

**By** the Committees on Appropriations; and Banking and Insurance;  
and Senator Brandes

576-03479-17

2017454c2

1                   A bill to be entitled  
2           An act relating to the regulation of insurance  
3           companies; amending s. 177.041, F.S.; providing that a  
4           specified property information report, rather than a  
5           specified certification by an abstractor or a title  
6           company, may be submitted as part of certain  
7           information required in relation to the plat or replat  
8           of a subdivision; amending ss. 177.091 and 197.502,  
9           F.S.; conforming provisions to changes made by the  
10          act; amending s. 215.555, F.S.; deleting a future  
11          repeal of an exemption of medical malpractice  
12          insurance premiums from certain emergency assessments  
13          by the State Board of Administration relating to the  
14          Florida Hurricane Catastrophe Fund; amending s.  
15          624.407, F.S.; specifying the minimum surplus as to  
16          policyholders for insurers that only transact in  
17          specified forms of residential property insurance;  
18          amending s. 624.424, F.S.; revising a requirement for  
19          audit committees established by the boards of  
20          directors of insurers, relating to relationships that  
21          would interfere with the exercise of independent  
22          judgment of committee members; amending s. 625.012,  
23          F.S.; revising the allowable assets of insurers  
24          relating to specified levied assessments; amending s.  
25          627.062, F.S.; revising requirements for certain rate  
26          filings by medical malpractice insurers; amending s.  
27          627.0645, F.S.; adding certain medical malpractice  
28          insurance to casualty insurance excluded from an  
29          annual base rate filing requirement for rating

576-03479-17

2017454c2

30 organizations; amending s. 627.4035, F.S.; revising  
31 the methods of paying premiums for insurance  
32 contracts; authorizing an insurer to impose a  
33 specified insufficient funds fee if certain premium  
34 payment methods are returned, are declined, or cannot  
35 be processed; providing an exception; amending s.  
36 627.421, F.S.; providing that an electronically  
37 delivered document in an insurance policy meets  
38 formatting requirements for printed documents under  
39 certain conditions; amending s. 627.7295, F.S.;  
40 conforming provisions to changes made by the act;  
41 amending s. 627.7843, F.S.; replacing provisions  
42 relating to ownership and encumbrance reports with  
43 provisions relating to property information reports;  
44 defining the term "property information report";  
45 prohibiting property information reports from setting  
46 forth or implying certain assurances; providing  
47 construction; specifying a limitation on the  
48 contractual liability of issuers of property  
49 information reports; requiring a specified disclosure  
50 in property information reports; providing  
51 applicability; providing an effective date.

52  
53 Be It Enacted by the Legislature of the State of Florida:

54  
55 Section 1. Subsection (2) of section 177.041, Florida  
56 Statutes, is amended to read:

57 177.041 Boundary survey and title certification required.-  
58 Every plat or replat of a subdivision submitted to the approving

576-03479-17

2017454c2

59 agency of the local governing body must be accompanied by:

60 (2) A title opinion of an attorney at law licensed in  
61 Florida or a property information report ~~certification~~ by an  
62 ~~abstractor or a title company~~ showing that record title to the  
63 land as described and shown on the plat is in the name of the  
64 person, persons, corporation, or entity executing the  
65 dedication. The title opinion or property information report  
66 must ~~certification shall~~ also show all mortgages not satisfied  
67 or released of record nor otherwise terminated by law.

68 Section 2. Subsection (16) of section 177.091, Florida  
69 Statutes, is amended to read:

70 177.091 Plats made for recording.—Every plat of a  
71 subdivision offered for recording shall conform to the  
72 following:

73 (16) Location and width of proposed easements and existing  
74 easements identified in the title opinion or property  
75 information report ~~certification~~ required by s. 177.041(2) must  
76 ~~shall~~ be shown on the plat or in the notes or legend, and their  
77 intended use shall be clearly stated. Where easements are not  
78 coincident with property lines, they must be labeled with  
79 bearings and distances and tied to the principal lot, tract, or  
80 right-of-way.

