

<b>Tab 1 CS/SB 478 by IT, Perry; (Similar to H 00377) Motor Vehicle Rentals</b>						
493334	D	S	BI, Perry	Delete everything after	02/04 08:13 AM	
272308	A	S	BI, Rouson	Delete L.216 - 222:	02/03 12:12 PM	

<b>Tab 2 SB 924 by Brandes; Civil Actions Against Insurers</b>						
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<b>Tab 3 SB 1334 by Brandes; (Compare to CS/H 00359) Financial Services</b>						
265338	A	S	BI, Rouson	btw L.148 - 149:	02/04 12:32 PM	
647130	A	S	BI, Rouson	Delete L.149 - 163:	02/04 09:22 AM	
788146	A	S	BI, Broxson	btw L.183 - 184:	02/04 09:07 AM	
777928	A	S	BI, Thurston	Delete L.184 - 231.	02/03 12:14 PM	
794740	A	S	BI, Taddeo	Delete L.252 - 270.	02/03 12:13 PM	
472784	A	S	BI, Thurston	Delete L.485 - 493.	02/03 12:22 PM	
548082	A	S	BI, Taddeo	Delete L.494 - 513.	02/03 12:14 PM	
787114	A	S	BI, Taddeo	Delete L.497 - 504:	02/03 12:15 PM	
461914	SA	S	BI, Taddeo	Delete L.497 - 504:	02/04 11:34 AM	
670458	A	S	BI, Rouson	Delete L.514 - 544.	02/03 12:14 PM	
392164	SA	S	BI, Brandes	Delete L.516 - 544:	02/04 12:40 PM	
893146	A	S	BI, Brandes	Delete L.536 - 542.	02/03 12:14 PM	
586530	SA	S	BI, Brandes	btw L.693 - 694:	02/04 09:54 AM	
600108	A	S	BI, Brandes	Delete L.536 - 543:	02/04 09:51 AM	

<b>Tab 4 SB 1492 by Wright; (Similar to CS/H 01137) Consumer Protection</b>						
957714	D	S	FAV	BI, Wright	Delete everything after	02/04 02:38 PM
<del>338934</del>	AA	S	WD	BI, Rouson	Delete L.146 - 176.	02/04 02:38 PM
<del>269288</del>	AA	S	WD	BI, Rouson	Delete L.436 - 438:	02/04 02:38 PM
<del>278986</del>	AA	S	WD	BI, Rouson	Delete L.442 - 443:	02/04 02:38 PM
241560	A	S	OO	BI, Rouson	Delete L.260 - 281:	02/04 02:38 PM
814670	A	S	OO	BI, Rouson	Delete L.260 - 281:	02/04 02:38 PM

<b>Tab 5 SB 1606 by Perry; (Similar to CS/H 00895) Insurance</b>						
778872	D	S	RCS	BI, Perry	Delete everything after	02/04 02:38 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**BANKING AND INSURANCE**  
**Senator Broxson, Chair**  
**Senator Rouson, Vice Chair**

**MEETING DATE:** Tuesday, February 4, 2020

**TIME:** 12:30—2:30 p.m.

**PLACE:** *Pat Thomas Committee Room, 412 Knott Building*

**MEMBERS:** Senator Broxson, Chair; Senator Rouson, Vice Chair; Senators Brandes, Gruters, Lee, Perry, Taddeo, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 478</b> Innovation, Industry, and Technology / Perry (Similar H 377, Compare CS/H 723)	Motor Vehicle Rentals; Revising the applicability of the rental car surcharge; imposing the surcharge on certain motor vehicle leases or rentals by a peer-to-peer car-sharing program; specifying motor vehicle insurance requirements for shared vehicles on a peer-to-peer car-sharing program; requiring a peer-to-peer car-sharing program to assume specified liability of a shared vehicle owner; requiring a shared vehicle owner's insurer to indemnify the peer-to-peer car-sharing program under certain circumstances, etc.  IT      01/27/2020 Fav/CS BI      02/04/2020 Temporarily Postponed AP	Temporarily Postponed
2	<b>SB 924</b> Brandes	Civil Actions Against Insurers; Providing that, in third-party bad faith actions against insurers, insureds and claimants have the burden to prove that an insurer acted in reckless disregard for insured rights which resulted in damage to the insured or the claimant; providing that insured or claimant actions or inactions are relevant in bad faith actions; providing that an insurer is not liable if certain conditions are met; providing that an insurer is not liable beyond available policy limits as to certain competing third-party claims if it files an interpleader action within a certain timeframe, etc.  BI      01/28/2020 Temporarily Postponed BI      02/04/2020 Temporarily Postponed JU RC	Temporarily Postponed

**COMMITTEE MEETING EXPANDED AGENDA**

Banking and Insurance

Tuesday, February 4, 2020, 12:30—2:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	<b>SB 1334</b> Brandes (Compare CS/H 359, CS/H 895, S 1606)	Financial Services; Redefining the term “covered policy” under the Florida Hurricane Catastrophe Fund in relation to certain collateral protection insurance policies; revising requirements for the civil remedy notice provided to insurers and the Department of Financial Services; deleting a requirement for certain persons acting on behalf of an insurer to provide certain notice before scheduling a meeting or onsite inspection for certain purposes; requiring named insureds to provide insurers with a specified notice as a condition precedent to filing suit under a property insurance policy, etc.  BI 02/04/2020 Temporarily Postponed IS RC	Temporarily Postponed
4	<b>SB 1492</b> Wright (Similar CS/H 1137, Compare H 707, S 1124)	Consumer Protection; Prohibiting consumer reporting agencies from charging to reissue or provide a new unique personal identifier to a consumer for the removal of a security freeze; authorizing the Department of Financial Services to disapprove the use of insurance agency names containing the words “Medicare” or “Medicaid”; prohibiting life insurers from writing new policies of industrial life insurance beginning on a certain date; providing that communication made to or by an insurer’s representative, rather than to or by an insurer’s agent, constitutes communication to or by the insurer, etc.  CM 01/28/2020 Favorable BI 02/04/2020 Fav/1 Amendment RC	Fav/1 Amendment (957714) Yeas 8 Nays 0
5	<b>SB 1606</b> Perry (Similar CS/H 895, Compare H 999, S 1334, S 1408)	Insurance; Revising the definition of the term “covered policy,” for purposes of the Florida Hurricane Catastrophe Fund, to revise authorized coverage amounts under certain collateral protection insurance policies; requiring the Department of Highway Safety and Motor Vehicles to establish an online verification system for motor vehicle insurance; decreasing the period during which a motor vehicle insurer may not cancel a new policy or binder for nonpayment; requiring travel insurers to pay the insurance premium tax on specified travel insurance premiums, etc.  BI 02/04/2020 Fav/CS IS AP	Fav/CS Yeas 8 Nays 0

Other Related Meeting Documents

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Banking and Insurance

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BILL: CS/SB 478

INTRODUCER: Innovation, Industry, and Technology Committee and Senator Perry

SUBJECT: Motor Vehicle Rentals

DATE: February 3, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Imhof	IT	<b>Fav/CS</b>
2.	Arnold	Knudson	BI	<b>Pre-meeting</b>
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 478 amends s. 212.0606, F.S., which subjects the lease or rental of a motor vehicle to a rental car surcharge. The bill defines a motor vehicle rental company and a peer-to-peer car-sharing program, in part, as an entity or a business platform and requires them to collect the rental car surcharge.

The bill creates s. 627.7483, F.S., to establish insurance and operational requirements for peer-to-peer car-sharing programs. This includes establishing definitions and requirements for: insurance coverage requirements, insurable interest, liability, exclusions from liability, contribution against indemnification, construction, notification of implications of a lien, recordkeeping, and consumer protections including disclosures, driver license verification and retention, responsibility for equipment, and automobile safety recalls.

**II. Present Situation:**

**Motor Vehicle Rentals**

Section 322.38, F.S., provides driver license-related requirements for renting a motor vehicle to another person. A person may not rent a motor vehicle to any other person unless the other person is duly licensed in Florida or, if a nonresident, is licensed under the laws of the state or country of his or her residence, except a nonresident whose home state or country does not



require that an operator be licensed. Prior to the rental, the rentee must inspect the driver license of the person to whom the vehicle is to be rented and verify that the driver license is unexpired.

Every person renting a motor vehicle to another is required to keep a record of the registration number of the motor vehicle, the name and address of the person to whom the vehicle is rented, the number of the license of the renter, and the place where the license was issued. The record must be open to inspection by any police officer, or officer or employee of the department.

If a rental car company rents a motor vehicle to a person through digital, electronic, or other means which allows the renter to obtain possession of the motor vehicle without direct contact with an agent or employee of the rental car company, or if the renter does not execute a rental contract at the time he or she takes possession of the vehicle, the rental car company is deemed to have met the above obligations when the rental car company, at the time the renter enrolls in a membership program, master agreement, or other means of establishing use of the rental car company's services, or any time thereafter, requires the renter to verify that he or she is duly licensed and that the license is unexpired.

### **Minimum Insurance Requirements for Motor Vehicle Rentals**

Section 324.021, F.S., provides minimum insurance requirements, including requirements applicable to rental vehicles. The lessor under an agreement to rent or lease a motor vehicle for a period of less than 1 year is deemed to be the owner for the purpose of determining liability for the operation of the vehicle or the acts of the operator only up to \$100,000 per person and up to \$300,000 per incident for bodily injury and up to \$50,000 for property damage. If the lessee or the operator of the motor vehicle is uninsured or has any insurance with limits less than \$500,000 combined property damage and bodily injury liability, the lessor is liable for up to an additional \$500,000 in economic damages only arising out of the use of the motor vehicle. The additional specified liability of the lessor for economic damages is to be reduced by amounts actually recovered from the lessee, from the operator, and from any insurance or self-insurance covering the lessee or operator.

### **Motor Vehicle Rental Surcharges**

The lease or rental of tangible personal property, including vehicles, is taxable.<sup>1</sup> When a motor vehicle is leased or rented in Florida for a period of less than 12 months, the entire amount of such rental is taxable at the rate of 6 percent<sup>2</sup> of the gross proceeds derived from the lease or rental.<sup>3</sup> A "lease or rental" is defined as the leasing or renting of tangible personal property and the possession or use of property by the lessee or renter for a consideration, without transfer of title.<sup>4</sup> The lessor is required to be registered as a dealer and to collect tax on the total amount of the lease or rental charges from the lessee.<sup>5</sup>

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<sup>1</sup> Section 212.05(1), F.S.

<sup>2</sup> Discretionary county sales surtax, if any, is also owed if the 6 percent Florida state sales tax applies. *See* s. 212.054, F.S.

<sup>3</sup> Section 212.05(1)(c), F.S.

<sup>4</sup> Section 212.02(10)(g), F.S.

<sup>5</sup> Rule 12A-1.007(13)(a)1, F.A.C.

