 627.7295, F.S.; conforming
25 provisions to changes made by the act; creating s.
26 627.747, F.S.; providing that certain provisions do
27 not prohibit an insurer from excluding all coverage
28 under a certain motor vehicle insurance policy for an
29 identified household member under certain
30 circumstances; providing an effective date.

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

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Section 1. Paragraph (b) of subsection (6) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(6) REVENUE BONDS.—

(b) *Emergency assessments.*—

1. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy, by order, an emergency assessment on direct premiums for all property and casualty lines of business in this state, including property and casualty business of surplus lines insurers regulated under part VIII of chapter 626, but not including any workers' compensation premiums or medical malpractice premiums. As used in this subsection, the term "property and casualty business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program. The assessment shall be specified as a percentage of direct written premium and is subject to annual adjustments by the board in order to meet debt obligations. The same percentage applies to all policies in lines of business subject to the assessment issued or renewed during the 12-month period beginning on the

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62 effective date of the assessment.

63 2. A premium is not subject to an annual assessment under
64 this paragraph in excess of 6 percent of premium with respect to
65 obligations arising out of losses attributable to any one
66 contract year, and a premium is not subject to an aggregate
67 annual assessment under this paragraph in excess of 10 percent
68 of premium. An annual assessment under this paragraph continues
69 as long as the revenue bonds issued with respect to which the
70 assessment was imposed are outstanding, including any bonds the
71 proceeds of which were used to refund the revenue bonds, unless
72 adequate provision has been made for the payment of the bonds
73 under the documents authorizing issuance of the bonds.

74 3. Emergency assessments shall be collected from
75 policyholders. Emergency assessments shall be remitted by
76 insurers as a percentage of direct written premium for the
77 preceding calendar quarter as specified in the order from the
78 Office of Insurance Regulation. The office shall verify the
79 accurate and timely collection and remittance of emergency
80 assessments and shall report the information to the board in a
81 form and at a time specified by the board. Each insurer
82 collecting assessments shall provide the information with
83 respect to premiums and collections as may be required by the
84 office to enable the office to monitor and verify compliance
85 with this paragraph.

86 4. With respect to assessments of surplus lines premiums,
87 each surplus lines agent shall collect the assessment at the
88 same time as the agent collects the surplus lines tax required
89 by s. 626.932, and the surplus lines agent shall remit the
90 assessment to the Florida Surplus Lines Service Office created

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91 by s. 626.921 at the same time as the agent remits the surplus
92 lines tax to the Florida Surplus Lines Service Office. The
93 emergency assessment on each insured procuring coverage and
94 filing under s. 626.938 shall be remitted by the insured to the
95 Florida Surplus Lines Service Office at the time the insured
96 pays the surplus lines tax to the Florida Surplus Lines Service
97 Office. The Florida Surplus Lines Service Office shall remit the
98 collected assessments to the fund or corporation as provided in
99 the order levied by the Office of Insurance Regulation. The
100 Florida Surplus Lines Service Office shall verify the proper
101 application of such emergency assessments and shall assist the
102 board in ensuring the accurate and timely collection and
103 remittance of assessments as required by the board. The Florida
104 Surplus Lines Service Office shall annually calculate the
105 aggregate written premium on property and casualty business,
106 other than workers' compensation and medical malpractice,
107 procured through surplus lines agents and insureds procuring
108 coverage and filing under s. 626.938 and shall report the
109 information to the board in a form and at a time specified by
110 the board.

111 5. Any assessment authority not used for a particular
112 contract year may be used for a subsequent contract year. If,
113 for a subsequent contract year, the board determines that the
114 amount of revenue produced under subsection (5) is insufficient
115 to fund the obligations, costs, and expenses of the fund and the
116 corporation, including repayment of revenue bonds and that
117 portion of the debt service coverage not met by reimbursement
118 premiums, the board shall direct the Office of Insurance
119 Regulation to levy an emergency assessment up to an amount not

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120 exceeding the amount of unused assessment authority from a
121 previous contract year or years, plus an additional 4 percent
122 provided that the assessments in the aggregate do not exceed the
123 limits specified in subparagraph 2.