81 Section 3. Paragraph (a) of subsection (5) of section  
82 197.502, Florida Statutes, is amended to read:

83 197.502 Application for obtaining tax deed by holder of tax  
84 sale certificate; fees.—

85 (5) (a) The tax collector may contract with a title company  
86 or an abstract company to provide the minimum information  
87 required in subsection (4), consistent with rules adopted by the

576-03479-17

2017454c2

88 department. If additional information is required, the tax  
89 collector must make a written request to the title or abstract  
90 company stating the additional requirements. The tax collector  
91 may select any title or abstract company, regardless of its  
92 location, as long as the fee is reasonable, the minimum  
93 information is submitted, and the title or abstract company is  
94 authorized to do business in this state. The tax collector may  
95 advertise and accept bids for the title or abstract company if  
96 he or she considers it appropriate to do so.

97 1. The property information ~~ownership and encumbrance~~  
98 report must include the letterhead of the person, firm, or  
99 company that makes the search, and the signature of the  
100 individual who makes the search or of an officer of the firm.  
101 The tax collector is not liable for payment to the firm unless  
102 these requirements are met. The report may be submitted to the  
103 tax collector in an electronic format.

104 2. The tax collector may not accept or pay for any title  
105 search or abstract if financial responsibility is not assumed  
106 for the search. However, reasonable restrictions as to the  
107 liability or responsibility of the title or abstract company are  
108 acceptable. Notwithstanding s. 627.7843(3), the tax collector  
109 may contract for higher maximum liability limits.

110 3. In order to establish uniform prices for property  
111 information ~~ownership and encumbrance~~ reports within the county,  
112 the tax collector must ensure that the contract for property  
113 information ~~ownership and encumbrance~~ reports include all  
114 requests for title searches or abstracts for a given period of  
115 time.

116 Section 4. Paragraph (b) of subsection (6) of section

576-03479-17

2017454c2

117 215.555, Florida Statutes, is amended to read:

118 215.555 Florida Hurricane Catastrophe Fund.—

119 (6) REVENUE BONDS.—

120 (b) *Emergency assessments*.—

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

145 2. A premium is not subject to an annual assessment under

576-03479-17

2017454c2

146 this paragraph in excess of 6 percent of premium with respect to  
147 obligations arising out of losses attributable to any one  
148 contract year, and a premium is not subject to an aggregate  
149 annual assessment under this paragraph in excess of 10 percent  
150 of premium. An annual assessment under this paragraph continues  
151 as long as the revenue bonds issued with respect to which the  
152 assessment was imposed are outstanding, including any bonds the  
153 proceeds of which were used to refund the revenue bonds, unless  
154 adequate provision has been made for the payment of the bonds  
155 under the documents authorizing issuance of the bonds.

156 3. Emergency assessments shall be collected from  
157 policyholders. Emergency assessments shall be remitted by  
158 insurers as a percentage of direct written premium for the  
159 preceding calendar quarter as specified in the order from the  
160 Office of Insurance Regulation. The office shall verify the  
161 accurate and timely collection and remittance of emergency  
162 assessments and shall report the information to the board in a  
163 form and at a time specified by the board. Each insurer  
164 collecting assessments shall provide the information with  
165 respect to premiums and collections as may be required by the  
166 office to enable the office to monitor and verify compliance  
167 with this paragraph.