Rule 12A-16.002(7), F.A.C., provides in pertinent part that “any person who has leased or rented a for hire passenger motor vehicle under the terms of a lease or rental agreement...and cannot prove that the rental car surcharge has been paid to the lessor or other person will be directly liable to the state for any surcharge, interest, or penalty due on such transaction.” The lessee, therefore, is also liable for payment of the rental car surcharge if the lessor fails to collect.

Florida law imposes a surcharge<sup>6</sup> of \$2.00 per day, or any part of a day, upon the lease or rental of a “motor vehicle licensed for hire”<sup>7</sup> and designed to carry less than nine passengers, regardless of whether such motor vehicle is licensed in Florida.<sup>8</sup> The surcharge applies to the first 30 days of the term of any lease or rental.<sup>9</sup> Pursuant to Rule 12A-16.002(1)(b), F.A.C., “[e]ach person engaged in the business of leasing or renting for hire passenger motor vehicles is required to collect the rental car surcharge when the lease or rental payments are to be paid under the terms of the lease or rental agreement.” The term “person” includes “any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit....”<sup>10</sup> The term “business” is defined to mean “any activity engaged in by any person, or caused to be engaged in by him or her, with the object or public gain, benefit, or advantage, either direct or indirect.”<sup>11</sup>

The \$2.00 surcharge does not apply to rentals by a member of a car-sharing service when the motor vehicle is used for less than 24 hours.<sup>12</sup> Members of a car-sharing service who use a motor vehicle for less than 24 hours (pursuant to an agreement with the service) are required to pay a \$1.00 surcharge, per usage.<sup>13</sup> The term “car-sharing service” means a membership-based organization or business, or division thereof, which requires the payment of an application or membership fee and provides member access to motor vehicles:

- Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;
- Twenty-four hours per day, 7 days per week;
- Only through automated means, including, but not limited to, smartphone applications or electronic membership cards;
- On an hourly basis or for a shorter increment of time;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car-sharing service or its affiliates.<sup>14</sup>

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<sup>6</sup> The rental car surcharge is subject to sales and use tax. *See* s. 212.0606(1), F.S. and Rule 12A-16.002(6)(c), F.A.C.

<sup>7</sup> The term “for hire passenger motor vehicle” means any automobile designed to carry fewer than nine (9) passengers let or rented to another for consideration; offered for lease or rent as a means of transportation for compensation; advertised; or generally held out as being for lease or rent. The term “for hire passenger motor vehicle” does not include any motorcycle, moped, truck, truck trailer, travel trailer, camping trailer, recreational vehicle with living facilities, or van conversion. *See* Rule 12A-16.002(2)(c), F.A.C.

<sup>8</sup> Section 212.0606(1), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Section 212.02(12), F.S.

<sup>11</sup> Section 212.02(2), F.S.

<sup>12</sup> Rule 12A-16.002(3), F.A.C.

<sup>13</sup> Section 212.0606(2), F.S.

<sup>14</sup> *Id.*

### III. Effect of Proposed Changes:

**Section 1** amends s. 212.0606, F.S., which subjects the lease or rental of a motor vehicle to a rental car surcharge of \$2 per day.

The bill defines:

“Motor vehicle rental company” to mean an entity that is in the business of providing motor vehicles to the public under a rental agreement for financial consideration.

“Peer-to-peer car-sharing program” to mean a business platform that enables peer-to-peer car sharing by connecting motor vehicle owners with drivers for financial consideration. The term does not include a taxicab association or a transportation network company as defined in s. 627.748(1), F.S.

These entities or business platforms are required to collect the rental car surcharge.

**Section 2** creates s. 627.7483, F.S., to establish insurance and operational requirements for peer-to-peer car sharing programs.

#### Definitions

The bill provides the following definitions:

- “Peer-to-peer car sharing” means the authorized use of a motor vehicle by an individual other than the vehicle’s owner through a peer-to-peer car-sharing program. The term does not include ridesharing as defined in s. 341.031(9), F.S., a carpool as defined in s. 450.28(3), F.S., or the use of a motor vehicle under an agreement for a car-sharing service as defined in s. 212.0606(1), F.S.
- “Peer-to-peer car-sharing delivery period” means the period during which a shared vehicle is delivered to the location of the peer-to-peer car-sharing start time, if applicable, as documented by the governing peer-to-peer car sharing program agreement.
- “Peer-to-peer car-sharing period” means the period beginning either at the peer-to-peer car-sharing delivery period, or, if there is no peer-to-peer car-sharing delivery period, at the peer-to-peer car-sharing start time, and ending at the peer-to-peer car-sharing termination time.
- “Peer-to-peer car-sharing program” means a business platform that enables peer-to-peer car sharing by connecting motor vehicle owners with drivers for financial consideration. The term does not include a taxicab association or a transportation network company as defined in s. 627.748(1), F.S.
- “Peer-to-peer car-sharing program agreement” means the terms and conditions established by the peer-to-peer car-sharing program which are applicable to a shared vehicle owner and a shared vehicle driver and which govern the use of a shared vehicle through a peer-to-peer car-sharing program.
- “Peer-to-peer car-sharing start time” means the time when the shared vehicle is under the control of the shared vehicle driver, which occurs at or after the time the reservation of the shared vehicle is scheduled to begin, as documented in the peer-to-peer car-sharing program agreement.
- “Peer-to-peer car-sharing termination time” means the earliest of the following:

- The expiration of the agreed-upon period established for the use of a shared vehicle according to the terms of the peer-to-peer car-sharing program agreement, if the shared vehicle is delivered to the location agreed upon in the peer-to-peer car sharing program agreement;
- The time the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver, as communicated through a peer-to-peer car sharing program; or
- The time the shared vehicle owner takes possession and control of the shared vehicle.
- “Shared vehicle” means a motor vehicle that is available for sharing through a peer-to-peer car-sharing program. The term does not include a motor vehicle used for ridesharing as defined in s. 341.031(9), F.S., or a motor vehicle used for a carpool as defined in s. 450.28(3), F.S.
- “Shared vehicle driver” means an individual who is authorized by the shared vehicle owner to drive the shared vehicle under the peer-to-peer car-sharing program agreement.
- “Shared vehicle owner” means the registered owner, or a person or entity designated by the registered owner, of a motor vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car-sharing program.

## **Insurance Requirements, Liability**

### ***Insurance Coverage Requirements, Insurable Interest,***

A peer-to-peer car-sharing program must have a motor vehicle insurance policy that provides the shared vehicle owner and the shared vehicle driver during each peer-to-peer car-sharing period all of the following:

- Property damage liability coverage in the amount of at least \$10,000 as required under s. 324.022, F.S.;
- Bodily injury liability coverage in the amount of at least \$10,000 for bodily injury to, or death of, one person in any one crash or in the amount of at least \$20,000 for bodily injury to, or death of, two or more persons in any one crash as specified in s. 324.021(7)(a) and (b), F.S.;
- Personal injury protection benefits in the amount of at least \$10,000<sup>15</sup> for medical and disability benefits and in the amount of at least \$5,000 for death benefits required under s. 627.736, F.S.; and
- Uninsured and underinsured vehicle coverage in the amount equal to bodily injury limits as required under s. 627.727, F.S.

The peer-to-peer car-sharing program must also ensure that the motor vehicle insurance policy:

- Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; and
- Does not exclude the use of a shared vehicle by a shared vehicle driver.

These insurance requirements may be satisfied by a motor vehicle insurance policy maintained by:

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<sup>15</sup> Personal injury protection reimbursement medical benefits are limited to \$2,500 if specified medical providers determine the injured person did not have an emergency medical condition.

- A shared vehicle owner;
- A shared vehicle driver;
- A peer-to-peer car-sharing program; or
- A combination of a shared vehicle owner, a shared vehicle driver, and a peer-to-peer car-sharing program.

A motor vehicle insurance policy maintained by a shared vehicle owner, shared vehicle driver, peer-to-peer car-sharing program, or a combination of a shared vehicle owner, shared vehicle driver, and peer-to-peer car-sharing program, is primary during each peer-to-peer car-sharing period.

If insurance maintained by a shared vehicle owner or shared vehicle driver lapses or does not provide the required coverage, the insurance maintained by the peer-to-peer car-sharing program must provide the required coverage beginning with the first dollar of a claim and must defend such claim, with the exceptions discussed below. Coverage under a motor vehicle insurance policy maintained by the peer-to-peer car-sharing program may not be dependent on another motor vehicle insurer first denying a claim, and another motor vehicle insurance policy is not required to first deny a claim.

Notwithstanding any other law to the contrary, a peer-to-peer car-sharing program has an insurable interest in a shared vehicle during the peer-to-peer car-sharing period. This interest does not create liability for a network for maintaining the required coverage.

A peer-to-peer car-sharing program may own and maintain as the named insured one or more policies of motor vehicle insurance which provide coverage for:

- Liabilities assumed by the peer-to-peer car-sharing program under a peer-to-peer car-sharing program agreement;
- Liability of the shared vehicle owner;
- Liability of the shared vehicle driver;
- Damage or loss to the shared motor vehicle; or
- Damage, loss, or injury to persons or property to satisfy the personal injury protection and uninsured and underinsured motorist coverage requirements of this section.

When the required insurance is maintained by a peer-to-peer car-sharing program, the motor vehicle insurance policy may be provided by an insurer authorized to do business in this state which is a member of the Florida Insurance Guaranty Association or by an eligible surplus lines insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the Office of Insurance Regulation of the Financial Services Commission. A peer-to-peer car-sharing program is not transacting in insurance when it maintains this insurance.

### ***Liability***

A peer-to-peer car-sharing program assumes liability, with stated exclusions, of a shared vehicle owner for bodily injury or property damage to third parties or uninsured and underinsured motorist or personal injury protection losses during the peer-to-peer car-sharing period in

amounts stated in the peer-to-peer car-sharing program agreement. Such amounts may not be less than those set forth in:

- s. 324.021(7)(a) and (b), F.S.: Bodily injury liability coverage in the amount of at least \$10,000 for bodily injury to, or death of, one person in any one crash or in the amount of at least \$20,000 for bodily injury to, or death of, two or more persons in any one crash;
- s. 324.022, F.S.: Property damage liability coverage in the amount of at least \$10,000;
- s. 627.727, F.S.: Uninsured and underinsured vehicle coverage in the amount equal to bodily injury limits; and
- s. 627.736, F.S.: Personal injury protection benefits in the amount of at least \$10,000 for medical and disability benefits and in the amount of at least \$5,000 for death benefits.

This assumption of liability does not apply if a shared vehicle owner:

- Makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car-sharing program before the peer-to-peer car-sharing period in which the loss occurs; or
- Acts in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the peer-to-peer car-sharing program agreement.

A peer-to-peer car-sharing program assumes primary liability for a claim when it is providing, in whole or in part, the minimal insurance discussed above and:

- A dispute exists as to who was in control of the shared motor vehicle at the time of the loss; and
- The peer-to-peer car-sharing program does not have available, did not retain, or fails to provide the required rental information.

The shared vehicle owner's insurer must indemnify the peer-to-peer car-sharing program to the extent of the insurer's obligation, if any, under the applicable insurance policy, if it is determined that the shared vehicle owner was in control of the shared motor vehicle at the time of the loss.