124 6. The assessments otherwise payable to the corporation
125 under this paragraph shall be paid to the fund unless the Office
126 of Insurance Regulation and the Florida Surplus Lines Service
127 Office received a notice from the corporation and the fund,
128 which shall be conclusive and upon which they may rely without
129 further inquiry, that the corporation has issued bonds and the
130 fund has no agreements in effect with local governments under
131 paragraph (c). On or after the date of the notice and until the
132 date the corporation has no bonds outstanding, the fund shall
133 have no right, title, or interest in or to the assessments,
134 except as provided in the fund's agreement with the corporation.

135 7. Emergency assessments are not premium and are not
136 subject to the premium tax, to the surplus lines tax, to any
137 fees, or to any commissions. An insurer is liable for all
138 assessments that it collects and must treat the failure of an
139 insured to pay an assessment as a failure to pay the premium. An
140 insurer is not liable for uncollectible assessments.

141 8. If an insurer is required to return an unearned premium,
142 it shall also return any collected assessment attributable to
143 the unearned premium. A credit adjustment to the collected
144 assessment may be made by the insurer with regard to future
145 remittances that are payable to the fund or corporation, but the
146 insurer is not entitled to a refund.

147 9. If a surplus lines insured or an insured who has
148 procured coverage and filed under s. 626.938 is entitled to the

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149 return of an unearned premium, the Florida Surplus Lines Service
150 Office shall provide a credit or refund to the agent or such
151 insured for the collected assessment attributable to the
152 unearned premium before remitting the emergency assessment
153 collected to the fund or corporation.

154 ~~10. The exemption of medical malpractice insurance premiums~~
155 ~~from emergency assessments under this paragraph is repealed May~~
156 ~~31, 2019, and medical malpractice insurance premiums shall be~~
157 ~~subject to emergency assessments attributable to loss events~~
158 ~~occurring in the contract years commencing on June 1, 2019.~~

159 Section 2. Paragraph (a) of subsection (15) of section
160 625.012, Florida Statutes, is amended to read:

161 625.012 "Assets" defined.—In any determination of the
162 financial condition of an insurer, there shall be allowed as
163 "assets" only such assets as are owned by the insurer and which
164 consist of:

165 (15) (a) Assessments levied pursuant to s. 631.57(3) (a) and
166 (e) or s. 631.914 which ~~that~~ are paid before policy surcharges
167 are collected and result in a receivable for policy surcharges
168 to be collected in the future. This amount, to the extent it is
169 likely that it will be realized, meets the definition of an
170 admissible asset as specified in the National Association of
171 Insurance Commissioners' Statement of Statutory Accounting
172 Principles No. 4. The asset shall be established and recorded
173 separately from the liability regardless of whether it is based
174 on a retrospective or prospective premium-based assessment. If
175 an insurer is unable to fully recoup the amount of the
176 assessment because of a reduction in writings or withdrawal from
177 the market, the amount recorded as an asset shall be reduced to

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178 the amount reasonably expected to be recouped.

179 Section 3. Paragraph (e) of subsection (7) of section
180 627.062, Florida Statutes, is amended to read:

181 627.062 Rate standards.—

182 (7) The provisions of this subsection apply only to rates
183 for medical malpractice insurance and control to the extent of
184 any conflict with other provisions of this section.

185 (e) For medical malpractice rates subject to paragraph
186 (2) (a), the medical malpractice insurer shall make an annual
187 base a rate filing in accordance with s. 627.0645 ~~under this~~
188 ~~section~~, sworn to by at least two executive officers of the
189 insurer, ~~at least once each calendar year.~~

190 Section 4. Subsection (1) of section 627.0645, Florida
191 Statutes, is amended to read:

192 627.0645 Annual filings.—

193 (1) Each rating organization filing rates for, and each
194 insurer writing, any line of property or casualty insurance to
195 which this part applies, except:

196 (a) Workers' compensation and employer's liability
197 insurance;

198 (b) Insurance as defined in ss. 624.604 and 624.605,
199 limited to coverage of commercial risks other than commercial
200 residential multiperil and medical malpractice insurance that is
201 subject to s. 627.062(2) (a) and (f); or

202 (c) Travel insurance, if issued as a master group policy
203 with a situs in another state where each certificateholder pays
204 less than \$30 in premium for each covered trip and where the
205 insurer has written less than \$1 million in annual written
206 premiums in the travel insurance product in this state during

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207 the most recent calendar year,

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209 shall make an annual base rate filing for each such line with
210 the office no later than 12 months after its previous base rate
211 filing, demonstrating that its rates are not inadequate.