168 4. With respect to assessments of surplus lines premiums,  
169 each surplus lines agent shall collect the assessment at the  
170 same time as the agent collects the surplus lines tax required  
171 by s. 626.932, and the surplus lines agent shall remit the  
172 assessment to the Florida Surplus Lines Service Office created  
173 by s. 626.921 at the same time as the agent remits the surplus  
174 lines tax to the Florida Surplus Lines Service Office. The

576-03479-17

2017454c2

175 emergency assessment on each insured procuring coverage and  
176 filing under s. 626.938 shall be remitted by the insured to the  
177 Florida Surplus Lines Service Office at the time the insured  
178 pays the surplus lines tax to the Florida Surplus Lines Service  
179 Office. The Florida Surplus Lines Service Office shall remit the  
180 collected assessments to the fund or corporation as provided in  
181 the order levied by the Office of Insurance Regulation. The  
182 Florida Surplus Lines Service Office shall verify the proper  
183 application of such emergency assessments and shall assist the  
184 board in ensuring the accurate and timely collection and  
185 remittance of assessments as required by the board. The Florida  
186 Surplus Lines Service Office shall annually calculate the  
187 aggregate written premium on property and casualty business,  
188 other than workers' compensation and medical malpractice,  
189 procured through surplus lines agents and insureds procuring  
190 coverage and filing under s. 626.938 and shall report the  
191 information to the board in a form and at a time specified by  
192 the board.

193 5. Any assessment authority not used for a particular  
194 contract year may be used for a subsequent contract year. If,  
195 for a subsequent contract year, the board determines that the  
196 amount of revenue produced under subsection (5) is insufficient  
197 to fund the obligations, costs, and expenses of the fund and the  
198 corporation, including repayment of revenue bonds and that  
199 portion of the debt service coverage not met by reimbursement  
200 premiums, the board shall direct the Office of Insurance  
201 Regulation to levy an emergency assessment up to an amount not  
202 exceeding the amount of unused assessment authority from a  
203 previous contract year or years, plus an additional 4 percent

576-03479-17

2017454c2

204 provided that the assessments in the aggregate do not exceed the  
205 limits specified in subparagraph 2.

206 6. The assessments otherwise payable to the corporation  
207 under this paragraph shall be paid to the fund unless the Office  
208 of Insurance Regulation and the Florida Surplus Lines Service  
209 Office received a notice from the corporation and the fund,  
210 which shall be conclusive and upon which they may rely without  
211 further inquiry, that the corporation has issued bonds and the  
212 fund has no agreements in effect with local governments under  
213 paragraph (c). On or after the date of the notice and until the  
214 date the corporation has no bonds outstanding, the fund shall  
215 have no right, title, or interest in or to the assessments,  
216 except as provided in the fund's agreement with the corporation.

217 7. Emergency assessments are not premium and are not  
218 subject to the premium tax, to the surplus lines tax, to any  
219 fees, or to any commissions. An insurer is liable for all  
220 assessments that it collects and must treat the failure of an  
221 insured to pay an assessment as a failure to pay the premium. An  
222 insurer is not liable for uncollectible assessments.

223 8. If an insurer is required to return an unearned premium,  
224 it shall also return any collected assessment attributable to  
225 the unearned premium. A credit adjustment to the collected  
226 assessment may be made by the insurer with regard to future  
227 remittances that are payable to the fund or corporation, but the  
228 insurer is not entitled to a refund.

229 9. If a surplus lines insured or an insured who has  
230 procured coverage and filed under s. 626.938 is entitled to the  
231 return of an unearned premium, the Florida Surplus Lines Service  
232 Office shall provide a credit or refund to the agent or such



576-03479-17

2017454c2

233 insured for the collected assessment attributable to the  
234 unearned premium before remitting the emergency assessment  
235 collected to the fund or corporation.