### ***Exclusions***

An authorized insurer that writes motor vehicle liability insurance in this state may exclude any coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle insurance policy, including, but not limited to:

- Liability coverage for bodily injury and property damage;
- Personal injury protection coverage;
- Uninsured and underinsured motorist coverage;
- Medical payments coverage;
- Comprehensive physical damage coverage; and
- Collision physical damage coverage.

This provision does not invalidate or limit any exclusion contained in a motor vehicle insurance policy, including any insurance policy in use or approved for use which excludes coverage for motor vehicles made available for rent, sharing, hire, or for any business use.

## **Contribution Against Indemnification**

A shared vehicle owner's motor vehicle insurer that defends or indemnifies a claim against a shared vehicle which is excluded under the terms of its policy has the right to seek contribution against the motor vehicle insurer of the peer-to-peer car-sharing program, if the claim is made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the peer to-peer car-sharing period.

### ***Construction***

The bill does not limit:

- The liability of a peer-to-peer car-sharing program for any act or omission of the peer-to-peer car-sharing program which results in bodily injury to a person as a result of the use of a shared vehicle through peer-to-peer car sharing; or
- The ability of a peer-to-peer car-sharing program to seek, by contract, indemnification from the shared vehicle owner or the shared vehicle driver for economic loss resulting from a breach of the terms and conditions of the peer-to-peer car-sharing program agreement.

## **Operational Requirements**

### ***Notification of Implications of a Lien***

At the time a motor vehicle owner registers as a shared vehicle owner on a peer-to-peer car-sharing program and before the shared vehicle owner may make a shared vehicle available for peer-to-peer car sharing on the peer-to-peer car-sharing program, the peer-to-peer car-sharing program must notify the shared vehicle owner that, if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-peer car-sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

### ***Recordkeeping***

A peer-to-peer car-sharing program must:

- Collect and verify records pertaining to the use of a shared vehicle, including, but not limited to, the times used, fees paid by the shared vehicle driver, and revenues received by the shared vehicle owner.
- Retain these records for a period of not less than the applicable personal injury statute of limitations.
- Provide the information contained in the records upon request to the shared vehicle owner, the shared vehicle owner's insurer, or the shared vehicle driver's insurer to facilitate a claim coverage investigation.

## **Consumer Protections**

### ***Disclosures***

Each peer-to-peer car-sharing program agreement made in this state must disclose to the shared vehicle owner and the shared vehicle driver:

- Any right of the peer-to-peer car-sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss resulting from a breach of the terms and conditions of the peer-to-peer car-sharing program agreement;

- That a motor vehicle insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car-sharing program;
- That the peer-to-peer car-sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each peer-to-peer car-sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the peer-to-peer car-sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;
- The daily rate, fees, and, if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver;
- That the shared vehicle owner's motor vehicle liability insurance may exclude coverage for a shared vehicle;
- An emergency telephone number of the personnel capable of fielding calls for roadside assistance and other customer service inquiries; and
- Any conditions under which a shared vehicle driver must maintain a personal motor vehicle insurance policy with certain applicable coverage limits on a primary basis in order to book a shared vehicle.

### ***Driver License Verification and Retention***

A peer-to-peer car-sharing program may not enter into a peer-to-peer car-sharing program agreement with a driver unless the driver:

- Holds a driver license issued under ch. 322, F.S., which authorizes the driver to drive vehicles of the class of the shared vehicle;
- Is a nonresident who:
  - Holds a driver license issued by the state or country of the driver's residence which authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and
  - Is at least the same age as that required of a resident to drive; or
- Is otherwise specifically authorized by the Department of Highway Safety and Motor Vehicles to drive vehicles of the class of the shared vehicle.

A peer-to-peer car-sharing program must keep a record of:

- The name and address of the shared vehicle driver;
- The driver license number of the shared vehicle driver and of any other person who will operate the shared vehicle; and
- The place of issuance of the driver license.

### ***Responsibility for Equipment***

A peer-to-peer car sharing program has sole responsibility for any equipment that is put in or on the shared vehicle to monitor or facilitate the peer-to-peer car-sharing transaction, including a GPS system. The peer-to-peer car-sharing program must indemnify and hold harmless the shared vehicle owner for any damage to or theft of such equipment during the peer-to-peer car-sharing period which is not caused by the shared vehicle owner. The peer-to-peer car-sharing program may seek indemnity from the shared vehicle driver for any damage to or loss of such equipment which occurs outside of the peer-to-peer car-sharing period.



***Automobile Safety Recalls***

At the time a motor vehicle owner registers as a shared vehicle owner on a peer-to-peer car-sharing program and before the shared vehicle owner may make a shared vehicle available for peer-to-peer car sharing on the peer-to-peer car-sharing program, the peer-to-peer car-sharing program must:

- Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made; and
- Notify the shared vehicle owner that if the shared vehicle owner:
  - Has received an actual notice of a safety recall on the vehicle, he or she may not make a vehicle available as a shared vehicle on the peer-to-peer car-sharing program until the safety recall repair has been made;
  - Receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car-sharing program, he or she must remove the shared vehicle's availability on the peer-to-peer car-sharing program as soon as practicable after receiving the notice of the safety recall and until the safety recall repair has been made; or
  - Receives an actual notice of a safety recall while the shared vehicle is in the possession of a shared vehicle driver, he or she must notify the peer-to-peer car-sharing program about the safety recall as soon as practicably possible after receiving the notice of the safety recall so that he or she may address the safety recall repair.

The bill takes effect October 1, 2020.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

The bill does not appear to impose or raise a state tax or fee in violation of Article VII, section 19 of the Florida Constitution, as leases or rented motor vehicles licensed for hire are currently subject to a rental car surcharge under s. 212.0606, F.S. The Florida Constitution defines the term “fee” to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”<sup>16</sup> The Florida Constitution defines the term “raise” to mean “to increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis; to

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<sup>16</sup> Fla. Const. art. VII, s. 19(d)(1) (2019).

increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or to decrease or eliminate a state tax or fee exemption or credit.”<sup>17</sup> The bill’s inclusion of motor vehicle rental companies and peer-to-peer car-sharing programs as subcategories of motor vehicle lease or rental arrangements currently subject to rental car surcharges, neither imposes a fee on an industry not currently subject to rental car surcharges under the section nor raises a fee on an industry currently subject to rental car surcharges under the section. Accordingly, the bill does not appear to trigger the requirement for a separate bill for the consideration of the rental surcharge provision subject to a 2/3 vote by each chamber of the Legislature.<sup>18</sup>

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The Revenue Estimating Conference analyzed HB 377, which is similar to CS/SB 478, and determined that the bill would increase receipts to the General Revenue Fund and revenues to local governments by an indeterminate amount.<sup>19</sup>

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 212.0606 of the Florida Statutes.

This bill creates section 627.7483 of the Florida Statutes.

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<sup>17</sup> Fla. Const. art. VII, s. 19(d)(2) (2019).

<sup>18</sup> See Fla. Const. art. VII, s. 19(a),(b) (2019).

<sup>19</sup> [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/\\_pdf/page13-15.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page13-15.pdf)

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Innovation, Industry, and Technology on January 27, 2020:**

The committee substitute:

- Revises the provisions relating to the car rental surcharge;
- Provides that the car-sharing service shall collect the surcharge; and
- Revises and deletes several definitions including revising the definition of peer-to-peer car sharing program.

The committee substitute also revises the insurance coverage requirements. As filed, the bill required the program to insure third parties, vehicle owners, and drivers in the minimum amounts in s. 324.021(7), F.S., which are: in the amount of \$10,000 because of bodily injury to, or death of, one person in one crash; in the amount of \$20,000 because of bodily injury to, or death of, two or more persons in one crash; and in the amount of \$10,000 because of injury to, or destruction of, property of others in any one crash. The committee substitute replaces these requirements with:

- Property damage liability coverage in the minimum coverage amounts in s. 324.022, F.S., which are:
  - At least \$10,000 in one accident; or
  - At least \$30,000 for combined property and bodily injury liability for one crash;
- Bodily injury liability coverage limits under s. 324.021(7)(a) and (b), F.S., which are:
  - In the amount of \$10,000 for bodily injury to, or death of, one person in any one crash; and
  - In the amount of \$20,000 for bodily injury to, or death of, two or more persons in any one crash;
- Personal injury protection benefits that meet the minimum coverage amounts required under s. 627.736, F.S., which are a limit of \$10,000 in medical and disability benefits and \$5,000 in death benefits resulting from bodily injury, sickness, disease, or death; and
- Uninsured and underinsured vehicle coverage under s. 627.727, F.S., which is not less than the limits of bodily injury liability insurance purchased by the named insured, or such lower limit complying with the rating plan of the company as may be selected by the named insured.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Perry) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (c) of subsection (1) of section  
212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be  
the legislative intent that every person is exercising a taxable  
privilege who engages in the business of selling tangible  
personal property at retail in this state, including the



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business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(c) At the rate of 6 percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein; however, the following special provisions apply to the lease or rental of motor vehicles:

1. When a motor vehicle is leased or rented by a motor vehicle rental company or a peer-to-peer car-sharing program, as those terms are defined in s. 212.0606(1), for a period of less than 12 months:

a. If the motor vehicle is rented in Florida, the entire amount of such rental is taxable, even if the vehicle is dropped off in another state.

b. If the motor vehicle is rented in another state and dropped off in Florida, the rental is exempt from Florida tax.

c. If the motor vehicle is rented by a peer-to-peer car-sharing program, the peer-to-peer car-sharing program must collect and remit the applicable tax due in connection with the rental.

2. Except as provided in subparagraph 3., for the lease or rental of a motor vehicle for a period of not less than 12 months, sales tax is due on the lease or rental payments if the vehicle is registered in this state; provided, however, that no



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tax shall be due if the taxpayer documents use of the motor vehicle outside this state and tax is being paid on the lease or rental payments in another state.

3. The tax imposed by this chapter does not apply to the lease or rental of a commercial motor vehicle as defined in s. 316.003(13)(a) to one lessee or rentee for a period of not less than 12 months when tax was paid on the purchase price of such vehicle by the lessor. To the extent tax was paid with respect to the purchase of such vehicle in another state, territory of the United States, or the District of Columbia, the Florida tax payable shall be reduced in accordance with the provisions of s. 212.06(7). This subparagraph shall only be available when the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to such business.

Section 2. Section 212.0606, Florida Statutes, is amended to read:

212.0606 Rental car surcharge.—

(1) As used in this section, the term:

(a) "Car-sharing service" means a membership-based organization or business, or division thereof, which requires the payment of an application fee or a membership fee and provides member access to motor vehicles:

1. Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;

2. Twenty-four hours per day, 7 days per week;

3. Only through automated means, including, but not limited to, a smartphone application or an electronic membership card;



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69       4. On an hourly basis or for a shorter increment of time;  
70       5. Without a separate fee for refueling the motor vehicle;  
71       6. Without a separate fee for minimum financial  
72 responsibility liability insurance; and  
73       7. Owned or controlled by the car-sharing service or its  
74 affiliates.