212 Section 5. Section 627.4035, Florida Statutes, is amended
213 to read:

214 627.4035 ~~Cash~~ Payment of premiums; claims.—

215 (1) (a) The premiums for insurance contracts issued in this
216 state or covering risk located in this state must ~~shall~~ be paid
217 in cash consisting of coins, currency, checks, electronic
218 checks, drafts, or money orders or by using a debit card, credit
219 card, automatic electronic funds transfer, or payroll deduction
220 plan. ~~By July 1, 2007,~~ Insurers issuing personal lines
221 residential and commercial property policies shall provide a
222 premium payment plan option to their policyholders which allows
223 for a minimum of quarterly and semiannual payment of premiums.
224 Insurers may, but are not required to, offer monthly payment
225 plans. Insurers issuing such policies must submit their premium
226 payment plan option to the office for approval before use.

227 (b) If, due to insufficient funds, a payment of premium
228 under this subsection by debit card, credit card, electronic
229 funds transfer, or electronic check is returned, is declined, or
230 cannot be processed, the insurer may impose an insufficient
231 funds fee of up to \$15 per occurrence pursuant to the policy
232 terms.

233 (2) Subsection (1) is not applicable to:

234 (a) Reinsurance agreements;

235 (b) Pension plans;

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236 (c) Premium loans, whether or not subject to an automatic
237 provision;

238 (d) Dividends, whether to purchase additional paid-up
239 insurance or to shorten the dividend payment period;

240 (e) Salary deduction plans;

241 (f) Preauthorized check plans;

242 (g) Waivers of premiums on disability;

243 (h) Nonforfeiture provisions affording benefits under
244 supplementary contracts; or

245 (i) Such other methods of paying for life insurance as may
246 be permitted by the commission pursuant to rule or regulation.

247 (3) All payments of claims made in this state under any
248 contract of insurance shall be paid:

249 (a) In cash consisting of coins, currency, checks, drafts,
250 or money orders and, if by check or draft, shall be in such form
251 as will comply with the standards for cash items adopted by the
252 Federal Reserve System to facilitate the sorting, routing, and
253 mechanized processing of such items; or

254 (b) If authorized in writing by the recipient or the
255 recipient's representative, by debit card or any other form of
256 electronic transfer. Any fees or costs to be charged against the
257 recipient must be disclosed in writing to the recipient or the
258 recipient's representative at the time of written authorization.
259 However, the written authorization requirement may be waived by
260 the recipient or the recipient's representative if the insurer
261 verifies the identity of the insured or the insured's recipient
262 and does not charge a fee for the transaction. If the funds are
263 misdirected, the insurer remains liable for the payment of the
264 claim.

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265 Section 6. Subsection (5) is added to section 627.421,
266 Florida Statutes, to read:

267 627.421 Delivery of policy.—

268 (5) An electronically delivered document satisfies any
269 font, size, color, spacing, or other formatting requirement for
270 printed documents if the format in the electronically delivered
271 document has reasonably similar proportions or emphasis of the
272 characters relative to the rest of the electronic document or is
273 otherwise displayed in a reasonably conspicuous manner.

274 Section 7. Subsection (9) of section 627.7295, Florida
275 Statutes, is amended to read:

276 627.7295 Motor vehicle insurance contracts.—

277 ~~(9)(a) In addition to the methods provided in s.~~
278 ~~627.4035(1), premium for motor vehicle insurance contracts~~
279 ~~issued in this state or covering risk located in this state may~~
280 ~~be paid in cash in the form of a draft or drafts.~~

281 ~~(b) If, due to insufficient funds, payment of premium under~~
282 ~~this subsection by debit card, credit card, electronic funds~~
283 ~~transfer, or electronic check is returned, is declined, or~~
284 ~~cannot be processed, the insurer may impose an insufficient~~
285 ~~funds fee of up to \$15 per occurrence pursuant to the policy~~
286 ~~terms.~~

287 Section 8. Section 627.747, Florida Statutes, is created to
288 read:

289 627.747 Named driver exclusion.—If the insurer identifies a
290 household member by name and the named insured consents in
291 writing, ss. 320.02, 324.022, and 627.727 do not prohibit an
292 insurer that issues an insurance policy on a private passenger
293 motor vehicle from excluding all coverage under the policy for

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294 the identified member of the household, unless the excluded
295 household member is injured while he or she is not operating the
296 motor vehicle.

297 Section 9. This act shall take effect upon becoming a law.