236 ~~10. The exemption of medical malpractice insurance premiums~~  
237 ~~from emergency assessments under this paragraph is repealed May~~  
238 ~~31, 2019, and medical malpractice insurance premiums shall be~~  
239 ~~subject to emergency assessments attributable to loss events~~  
240 ~~occurring in the contract years commencing on June 1, 2019.~~

241 Section 5. Subsection (1) of section 624.407, Florida  
242 Statutes, is amended to read:

243 624.407 Surplus required; new insurers.—

244 (1) To receive authority to transact any one kind or  
245 combinations of kinds of insurance, as defined in part V of this  
246 chapter, an insurer applying for its original certificate of  
247 authority in this state shall possess surplus as to  
248 policyholders at least the greater of:

249 (a) For a property and casualty insurer, \$5 million, or  
250 \$2.5 million for any other insurer;

251 (b) For life insurers, 4 percent of the insurer's total  
252 liabilities;

253 (c) For life and health insurers, 4 percent of the  
254 insurer's total liabilities, plus 6 percent of the insurer's  
255 liabilities relative to health insurance;

256 (d) For all insurers other than life insurers and life and  
257 health insurers, 10 percent of the insurer's total liabilities;

258 (e) Notwithstanding paragraph (a) or paragraph (d), for a  
259 domestic insurer that transacts residential property insurance  
260 and is:

261 1. Not a wholly owned subsidiary of an insurer domiciled in

576-03479-17

2017454c2

262 any other state, \$15 million.

263 2. A wholly owned subsidiary of an insurer domiciled in any  
264 other state, \$50 million; ~~or~~

265 (f) Notwithstanding paragraphs (a), (d), and (e), for a  
266 domestic insurer that only transacts limited sinkhole coverage  
267 insurance for personal lines residential property pursuant to s.  
268 627.7151, \$7.5 million; or

269 (g) Notwithstanding paragraphs (a), (b), and (e), for an  
270 insurer that only transacts residential property insurance in  
271 the form of renter's insurance, tenant's coverage, cooperative  
272 unit owner insurance, or any combination thereof, \$10 million.

273 Section 6. Paragraph (c) of subsection (8) of section  
274 624.424, Florida Statutes, is amended to read:

275 624.424 Annual statement and other information.-

276 (8)

277 (c) The board of directors of an insurer shall hire the  
278 certified public accountant that prepares the audit required by  
279 this subsection and the board shall establish an audit committee  
280 of three or more directors of the insurer or an affiliated  
281 company. The audit committee shall be responsible for discussing  
282 audit findings and interacting with the certified public  
283 accountant with regard to her or his findings. The audit  
284 committee shall be comprised ~~solely~~ of members who are free from  
285 any relationship that, in the opinion of its board of directors,  
286 would interfere with the exercise of independent judgment as a  
287 committee member. The audit committee shall report to the board  
288 any findings of adverse financial conditions or significant  
289 deficiencies in internal controls that have been noted by the  
290 accountant. The insurer may request the office to waive this

576-03479-17

2017454c2

291 requirement of the audit committee membership based upon unusual  
292 hardship to the insurer.

293 Section 7. Subsection (15) of section 625.012, Florida  
294 Statutes, is amended to read:

295 625.012 "Assets" defined.—In any determination of the  
296 financial condition of an insurer, there shall be allowed as  
297 "assets" only such assets as are owned by the insurer and which  
298 consist of:

299 (15) (a) Assessments levied pursuant to s. 631.57(3) (a) and  
300 (e) or s. 631.914 which ~~that~~ are paid before policy surcharges  
301 are collected and result in a receivable for policy surcharges  
302 to be collected in the future. This amount, to the extent it is  
303 likely that it will be realized, meets the definition of an  
304 admissible asset as specified in the National Association of  
305 Insurance Commissioners' Statement of Statutory Accounting  
306 Principles No. 4. The asset shall be established and recorded  
307 separately from the liability regardless of whether it is based  
308 on a retrospective or prospective premium-based assessment. If  
309 an insurer is unable to fully recoup the amount of the  
310 assessment because of a reduction in writings or withdrawal from  
311 the market, the amount recorded as an asset shall be reduced to  
312 the amount reasonably expected to be recouped.