75       (b) "Motor vehicle rental company" means an entity that is  
76 in the business of providing, for financial consideration, motor  
77 vehicles to the public under a rental agreement.

78       (c) "Peer-to-peer car-sharing program" has the same meaning  
79 as in s. 627.7483(1).

80       (2) Except as provided in subsection (3) ~~(2)~~, a surcharge  
81 of \$2 per day or any part of a day is imposed upon the lease or  
82 rental by a motor vehicle rental company or a peer-to-peer car-  
83 sharing program of a motor vehicle that is licensed for hire and  
84 designed to carry fewer than nine passengers, regardless of  
85 whether the motor vehicle is licensed in this state, for  
86 financial consideration and without transfer of the title of the  
87 motor vehicle. The surcharge is imposed regardless of whether  
88 the lease or rental occurs in person or through digital means.  
89 The surcharge applies to only the first 30 days of the term of a  
90 lease or rental and must be collected by the motor vehicle  
91 rental company or the peer-to-peer car-sharing program. The  
92 surcharge is subject to all applicable taxes imposed by this  
93 chapter.

94       (3) ~~(2)~~ A member of a car-sharing service who uses a motor  
95 vehicle as described in subsection (2) ~~(1)~~ for less than 24  
96 hours pursuant to an agreement with the car-sharing service  
97 shall pay a surcharge of \$1 per usage. A member of a car-sharing



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service who uses the same motor vehicle for 24 hours or more shall pay a surcharge of \$2 per day or any part of a day as provided in subsection (2) ~~(1)~~. The car-sharing service shall collect the surcharge ~~For purposes of this subsection, the term "car-sharing service" means a membership-based organization or business, or division thereof, which requires the payment of an application or membership fee and provides member access to motor vehicles:~~

~~(a) Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;~~

~~(b) Twenty-four hours per day, 7 days per week;~~

~~(c) Only through automated means, including, but not limited to, smartphone applications or electronic membership cards;~~

~~(d) On an hourly basis or for a shorter increment of time;~~

~~(e) Without a separate fee for refueling the motor vehicle;~~

~~(f) Without a separate fee for minimum financial responsibility liability insurance; and~~

~~(g) Owned or controlled by the car-sharing service or its affiliates.~~ The surcharge imposed under this subsection does not apply to the lease, rental, or use of a motor vehicle from a location owned, operated, or leased by or for the benefit of an airport or airport authority.

(4) (a) (3) (a) Notwithstanding s. 212.20, and less the costs of administration, 80 percent of the proceeds of this surcharge shall be deposited in the State Transportation Trust Fund, 15.75 percent of the proceeds of this surcharge shall be deposited in the Tourism Promotional Trust Fund created in s. 288.122, and





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4.25 percent of the proceeds of this surcharge shall be deposited in the Florida International Trade and Promotion Trust Fund. For the purposes of this subsection, the term "proceeds of this surcharge" ~~of the surcharge~~ means all funds collected and received by the department under this section, including interest and penalties on delinquent surcharges. The department shall provide the Department of Transportation rental car surcharge revenue information for the previous state fiscal year by September 1 of each year.

(b) Notwithstanding any other ~~provision of~~ law, the proceeds deposited in the State Transportation Trust Fund shall be allocated on an annual basis in the Department of Transportation's work program to each department district, except the Turnpike District. The amount allocated to each district shall be based on the amount of proceeds attributed to the counties within each respective district.

(5) (a) ~~(4)~~ Except as provided in this section, the department shall administer, collect, and enforce the surcharge as provided in this chapter.

(b) ~~(a)~~ The department shall require a dealer ~~dealers~~ to report surcharge collections according to the county to which the surcharge was attributed. For purposes of this section, the surcharge shall be attributed to the county where the rental agreement was entered into.

(c) ~~(b)~~ A dealer ~~Dealers~~ who collects ~~collect~~ the rental car surcharge shall report to the department all surcharge revenues attributed to the county where the rental agreement was entered into on a timely filed return for each required reporting period. The provisions of this chapter which apply to interest



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and penalties on delinquent taxes apply to the surcharge. The surcharge shall not be included in the calculation of estimated taxes pursuant to s. 212.11. The dealer's credit provided in s. 212.12 does not apply to any amount collected under this section.

(6)~~(5)~~ The surcharge imposed by this section does not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

Section 3. Section 627.7483, Florida Statutes, is created to read:

627.7483 Peer-to-peer car sharing; insurance requirements.-

(1) DEFINITIONS.-As used in this section, the term:

(a) "Car-sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car-sharing start time, if applicable, as documented by the governing peer-to-peer car-sharing program agreement.

(b) "Car-sharing period" means the period of time that commences either at the car-sharing delivery period or, if there is no car-sharing delivery period, at the car-sharing start time and that ends at the car-sharing termination time.

(c) "Car-sharing start time" means the time when the shared vehicle is under the control of the shared vehicle driver, which time occurs at or after the time the reservation of the shared vehicle is scheduled to begin, as documented in the records of a peer-to-peer car-sharing program.

(d) "Car-sharing termination time" means the earliest of the following events:

1. The expiration of the agreed-upon period of time



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established for the use of a shared vehicle according to the terms of the peer-to-peer car-sharing program agreement, if the shared vehicle is delivered to the location agreed upon in the peer-to-peer car-sharing program agreement;

2. The time the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver, as communicated through a peer-to-peer car-sharing program; or

3. The time the shared vehicle owner or the shared vehicle owner's authorized designee takes possession and control of the shared vehicle.

(e) "Peer-to-peer car sharing" or "car sharing" means the authorized use of a motor vehicle by an individual other than the vehicle's owner through a peer-to-peer car-sharing program. For the purposes of this section, the term does not include the renting of a motor vehicle through a rental car company, the use of a for-hire vehicle as defined in s. 320.01(15), ridesharing as defined in s. 341.031(9), carpool as defined in s. 450.28(3), or the use of a motor vehicle under an agreement for a car-sharing service as defined in s. 212.0606(1).

(f) "Peer-to-peer car-sharing program" means a business platform that enables peer-to-peer car sharing by connecting motor vehicle owners with drivers for financial consideration. For the purposes of this section, the term does not include a rental car company, a car-sharing service as defined in s. 212.0606(1), a taxicab association, or the owner of a for-hire vehicle as defined in s. 320.01(15).

(g) "Peer-to-peer car-sharing program agreement" means the terms and conditions established by the peer-to-peer car-sharing



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program which are applicable to a shared vehicle owner and a shared vehicle driver and which govern the use of a shared vehicle through a peer-to-peer car-sharing program. For the purposes of this section, the term does not include a rental agreement or an agreement for a for-hire vehicle as defined in s. 320.01(15) or for a car-sharing service as defined in s. 212.0606(1).

(h) "Shared vehicle" means a motor vehicle that is available for sharing through a peer-to-peer car-sharing program. For the purposes of this section, the term does not include a rental car, a for-hire vehicle as defined in s. 320.01(15), or a motor vehicle used for ridesharing as defined in s. 341.031(9), for carpool as defined in s. 450.28(3), or for car-sharing service as defined in s. 212.0606(1).

(i) "Shared vehicle driver" means an individual who has been authorized by the shared vehicle owner to drive the shared vehicle under the peer-to-peer car-sharing program agreement.

(j) "Shared vehicle owner" means the registered owner, or a natural person or an entity designated by the registered owner, of a motor vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car-sharing program. For the purposes of this section, the term does not include an owner of a for-hire vehicle as defined in s. 320.01(15).

(2) INSURANCE COVERAGE REQUIREMENTS.—

(a)1. A peer-to-peer car-sharing program shall ensure that, during each car-sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle insurance policy that provides all of the following:

a. Property damage liability coverage that meets the



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minimum coverage amounts required under s. 324.022.

b. Bodily injury liability coverage limits as described in s. 324.021(7) (a) and (b).

c. Personal injury protection benefits that meet the minimum coverage amounts required under s. 627.736.

d. Uninsured and underinsured vehicle coverage as required under s. 627.727.

2. The peer-to-peer car-sharing program shall also ensure that the motor vehicle insurance policy under subparagraph 1.:

a. Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car-sharing program; or

b. Does not exclude the use of a shared vehicle by a shared vehicle driver.

(b)1. The insurance described under paragraph (a) may be satisfied by a motor vehicle insurance policy maintained by:

a. A shared vehicle owner;

b. A shared vehicle driver;

c. A peer-to-peer car-sharing program; or

d. A combination of a shared vehicle owner, a shared vehicle driver, and a peer-to-peer car-sharing program.

2. The insurance policy maintained in subparagraph 1. which satisfies the insurance requirements under paragraph (a) is primary during each car-sharing period.

3.a. If the insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subparagraph 1. has lapsed or does not provide the coverage required under paragraph (a), the insurance maintained by the peer-to-peer car-sharing program must provide the coverage required under paragraph (a),



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beginning with the first dollar of a claim, and must defend such  
claim, except under circumstances as set forth in subparagraph  
(3) (a) 2.

b. Coverage under a motor vehicle insurance policy  
maintained by the peer-to-peer car-sharing program must not be  
dependent on another motor vehicle insurer first denying a  
claim, and another motor vehicle insurance policy is not  
required to first deny a claim.

c. Notwithstanding any other law, statute, rule, or  
regulation to the contrary, a peer-to-peer car-sharing program  
has an insurable interest in a shared vehicle during the car-  
sharing period. This sub-subparagraph does not create liability  
for a peer-to-peer car-sharing program for maintaining the  
coverage required under paragraph (a) and under this paragraph,  
if applicable.

d. A peer-to-peer car-sharing program may own and maintain  
as the named insured one or more policies of motor vehicle  
insurance which provide coverage for:

(I) Liabilities assumed by the peer-to-peer car-sharing  
program under a peer-to-peer car-sharing program agreement;

(II) Liability of the shared vehicle owner;

(III) Liability of the shared vehicle driver;

(IV) Damage or loss to the shared motor vehicle; or

(V) Damage, loss, or injury to persons or property to  
satisfy the personal injury protection and uninsured and  
underinsured motorist coverage requirements of this section.

e. Insurance required under paragraph (a), when maintained  
by a peer-to-peer car-sharing program, may be provided by an  
insurer authorized to do business in this state which is a



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member of the Florida Insurance Guaranty Association or an eligible surplus lines insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the office. A peer-to-peer car-sharing program is not transacting in insurance when it maintains the insurance required under this section.

(3) LIABILITIES AND INSURANCE EXCLUSIONS.—

(a) Liability.—

1. A peer-to-peer car-sharing program shall assume liability, except as provided in subparagraph 2., of a shared vehicle owner for bodily injury or property damage to third parties or uninsured and underinsured motorist or personal injury protection losses during the car-sharing period in an amount stated in the peer-to-peer car-sharing program agreement, which amount may not be less than those set forth in ss. 324.021(7)(a) and (b), 324.022, 627.727, and 627.736, respectively.