313 (b) Assessments levied as monthly installments pursuant to  
314 s. 631.57(3) (e)3. or s. 631.914 which ~~that~~ are paid after policy  
315 surcharges are collected so that the recognition of assets is  
316 based on actual premium written offset by the obligation to the  
317 Florida Insurance Guaranty Association or the Florida Workers'  
318 Compensation Insurance Guaranty Association, Incorporated.

319 Section 8. Paragraph (e) of subsection (7) of section

576-03479-17

2017454c2

320 627.062, Florida Statutes, is amended to read:

321 627.062 Rate standards.—

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

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

330 Section 9. Subsection (1) of section 627.0645, Florida  
331 Statutes, is amended to read:

332 627.0645 Annual filings.—

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

336 (a) Workers' compensation and employer's liability  
337 insurance;

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

342 (c) Travel insurance, if issued as a master group policy  
343 with a situs in another state where each certificateholder pays  
344 less than \$30 in premium for each covered trip and where the  
345 insurer has written less than \$1 million in annual written  
346 premiums in the travel insurance product in this state during  
347 the most recent calendar year,

348

576-03479-17

2017454c2

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

352 Section 10. Section 627.4035, Florida Statutes, is amended  
353 to read:

354 627.4035 ~~Cash~~ Payment of premiums; claims.—

355 (1) (a) The premiums for insurance contracts issued in this  
356 state or covering risk located in this state must ~~shall~~ be paid  
357 in cash consisting of coins, currency, checks, electronic  
358 checks, drafts, or money orders or by using a debit card, credit  
359 card, automatic electronic funds transfer, or payroll deduction  
360 plan. ~~By July 1, 2007,~~ Insurers issuing personal lines  
361 residential and commercial property policies shall provide a  
362 premium payment plan option to their policyholders which allows  
363 for a minimum of quarterly and semiannual payment of premiums.  
364 Insurers may, but are not required to, offer monthly payment  
365 plans. Insurers issuing such policies must submit their premium  
366 payment plan option to the office for approval before use.

367 (b) If, due to insufficient funds, a payment of premium  
368 under this subsection by debit card, credit card, electronic  
369 funds transfer, or electronic check is returned, is declined, or  
370 cannot be processed, the insurer may impose an insufficient  
371 funds fee of up to \$15 per occurrence pursuant to the policy  
372 terms. However, the insurer may not charge the policyholder an  
373 insufficient funds fee if the failure in payment resulted from  
374 fraud or misuse on the policyholder's account from which the  
375 payment was made and such fraud or misuse was not attributed to  
376 the policyholder.

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

576-03479-17

2017454c2

- 378 (a) Reinsurance agreements;
- 379 (b) Pension plans;
- 380 (c) Premium loans, whether or not subject to an automatic  
381 provision;
- 382 (d) Dividends, whether to purchase additional paid-up  
383 insurance or to shorten the dividend payment period;
- 384 (e) Salary deduction plans;
- 385 (f) Preauthorized check plans;
- 386 (g) Waivers of premiums on disability;
- 387 (h) Nonforfeiture provisions affording benefits under  
388 supplementary contracts; or
- 389 (i) Such other methods of paying for life insurance as may  
390 be permitted by the commission pursuant to rule or regulation.
- 391 (3) All payments of claims made in this state under any  
392 contract of insurance shall be paid:
- 393 (a) In cash consisting of coins, currency, checks, drafts,  
394 or money orders and, if by check or draft, shall be in such form  
395 as will comply with the standards for cash items adopted by the  
396 Federal Reserve System to facilitate the sorting, routing, and  
397 mechanized processing of such items; or
- 398 (b) If authorized in writing by the recipient or the  
399 recipient's representative, by debit card or any other form of  
400 electronic transfer. Any fees or costs to be charged against the  
401 recipient must be disclosed in writing to the recipient or the  
402 recipient's representative at the time of written authorization.  
403 However, the written authorization requirement may be waived by  
404 the recipient or the recipient's representative if the insurer  
405 verifies the identity of the insured or the insured's recipient  
406 and does not charge a fee for the transaction. If the funds are

576-03479-17

2017454c2

407 misdirected, the insurer remains liable for the payment of the  
408 claim.