2. The assumption of liability under subparagraph 1. does not apply if a shared vehicle owner:

a. Makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car-sharing program before the car-sharing period in which the loss occurs;  
or

b. Acts in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the peer-to-peer car-sharing program agreement.

3. A peer-to-peer car-sharing program shall assume primary liability for a claim when it is in whole or in part providing the insurance required under paragraph (2)(a) and:



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a. A dispute exists as to who was in control of the shared motor vehicle at the time of the loss; and

b. The peer-to-peer car-sharing program does not have available, did not retain, or fails to provide the information required under subsection (5).

The shared vehicle owner's insurer shall indemnify the peer-to-peer car-sharing program to the extent of the insurer's obligation, if any, under the applicable insurance policy if it is determined that the shared vehicle owner was in control of the shared motor vehicle at the time of the loss.

(b) Vicarious liability.—A peer-to-peer car-sharing program and a shared vehicle owner are exempt from vicarious liability consistent with 49 U.S.C. s. 30106 (2005) under any state or local law that imposes liability solely based on vehicle ownership.

(c) Exclusions in motor vehicle insurance policies.—An authorized insurer that writes motor vehicle liability insurance in this state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle insurance policy, including, but not limited to:

1. Liability coverage for bodily injury and property damage;

2. Personal injury protection coverage;

3. Uninsured and underinsured motorist coverage;

4. Medical payments coverage;

5. Comprehensive physical damage coverage; and

6. Collision physical damage coverage.





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This paragraph does not invalidate or limit any exclusion contained in a motor vehicle insurance policy, including any insurance policy in use or approved for use which excludes coverage for motor vehicles made available for rent, sharing, or hire or for any business use.

(d) Contribution against indemnification.—A shared vehicle owner's motor vehicle insurer that defends or indemnifies a claim against a shared vehicle which is excluded under the terms of its policy has the right to seek contribution against the motor vehicle insurer of the peer-to-peer car-sharing program if the claim is:

1. Made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the car-sharing period; and

2. Excluded under the terms of its policy.

(4) NOTIFICATION OF IMPLICATIONS OF LIEN.—At the time a motor vehicle owner registers as a shared vehicle owner on a peer-to-peer car-sharing program and before the shared vehicle owner may make a shared vehicle available for car sharing on the peer-to-peer car-sharing program, the peer-to-peer car-sharing program must notify the shared vehicle owner that, if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-peer car-sharing program, including the use without physical damage coverage, may violate the terms of the contract with the lienholder.

(5) RECORDKEEPING.—A peer-to-peer car-sharing program shall:

(a) Collect and verify records pertaining to the use of a



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shared vehicle, including, but not limited to, the times used,  
fees paid by the shared vehicle driver, and revenues received by  
the shared vehicle owner.

(b) Retain the records in paragraph (a) for a time period  
not less than the applicable personal injury statute of  
limitations.

(c) Provide the information contained in the records in  
paragraph (a) upon request to the shared vehicle owner, the  
shared vehicle owner's insurer, or the shared vehicle driver's  
insurer to facilitate a claim coverage investigation.

(6) CONSUMER PROTECTIONS.—

(a) Disclosures.—Each peer-to-peer car-sharing program  
agreement made in this state must disclose to the shared vehicle  
owner and the shared vehicle driver:

1. Any right of the peer-to-peer car-sharing program to  
seek indemnification from the shared vehicle owner or the shared  
vehicle driver for economic loss resulting from a breach of the  
terms and conditions of the peer-to-peer car-sharing program  
agreement.

2. That a motor vehicle insurance policy issued to the  
shared vehicle owner for the shared vehicle or to the shared  
vehicle driver does not provide a defense or indemnification for  
any claim asserted by the peer-to-peer car-sharing program.

3. That the peer-to-peer car-sharing program's insurance  
coverage on the shared vehicle owner and the shared vehicle  
driver is in effect only during each car-sharing period and  
that, for any use of the shared vehicle by the shared vehicle  
driver after the car-sharing termination time, the shared  
vehicle driver and the shared vehicle owner may not have



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insurance coverage.

4. The daily rate, fees, and, if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver.

5. That the shared vehicle owner's motor vehicle liability insurance may exclude coverage for a shared vehicle.

6. An emergency telephone number of the personnel capable of fielding calls for roadside assistance and other customer service inquiries.

7. Any conditions under which a shared vehicle driver must maintain a personal motor vehicle insurance policy with certain applicable coverage limits on a primary basis in order to book a shared vehicle.

(b) Driver license verification and data retention.—

1. A peer-to-peer car-sharing program may not enter into a peer-to-peer car-sharing program agreement with a driver unless the driver:

a. Holds a driver license issued under chapter 322 which authorizes the driver to drive vehicles of the class of the shared vehicle;

b. Is a nonresident who:

(I) Holds a driver license issued by the state or country of the driver's residence which authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and

(II) Is at least the same age as that required of a resident to drive; or

c. Is otherwise specifically authorized by the Department of Highway Safety and Motor Vehicles to drive vehicles of the



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class of the shared vehicle.

2. A peer-to-peer car-sharing program shall keep a record of:

a. The name and address of the shared vehicle driver;

b. The number of the driver license of the shared vehicle driver and each other person, if any, who will operate the shared vehicle; and

c. The place of issuance of the driver license.

(c) Responsibility for equipment.—A peer-to-peer car-sharing program has sole responsibility for any equipment that is put in or on the shared vehicle to monitor or facilitate the peer-to-peer car-sharing transaction, including a GPS system. The peer-to-peer car-sharing program shall indemnify and hold harmless the shared vehicle owner for any damage to or theft of such equipment during the car-sharing period which is not caused by the shared vehicle owner. The peer-to-peer car-sharing program may seek indemnity from the shared vehicle driver for any damage to or loss of such equipment which occurs during the car-sharing period.

(d) Motor vehicle safety recalls.—At the time a motor vehicle owner registers as a shared vehicle owner on a peer-to-peer car-sharing program and before the shared vehicle owner may make a shared vehicle available for car sharing on the peer-to-peer car-sharing program, the peer-to-peer car-sharing program must:

1. Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made; and

2. Notify the shared vehicle owner that if the shared



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vehicle owner:

a. Has received an actual notice of a safety recall on the vehicle, he or she may not make a vehicle available as a shared vehicle on the peer-to-peer car-sharing program until the safety recall repair has been made.

b. Receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car-sharing program, he or she shall remove the shared vehicle as available on the peer-to-peer car-sharing program as soon as practicably possible after receiving the notice of the safety recall and until the safety recall repair has been made.

c. Receives an actual notice of a safety recall while the shared vehicle is in the possession of a shared vehicle driver, he or she shall notify the peer-to-peer car-sharing program about the safety recall as soon as practicably possible after receiving the notice of the safety recall, so that he or she may address the safety recall repair.

(7) CONSTRUCTION.—This section does not limit:

(a) The liability of a peer-to-peer car-sharing program for any act or omission of the peer-to-peer car-sharing program which results in bodily injury to a person as a result of the use of a shared vehicle through peer-to-peer car sharing; or

(b) The ability of a peer-to-peer car-sharing program to seek, by contract, indemnification from the shared vehicle owner or the shared vehicle driver for economic loss resulting from a breach of the terms and conditions of the peer-to-peer car-sharing program agreement.

Section 4. This act shall take effect March 1, 2021.



493334

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to motor vehicle rentals; amending s.  
212.05, F.S.; specifying the applicable sales tax rate  
on motor vehicle leases and rentals by motor vehicle  
rental companies and peer-to-peer car-sharing  
programs; requiring peer-to-peer car-sharing programs  
to collect and remit the applicable sales tax;  
amending s. 212.0606, F.S.; defining terms; specifying  
the applicable rental car surcharge on motor vehicle  
leases and rentals by motor vehicle rental companies  
and peer-to-peer car-sharing programs; specifying  
applicability of the surcharge; requiring motor  
vehicle rental companies and peer-to-peer car-sharing  
programs to collect the surcharge; requiring car-  
sharing services to collect a certain surcharge;  
making technical changes; creating s. 627.7483, F.S.;  
defining terms; specifying insurance requirements for  
shared vehicle owners and shared vehicle drivers under  
peer-to-peer car-sharing programs; providing that a  
peer-to-peer car-sharing program has an insurable  
interest in a shared vehicle during certain periods;  
authorizing peer-to-peer car-sharing programs to own  
and maintain certain motor vehicle insurance policies;  
requiring peer-to-peer car-sharing programs to assume  
certain liability; providing exceptions; requiring a



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shared vehicle owner's insurer to indemnify the peer-to-peer car-sharing program under certain circumstances; providing an exemption from vicarious liability for peer-to-peer car-sharing programs and shared vehicle owners; authorizing motor vehicle insurers to exclude coverages and a duty to defend or indemnify claims under a shared vehicle owner's policy; providing construction relating to exclusions; providing a right of contribution to a shared vehicle owner's insurer for certain claims; requiring a peer-to-peer car-sharing program to provide certain information to shared vehicle owners regarding liens; specifying recordkeeping and record sharing, disclosure, and driver license verification and data retention requirements for peer-to-peer car-sharing programs; providing that peer-to-peer car-sharing programs have sole responsibility for certain equipment in or on a shared vehicle; providing for indemnification; specifying requirements for peer-to-peer car-sharing programs relating to safety recalls on a shared vehicle; providing construction; providing an effective date.



272308

LEGISLATIVE ACTION

Senate

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. .  
. .  
. .  
. .