409 Section 11. Subsection (5) is added to section 627.421,  
410 Florida Statutes, to read:

411 627.421 Delivery of policy.-

412 (5) An electronically delivered document satisfies any  
413 font, size, color, spacing, or other formatting requirement for  
414 printed documents if the format in the electronically delivered  
415 document has reasonably similar proportions or emphasis of the  
416 characters relative to the rest of the electronic document or is  
417 otherwise displayed in a reasonably conspicuous manner.

418 Section 12. Subsection (9) of section 627.7295, Florida  
419 Statutes, is amended to read:

420 627.7295 Motor vehicle insurance contracts.-

421 ~~(9)(a) In addition to the methods provided in s.~~

422 ~~627.4035(1), premium for motor vehicle insurance contracts~~  
423 ~~issued in this state or covering risk located in this state may~~  
424 ~~be paid in cash in the form of a draft or drafts.~~

425 ~~(b) If, due to insufficient funds, payment of premium under~~  
426 ~~this subsection by debit card, credit card, electronic funds~~  
427 ~~transfer, or electronic check is returned, is declined, or~~  
428 ~~cannot be processed, the insurer may impose an insufficient~~  
429 ~~funds fee of up to \$15 per occurrence pursuant to the policy~~  
430 ~~terms.~~

431 Section 13. Section 627.7843, Florida Statutes, is amended  
432 to read:

433 627.7843 Property information reports ~~Ownership and~~  
434 ~~encumbrance reports.~~-

435 (1) As used in this section, the term "property information

576-03479-17

2017454c2

436 report" means any report that contains the limitations of this  
437 section and discloses documents or information appearing in the  
438 Official Records as described in s. 28.222, in the records of a  
439 county tax collector pertaining to ad valorem real property  
440 taxes and special assessments imposed by a governmental  
441 authority against real property, in the Secretary of State  
442 filing office, or in another governmental filing office  
443 pertaining to real or personal property. A property information  
444 report may be issued by any person, including a Florida-licensed  
445 title insurer, title agent, or title agency ~~"ownership and~~  
446 ~~encumbrance report" means a report that discloses certain~~  
447 ~~defined documents imparting constructive notice and appearing in~~  
448 ~~the official records relating to specified real property.~~

449 (2) A property information ~~An ownership and encumbrance~~  
450 ~~report may not directly or indirectly set forth or imply any~~  
451 ~~opinion, warranty, guarantee, insurance, or other similar~~  
452 ~~assurance and does not constitute title insurance as defined in~~  
453 ~~s. 624.608 as to the status of title to real property.~~

454 (3) The contractual liability of the issuer of a property  
455 information report is limited to the person or persons expressly  
456 identified by name in the property information report as the  
457 recipient or recipients of the property information report and  
458 may not exceed the amount paid for the property information  
459 report. Only contractual remedies are available for an error or  
460 omission that arises from a property information report. A  
461 property information report must contain the following language:

462  
463 "This report is not title insurance. Pursuant to s. 627.7843,  
464 Florida Statutes, the maximum liability of the issuer of this



576-03479-17

2017454c2

465 property information report for errors or omissions in this  
466 property information report is limited to the amount paid for  
467 this property information report, and is further limited to the  
468 person(s) expressly identified by name in the property  
469 information report as the recipient(s) of the property  
470 information report." ~~Any ownership and encumbrance report or~~  
471 ~~similar report that is relied on or intended to be relied on by~~  
472 ~~a consumer must be on forms approved by the office, and must~~  
473 ~~provide for a maximum liability for incorrect information of not~~  
474 ~~more than \$1,000.~~

475 (4) This section is not applicable to an opinion of title  
476 issued by an attorney.

477 Section 14. This act shall take effect upon becoming a law.