House

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The Committee on Banking and Insurance (Rouson) recommended the following:

**Senate Amendment**

Delete lines 216 - 222  
and insert:

a. Primary motor vehicle liability coverage of at least \$1 million for death, bodily injury, and property damage.

b. Personal injury protection benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405.

c. Uninsured and underinsured vehicle coverage as required



By the Committee on Innovation, Industry, and Technology; and  
Senator Perry

580-02633-20

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1 A bill to be entitled  
2 An act relating to motor vehicle rentals; amending s.  
3 212.0606, F.S.; defining the terms "motor vehicle  
4 rental company" and "peer-to-peer car-sharing  
5 program"; revising the applicability of the rental car  
6 surcharge; imposing the surcharge on certain motor  
7 vehicle leases or rentals by a peer-to-peer car-  
8 sharing program; specifying who must collect the  
9 surcharge; making technical changes; creating s.  
10 627.7483, F.S.; defining terms; specifying motor  
11 vehicle insurance requirements for shared vehicles on  
12 a peer-to-peer car-sharing program; providing  
13 construction relating to such insurance; requiring a  
14 peer-to-peer car-sharing program to assume specified  
15 liability of a shared vehicle owner; providing  
16 exceptions; requiring a shared vehicle owner's insurer  
17 to indemnify the peer-to-peer car-sharing program  
18 under certain circumstances; authorizing a shared  
19 vehicle owner's motor vehicle insurer to exclude  
20 certain coverages and the duty to defend or indemnify  
21 certain claims; authorizing such insurer to seek  
22 contribution against the peer-to-peer car-sharing  
23 program's insurer under certain circumstances;  
24 requiring a peer-to-peer car-sharing program to notify  
25 the shared vehicle owner of certain lien information;  
26 specifying recordkeeping and record disclosure  
27 requirements for peer-to-peer car-sharing programs;  
28 specifying disclosure requirements for peer-to-peer  
29 car-sharing program agreements; specifying shared

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 vehicle driver license requirements; specifying  
31 liability for damage to certain equipment in or on a  
32 shared vehicle; specifying requirements for peer-to-  
33 peer car-sharing programs relating to safety recalls  
34 on shared vehicles; providing construction; providing  
35 an effective date.  
36

37 Be It Enacted by the Legislature of the State of Florida:  
38

39 Section 1. Section 212.0606, Florida Statutes, is amended  
40 to read:

41 212.0606 Rental car surcharge.—

42 (1) As used in this section, the term:

43 (a) "Car-sharing service" means a membership-based  
44 organization or business, or division thereof, which requires  
45 the payment of an application fee or a membership fee and  
46 provides member access to motor vehicles;

47 1. Only at locations that are not staffed by car-sharing  
48 service personnel employed solely for the purpose of interacting  
49 with car-sharing service members;

50 2. Twenty-four hours per day, 7 days per week;

51 3. Only through automated means, including, but not limited  
52 to, a smartphone application or an electronic membership card;

53 4. On an hourly basis or for a shorter increment of time;

54 5. Without a separate fee for refueling the motor vehicle;

55 6. Without a separate fee for minimum financial  
56 responsibility liability insurance; and

57 7. Owned or controlled by the car-sharing service or its  
58 affiliates.

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(b) "Motor vehicle rental company" means an entity that is in the business of providing motor vehicles to the public under a rental agreement for financial consideration.

(c) "Peer-to-peer car-sharing program" has the same meaning as in s. 627.7483(1).

(2) Except as provided in subsection (3) ~~(2)~~, a surcharge of \$2 per day or any part of a day is imposed upon the lease or rental by a motor vehicle rental company or a peer-to-peer car-sharing program of a motor vehicle that is licensed for hire and designed to carry fewer than nine passengers, regardless of whether the motor vehicle is licensed in this state, for financial consideration without transfer of the title of the motor vehicle. The surcharge is imposed regardless of whether the lease or rental occurs in person or through digital means. The surcharge applies to only the first 30 days of the term of a lease or rental and must be collected by the motor vehicle rental company or the peer-to-peer car-sharing program. The surcharge is subject to all applicable taxes imposed by this chapter.

~~(3)(2)~~ A member of a car-sharing service who uses a motor vehicle as described in subsection (2) ~~(1)~~ for less than 24 hours pursuant to an agreement with the car-sharing service shall pay a surcharge of \$1 per usage. A member of a car-sharing service who uses the same motor vehicle for 24 hours or more shall pay a surcharge of \$2 per day or any part of a day as provided in subsection (2) ~~(1)~~. The car-sharing service shall collect the surcharge ~~For purposes of this subsection, the term "car-sharing service" means a membership-based organization or business, or division thereof, which requires the payment of an~~

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~~application or membership fee and provides member access to motor vehicles:~~

~~(a) Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car sharing service members;~~

~~(b) Twenty-four hours per day, 7 days per week;~~

~~(c) Only through automated means, including, but not limited to, smartphone applications or electronic membership cards;~~

~~(d) On an hourly basis or for a shorter increment of time;~~

~~(e) Without a separate fee for refueling the motor vehicle;~~

~~(f) Without a separate fee for minimum financial~~

~~responsibility liability insurance; and~~

~~(g) Owned or controlled by the car-sharing service or its affiliates.~~ The surcharge imposed under this subsection does not apply to the lease, rental, or use of a motor vehicle from a location owned, operated, or leased by or for the benefit of an airport or airport authority.

~~(4)(3)~~(a) Notwithstanding s. 212.20, and less the costs of administration, 80 percent of the proceeds of this surcharge shall be deposited in the State Transportation Trust Fund, 15.75 percent of the proceeds of this surcharge shall be deposited in the Tourism Promotional Trust Fund created in s. 288.122, and 4.25 percent of the proceeds of this surcharge shall be deposited in the Florida International Trade and Promotion Trust Fund. For the purposes of this subsection, the term "proceeds of this surcharge" ~~of the surcharge~~ means all funds collected and received by the department under this section, including interest and penalties on delinquent surcharges. The department

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shall provide the Department of Transportation rental car surcharge revenue information for the previous state fiscal year by September 1 of each year.

(b) Notwithstanding any other ~~provision of~~ law, the proceeds deposited in the State Transportation Trust Fund shall be allocated on an annual basis in the Department of Transportation's work program to each department district, except the Turnpike District. The amount allocated to each district shall be based on the amount of proceeds attributed to the counties within each respective district.

(5) (a) ~~(4)~~ Except as provided in this section, the department shall administer, collect, and enforce the surcharge as provided in this chapter.

(b) ~~(a)~~ The department shall require a dealer ~~dealers~~ to report surcharge collections according to the county to which the surcharge was attributed. For purposes of this section, the surcharge shall be attributed to the county where the rental agreement was entered into.

(c) ~~(b)~~ A dealer ~~Dealers~~ who collects ~~collect~~ the rental car surcharge shall report to the department all surcharge revenues attributed to the county where the rental agreement was entered into on a timely filed return for each required reporting period. The provisions of this chapter which apply to interest and penalties on delinquent taxes apply to the surcharge. The surcharge shall not be included in the calculation of estimated taxes pursuant to s. 212.11. The dealer's credit provided in s. 212.12 does not apply to any amount collected under this section.

(6) ~~(5)~~ The surcharge imposed by this section does not apply

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to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

Section 2. Section 627.7483, Florida Statutes, is created to read:

627.7483 Peer-to-peer car sharing.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Peer-to-peer car sharing" means the authorized use of a motor vehicle by an individual other than the vehicle's owner through a peer-to-peer car-sharing program. The term does not include ridesharing as defined in s. 341.031(9), a carpool as defined in s. 450.28(3), or the use of a motor vehicle under an agreement for a car-sharing service as defined in s. 212.0606(1).

(b) "Peer-to-peer car-sharing delivery period" means the period during which a shared vehicle is delivered to the location of the peer-to-peer car-sharing start time, if applicable, as documented by the governing peer-to-peer car-sharing program agreement.

(c) "Peer-to-peer car-sharing period" means the period beginning either at the peer-to-peer car-sharing delivery period, or, if there is no peer-to-peer car-sharing delivery period, at the peer-to-peer car-sharing start time, and ending at the peer-to-peer car-sharing termination time.

(d) "Peer-to-peer car-sharing program" means a business platform that enables peer-to-peer car sharing by connecting motor vehicle owners with drivers for financial consideration. The term does not include a taxicab association or a transportation network company as defined in s. 627.748(1).

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(e) "Peer-to-peer car-sharing program agreement" means the terms and conditions established by the peer-to-peer car-sharing program which are applicable to a shared vehicle owner and a shared vehicle driver and which govern the use of a shared vehicle through a peer-to-peer car-sharing program.

(f) "Peer-to-peer car-sharing start time" means the time when the shared vehicle is under the control of the shared vehicle driver, which occurs at or after the time the reservation of the shared vehicle is scheduled to begin, as documented in the peer-to-peer car-sharing program agreement.

(g) "Peer-to-peer car-sharing termination time" means the earliest of the following:

1. The expiration of the agreed-upon period established for the use of a shared vehicle according to the terms of the peer-to-peer car-sharing program agreement, if the shared vehicle is delivered to the location agreed upon in the peer-to-peer car-sharing program agreement;

2. The time the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver, as communicated through a peer-to-peer car-sharing program; or

3. The time the shared vehicle owner takes possession and control of the shared vehicle.

(h) "Shared vehicle" means a motor vehicle that is available for sharing through a peer-to-peer car-sharing program. The term does not include a motor vehicle used for ridesharing as defined in s. 341.031(9) or a motor vehicle used for a carpool as defined in s. 450.28(3).

(i) "Shared vehicle driver" means an individual who is

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authorized by the shared vehicle owner to drive the shared vehicle under the peer-to-peer car-sharing program agreement.

(j) "Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a motor vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car-sharing program.

(2) INSURANCE COVERAGE REQUIREMENTS.—

(a)1. A peer-to-peer car-sharing program shall ensure during each peer-to-peer car-sharing period that the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle insurance policy that provides all of the following:

a. Property damage liability coverage that meets the minimum coverage amounts required under s. 324.022.

b. Bodily injury liability coverage limits as specified in s. 324.021(7) (a) and (b).

c. Personal injury protection benefits that meet the minimum coverage amounts required under s. 627.736.

d. Uninsured and underinsured vehicle coverage as required under s. 627.727.

2. The peer-to-peer car-sharing program shall also ensure that the motor vehicle insurance policy under subparagraph 1.:

a. Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car-sharing program; and

b. Does not exclude the use of a shared vehicle by a shared vehicle driver.

(b)1. The insurance requirements under paragraph (a) may be satisfied by a motor vehicle insurance policy maintained by:

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233 a. A shared vehicle owner;  
 234 b. A shared vehicle driver;  
 235 c. A peer-to-peer car-sharing program; or  
 236 d. A combination of a shared vehicle owner, a shared  
 237 vehicle driver, and a peer-to-peer car-sharing program.  
 238 2. The insurance policy maintained in subparagraph 1. which  
 239 satisfies the insurance requirements under paragraph (a) is  
 240 primary during each peer-to-peer car-sharing period.  
 241 3.a. If the insurance maintained by a shared vehicle owner  
 242 or shared vehicle driver in accordance with subparagraph 1.  
 243 lapses or does not provide the coverage required under paragraph  
 244 (a), the insurance maintained by the peer-to-peer car-sharing  
 245 program must provide the coverage required under paragraph (a)  
 246 beginning with the first dollar of a claim and must defend such  
 247 claim, except under circumstances as set forth in subparagraph  
 248 (3)(a)2.  
 249 b. Coverage under a motor vehicle insurance policy  
 250 maintained by the peer-to-peer car-sharing program may not be  
 251 dependent on another motor vehicle insurer first denying a  
 252 claim, and another motor vehicle insurance policy is not  
 253 required to first deny a claim.  
 254 c. Notwithstanding any other law to the contrary, a peer-  
 255 to-peer car-sharing program has an insurable interest in a  
 256 shared vehicle during the peer-to-peer car-sharing period. This  
 257 sub-subparagraph does not create liability for a network for  
 258 maintaining the coverage required under paragraph (a) and under  
 259 this paragraph, if applicable.  
 260 d. A peer-to-peer car-sharing program may own and maintain  
 261 as the named insured one or more policies of motor vehicle

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262 insurance which provide coverage for:  
 263 (I) Liabilities assumed by the peer-to-peer car-sharing  
 264 program under a peer-to-peer car-sharing program agreement;  
 265 (II) Liability of the shared vehicle owner;  
 266 (III) Liability of the shared vehicle driver;  
 267 (IV) Damage or loss to the shared motor vehicle; or  
 268 (V) Damage, loss, or injury to persons or property to  
 269 satisfy the personal injury protection and uninsured and  
 270 underinsured motorist coverage requirements of this section.  
 271 e. Insurance required under paragraph (a), when maintained  
 272 by a peer-to-peer car-sharing program, may be provided by an  
 273 insurer authorized to do business in this state which is a  
 274 member of the Florida Insurance Guaranty Association or by an  
 275 eligible surplus lines insurer that has a superior, excellent,  
 276 exceptional, or equivalent financial strength rating by a rating  
 277 agency acceptable to the office. A peer-to-peer car-sharing  
 278 program is not transacting in insurance when it maintains the  
 279 insurance required under this section.  
 280 (3) LIABILITIES AND INSURANCE EXCLUSIONS.-  
 281 (a) Liability.-  
 282 1. A peer-to-peer car-sharing program shall assume  
 283 liability, except as provided in subparagraph 2., of a shared  
 284 vehicle owner for bodily injury or property damage to third  
 285 parties or uninsured and underinsured motorist or personal  
 286 injury protection losses during the peer-to-peer car-sharing  
 287 period in amounts stated in the peer-to-peer car-sharing program  
 288 agreement. Such amounts may not be less than those set forth in  
 289 ss. 324.021(7)(a) and (b), 324.022, 627.727, and 627.736,  
 290 respectively.

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291 2. The assumption of liability under subparagraph 1. does  
 292 not apply if a shared vehicle owner:  
 293 a. Makes an intentional or fraudulent material  
 294 misrepresentation or omission to the peer-to-peer car-sharing  
 295 program before the peer-to-peer car-sharing period in which the  
 296 loss occurs; or  
 297 b. Acts in concert with a shared vehicle driver who fails  
 298 to return the shared vehicle pursuant to the terms of the peer-  
 299 to-peer car-sharing program agreement.  
 300 3. A peer-to-peer car-sharing program shall assume primary  
 301 liability for a claim when it is providing, in whole or in part,  
 302 the insurance required under paragraph (2) (a) and:  
 303 a. A dispute exists as to who was in control of the shared  
 304 motor vehicle at the time of the loss; and  
 305 b. The peer-to-peer car-sharing program does not have  
 306 available, did not retain, or fails to provide the information  
 307 required under subsection (5).  
 308  
 309 The shared vehicle owner's insurer shall indemnify the peer-to-  
 310 peer car-sharing program to the extent of the insurer's  
 311 obligation, if any, under the applicable insurance policy if it  
 312 is determined that the shared vehicle owner was in control of  
 313 the shared motor vehicle at the time of the loss.  
 314 (b) Exclusions in motor vehicle insurance policies.—An  
 315 authorized insurer that writes motor vehicle liability insurance  
 316 in this state may exclude any coverage and the duty to defend or  
 317 indemnify for any claim afforded under a shared vehicle owner's  
 318 motor vehicle insurance policy, including, but not limited to:  
 319 1. Liability coverage for bodily injury and property

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320 damage;  
 321 2. Personal injury protection coverage;  
 322 3. Uninsured and underinsured motorist coverage;  
 323 4. Medical payments coverage;  
 324 5. Comprehensive physical damage coverage; and  
 325 6. Collision physical damage coverage.  
 326  
 327 This paragraph does not invalidate or limit any exclusion  
 328 contained in a motor vehicle insurance policy, including any  
 329 insurance policy in use or approved for use which excludes  
 330 coverage for motor vehicles made available for rent, sharing, or  
 331 hire or for any business use.  
 332 (c) Contribution against indemnification.—A shared vehicle  
 333 owner's motor vehicle insurer that defends or indemnifies a  
 334 claim against a shared vehicle which is excluded under the terms  
 335 of its policy has the right to seek contribution against the  
 336 motor vehicle insurer of the peer-to-peer car-sharing program if  
 337 the claim is made against the shared vehicle owner or the shared  
 338 vehicle driver for loss or injury that occurs during the peer-  
 339 to-peer car-sharing period.  
 340 (4) NOTIFICATION OF IMPLICATIONS OF LIEN.—At the time a  
 341 motor vehicle owner registers as a shared vehicle owner on a  
 342 peer-to-peer car-sharing program and before the shared vehicle  
 343 owner may make a shared vehicle available for peer-to-peer car  
 344 sharing on the peer-to-peer car-sharing program, the peer-to-  
 345 peer car-sharing program must notify the shared vehicle owner  
 346 that, if the shared vehicle has a lien against it, the use of  
 347 the shared vehicle through a peer-to-peer car-sharing program,  
 348 including the use without physical damage coverage, may violate

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the terms of the contract with the lienholder.

(5) RECORDKEEPING.—A peer-to-peer car-sharing program shall:

(a) Collect and verify records pertaining to the use of a shared vehicle, including, but not limited to, the times used, fees paid by the shared vehicle driver, and revenues received by the shared vehicle owner.

(b) Retain the records in paragraph (a) for a period of not less than the applicable personal injury statute of limitations.

(c) Provide the information contained in the records under paragraph (a) upon request to the shared vehicle owner, the shared vehicle owner's insurer, or the shared vehicle driver's insurer to facilitate a claim coverage investigation.

(6) CONSUMER PROTECTIONS.—

(a) Disclosures.—Each peer-to-peer car-sharing program agreement made in this state must disclose to the shared vehicle owner and the shared vehicle driver:

1. Any right of the peer-to-peer car-sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss resulting from a breach of the terms and conditions of the peer-to-peer car-sharing program agreement.

2. That a motor vehicle insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car-sharing program.

3. That the peer-to-peer car-sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each peer-to-peer car-sharing

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period and that, for any use of the shared vehicle by the shared vehicle driver after the peer-to-peer car-sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage.

4. The daily rate, fees, and, if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver.

5. That the shared vehicle owner's motor vehicle liability insurance may exclude coverage for a shared vehicle.

6. An emergency telephone number of the personnel capable of fielding calls for roadside assistance and other customer service inquiries.

7. Any conditions under which a shared vehicle driver must maintain a personal motor vehicle insurance policy with certain applicable coverage limits on a primary basis in order to book a shared vehicle.

(b) Driver license verification and data retention.—

1. A peer-to-peer car-sharing program may not enter into a peer-to-peer car-sharing program agreement with a driver unless the driver:

a. Holds a driver license issued under chapter 322 which authorizes the driver to drive vehicles of the class of the shared vehicle;

b. Is a nonresident who:

(I) Holds a driver license issued by the state or country of the driver's residence which authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and

(II) Is at least the same age as that required of a

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407 resident to drive; or

408 c. Is otherwise specifically authorized by the Department  
 409 of Highway Safety and Motor Vehicles to drive vehicles of the  
 410 class of the shared vehicle.

411 2. A peer-to-peer car-sharing program shall keep a record  
 412 of:

413 a. The name and address of the shared vehicle driver;  
 414 b. The driver license number of the shared vehicle driver  
 415 and of any other person who will operate the shared vehicle; and  
 416 c. The place of issuance of the driver license.

417 (c) Responsibility for equipment.—A peer-to-peer car-  
 418 sharing program has sole responsibility for any equipment that  
 419 is put in or on the shared vehicle to monitor or facilitate the  
 420 peer-to-peer car-sharing transaction, including a GPS system.  
 421 The peer-to-peer car-sharing program shall indemnify and hold  
 422 harmless the shared vehicle owner for any damage to or theft of  
 423 such equipment during the peer-to-peer car-sharing period which  
 424 is not caused by the shared vehicle owner. The peer-to-peer car-  
 425 sharing program may seek indemnity from the shared vehicle  
 426 driver for any damage to or loss of such equipment which occurs  
 427 outside of the peer-to-peer car-sharing period.

428 (d) Motor vehicle safety recalls.—At the time a motor  
 429 vehicle owner registers as a shared vehicle owner on a peer-to-  
 430 peer car-sharing program and before the shared vehicle owner may  
 431 make a shared vehicle available for peer-to-peer car sharing on  
 432 the peer-to-peer car-sharing program, the peer-to-peer car-  
 433 sharing program must:

434 1. Verify that the shared vehicle does not have any safety  
 435 recalls on the vehicle for which the repairs have not been made;

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436 and

437 2. Notify the shared vehicle owner that if the shared  
 438 vehicle owner:

439 a. Has received an actual notice of a safety recall on the  
 440 vehicle, he or she may not make a vehicle available as a shared  
 441 vehicle on the peer-to-peer car-sharing program until the safety  
 442 recall repair has been made.

443 b. Receives an actual notice of a safety recall on a shared  
 444 vehicle while the shared vehicle is made available on the peer-  
 445 to-peer car-sharing program, he or she must remove the shared  
 446 vehicle's availability on the peer-to-peer car-sharing program  
 447 as soon as practicable after receiving the notice of the safety  
 448 recall and until the safety recall repair has been made.

449 c. Receives an actual notice of a safety recall while the  
 450 shared vehicle is in the possession of a shared vehicle driver,  
 451 he or she must notify the peer-to-peer car-sharing program about  
 452 the safety recall as soon as practicably possible after  
 453 receiving the notice of the safety recall so that he or she may  
 454 address the safety recall repair.

455 (7) CONSTRUCTION.—This section does not limit:

456 (a) The liability of a peer-to-peer car-sharing program for  
 457 any act or omission of the peer-to-peer car-sharing program  
 458 which results in the bodily injury to a person as a result of  
 459 the use of a shared vehicle through peer-to-peer car sharing; or

460 (b) The ability of a peer-to-peer car-sharing program to  
 461 seek by contract indemnification from the shared vehicle owner  
 462 or the shared vehicle driver for economic loss resulting from a  
 463 breach of the terms and conditions of the peer-to-peer car-  
 464 sharing program agreement.



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465

Section 3. This act shall take effect October 1, 2020.



The Florida Senate

## Committee Agenda Request

**To:** Senator Doug Broxson, Chair  
Committee on Banking and Insurance

**Subject:** Committee Agenda Request

**Date:** January 29, 2020

---

I respectfully request that **Senate Bill #478**, relating to Motor Vehicle Rentals, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style with a long, sweeping underline.

---

Senator Keith Perry  
Florida Senate, District 8

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20

Meeting Date

478

Bill Number (if applicable)

493334

Amendment Barcode (if applicable)

Topic Car Sharing

Name Logan McFaddin

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing APCIA (American Property Casualty Insurance Association)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20

Meeting Date

478

Bill Number (if applicable)

272308

Amendment Barcode (if applicable)

Topic Motor Vehicle Rentals

Name George Feijoo - ("Fay-Jew")

Job Title Consultant - Floridian Partners

Address 108 S. Monroe St.  
Street

Phone 305 720 7099

Tallahassee FL 32301  
City State Zip

Email gfeijoo@flapartners.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Avail

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20

Meeting Date

478

Bill Number (if applicable)

Topic Motor Vehicle Rentals

Amendment Barcode (if applicable)

Name George Feijoo ("Fay-Jew")

Job Title Consultant

Address 108 S Monroe St.

Street

Phone (305) 720 7099

Tallahassee

City

FL

State

32301

Zip

Email grfeijoo@flapartners.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Avail

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

2/4/20

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 478

Bill Number (if applicable)

Topic

~~State Budget~~ Car Sharing

Amendment Barcode (if applicable)

Name

Jim Daughton

Job Title

Address

119 S. Monroe St

Phone

205-9000

Street

Tallahassee.

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☒

Against

(The Chair will read this information into the record.)

(In another Committee)

Representing

Turo

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☐

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-4-20

Meeting Date

478

Bill Number (if applicable)

Topic PERFECT - TO - PERFECT CAR SHARING

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1ST STREET, SUITE 2810

Phone 305-979-7110

Street

MIAMI

FL

33128

Email JMM2@MIAMIDADE.GOV

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.4.20  
Meeting Date

478  
Bill Number (if applicable)

Topic Auto Rentals

Amendment Barcode (if applicable)

Name FRED DICKINSON

Job Title Pooler McKinley

Address 150 E. College  
Street

Phone 850.681.198

TEH FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing HERTZ

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20

Meeting Date

478

Bill Number (if applicable)

Topic Car Sharing

Amendment Barcode (if applicable)

Name Leslie Dughi

Job Title Gov Relations Manager

Address 100 College Ave

Phone 222 6811

Street

Tallahassee

FL

32301

City

State

Zip

Email Dughi129Haw.co

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Enterprise

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Banking and Insurance

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BILL: SB 924

INTRODUCER: Senator Brandes

SUBJECT: Civil Actions Against Insurers

DATE: January 27, 2020

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Arnold</u>	<u>Knudson</u>	<u>BI</u>	<u>Pre-meeting</u>
2. _____	_____	<u>JU</u>	_____
3. _____	_____	<u>RC</u>	_____

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## **I. Summary:**

SB 924 amends the civil remedies statute of the Insurance Code specific to third-party bad faith causes of action. The bill provides the insured or claimant has the burden of proving the insurer acted in bad faith through reckless disregard for the insured's rights and that this reckless disregard caused damaged to the insured or claimant. The bill codifies legal precedent that the conduct of the insurer or claimant is relevant to the trier of fact. The bill creates an affirmative defense where the conduct of the insured or claimant causes an excess judgment. The bill requires the insurer to advise the insured of settlement opportunities, probable outcome of litigation, and possibility of an excess judgment with steps to avoid such judgment. The bill precludes a third-party bad faith determination against the insurer if the insurer was ready and willing to settle for policy limits within 45 days of receiving the notice of loss. Finally, the bill precludes liability beyond policy limits in an interpleader case of two or more third-party claimants to a single claim if the insurer brings the interpleader action within 90 days of receiving notice of the competing claims.

The bill takes effect July 1, 2020.

## **II. Present Situation:**

### **Common Law and Statutory Bad Faith**

Bad faith law was designed to protect insureds who have paid their premiums and who have fulfilled their contractual obligations by cooperating fully with their insurer in the resolution of claims. Bad faith jurisprudence holds insurers accountable for failing to fulfill their obligations.<sup>1</sup> There are two distinct but very similar types of bad faith causes of action that may be initiated against an insurer: first-party and third-party.

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<sup>1</sup> *Harvey v. GEICO General Insurance Company*, 251 So.3d 1, 6, (Fla. 2018)(quoting *Berges v. Infinity Insurance Company*, 896 So.2d 665 at 682).

Florida courts have recognized common law third-party bad faith causes of action since 1938.<sup>2</sup> A third-party bad faith cause of action arises when an insurer fails in good faith to settle a third party's claim against the insured within policy limits and exposes the insured to liability in excess of his or her insurance coverage.<sup>3</sup> Third-party bad faith causes of actions arose in response to the argument that there was a practice in the insurance industry of rejecting without sufficient investigation or consideration claims presented by third parties against an insured, thereby exposing the insured individual to judgments exceeding the coverage limits of the policy while the insurer remained protected by a policy limit.<sup>4</sup> With no actionable remedy, insureds in this state and elsewhere were left personally responsible for the excess judgment amount.<sup>5</sup> Florida courts recognized common law third-party bad faith causes of action in part because the insurers had the power and authority to litigate or settle any claim, and thus owed the insured a corresponding duty of good faith and fair dealing in handling these third-party claims.<sup>6</sup>

In contrast to common law third-party bad faith causes of action, Florida courts do not recognize a common law first-party bad faith cause of action by the insured against its own insurer.<sup>7</sup> If an insurer acts in bad faith in settling a claim filed by its insured, the only common law remedy available to the insured is a breach of contract action against its own insurer with recoverable damages limited to those contemplated by the parties to the policy.<sup>8</sup>

The 1982 Legislature's enactment of s. 624.155, F.S., created a statutory first-party bad faith cause of action,<sup>9</sup> codified Florida Supreme Court precedent authorizing a common-law third-party bad faith cause of action,<sup>10</sup> and eliminated the distinction between statutory first- and third-party bad faith causes of action.<sup>11</sup>

Section 624.155, F.S., provides that any party may bring a bad faith action against an insurer, and defines bad faith on the part of the insurer as:

- Not attempting in good faith to settle claims when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward its insured with due regard for her or his interests;
- Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made; or
- Except as to liability coverages, failing to promptly settle claims, when the obligation to settle the claim has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.<sup>12</sup>

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<sup>2</sup> *Auto Mut. Indem. Co. v. Shaw*, 184, So. 852 (Fla. 1938).

<sup>3</sup> *Opperman v. Nationwide Mutual Fire Insurance Company*, 515 So.2d 263, 265 (Fla. 5th DCA 1987).

<sup>4</sup> *Allstate Indem. Co. v. Ruiz*, 899 So.2d 1121, 1125 (Fla. 2005).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So.2d 55, 58-59 (Fla. 1995).

<sup>8</sup> *Talat Enterprises, Inc. v. Aetna Cas. and Sur. Co.*, 753 So.2d 1278, 1281 (Fla. 2000).

<sup>9</sup> Chapter 82-243, s. 9, L.O.F.

<sup>10</sup> *Macola v. Government Employees Ins. Co.*, 953 So.2d 451, 456 (Fla. 2006). *See also State Farm Fire & Cas. Co. v. Zebrowski*, 706 So.2d 275, 277 (Fla. 1997).

<sup>11</sup> *Id.*

<sup>12</sup> Section 624.155(1)(b)(1)-(3), F.S.

### Civil Remedy Notice

As a condition precedent to bringing a bad faith action under s. 624.155, F.S., the insured must have provided the insurer and the Department of Financial Services at least 60 days written notice of the alleged violation.<sup>13</sup> The notice must specify the following information:

- The statutory provision, including the specific language of the statute, which the authorized insurer allegedly violated;
- The facts and circumstance giving rise to the violation;
- The name of any individual involved in the violation;
- A reference to specific policy language that is relevant to the violation, if any. If the person bringing the civil action is a third-party claimant, she or he shall not be required to reference the specific policy language if the authorized insurer has not provided a copy of the policy to the third party claimant pursuant to written request; and
- A statement that the notice is given in order to perfect the right to pursue the civil remedy authorized under s. 624.155, F.S.<sup>14</sup>

The 60-day window contemplated under s. 624.155, F.S., provides insurers with a final opportunity to comply with their claim-handling obligations when a good-faith decision by the insurer would indicate that contractual benefits are owed.<sup>15</sup> If the insurer in turn fails to respond to a civil remedy notice within the 60-day window, there is presumption of bad faith sufficient to shift the burden to the insurer to show why it did not respond.<sup>16</sup>

In *Talat Enterprises, Inc. v. Aetna Cas. and Sur. Co.*, the Florida Supreme Court addressed the question of whether an insurer that paid all contractual damages within the 60-day window, but none of the extra-contractual damages, satisfied the requirement for payment of damages under s. 624.155(3)(c), F.S., thereby precluding the claimant's bad faith action. The Florida Supreme Court answered in the affirmative, explaining:

Section 624.155 does not impose on an insurer the obligation to pay whatever the insured demands. The 60-day window is designed to be a cure period that will encourage payment of the underlying claim, and avoid unnecessary bad faith litigation. Surely an insurer need not immediately pay 100percent of the damages claimed to flow from bad faith conduct in order to avoid the chance that the insured will succeed on a bad faith cause of action. If the insurer may avoid a bad faith action only by paying in advance every penny of the damages that it faces if it loses at trial, the insurer would have no reason to pay.<sup>17</sup>

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<sup>13</sup> Section 624.155(3), F.S.

<sup>14</sup> Section 624.155(3)(b)(1)-(5), F.S.

<sup>15</sup> See *Talat Enterprises, Inc.*, 753 So.2d at 1284.

<sup>16</sup> *Fridman v. Safeco Ins. Co. of Illinois*, 185 So.3d 1214, 1220, (Fla. 2016); *Imhof v. Nationwide Mut. Ins. Co.*, 643 So.2d 617, 619 (Fla 1994).

<sup>17</sup> See *Talat Enterprises, Inc.*, 753 So.2d at 1282. (quoting *Talat Enterprises, Inc. v. Aetna Cas. & Sur. Co.*, 952 F.Supp. 773, 778 (M.D.Fla.1996)).

## Legal Standard of Proof

Each case is determined on its own facts and ordinarily the question of failure to act in good faith with due regard for the interests of the insured is for the jury.<sup>18</sup> In Florida, the question of whether an insurer has acted in bad faith in handling claims against the insured is determined under a “totality of the circumstances” standard.<sup>19</sup> In *Harvey v. Geico General Insurance Company*, the Florida Supreme Court explained that the critical inquiry in a bad faith case is whether “the insurer diligently, and with the same haste and precision as if it were in the insured’s shoes, worked on the insured’s behalf to avoid an excess judgment.”<sup>20</sup> The claimant bringing the bad faith action has the burden of proving the insurer acted in bad faith by a preponderance of the evidence.<sup>21</sup>

## Offer of Settlement

Under Florida law, an insurer must investigate the facts, give fair consideration to a settlement offer that is not unreasonable under the facts, and settle, if possible, where a reasonably prudent person, faced with the prospect of paying the total recovery, would do so.<sup>22</sup> In considering whether the insurer has given fair consideration to a settlement offer that is not unreasonable under the facts, Florida courts look to whether there was a realistic opportunity for settlement.<sup>23</sup>

## Duty to Advise Insured of Settlement Opportunities

Florida courts have interpreted the duty of good faith insurers owe to insureds in handling their claims to include the duty to advise the insured of settlement opportunities. In *Harvey v. Geico General Insurance Company*, the Florida Supreme Court reaffirmed its 1980 decision in *Boston Old Colony Ins. v. Gutierrez*, recognizing the insurer’s duty to advise the insured of settlement opportunities:

This good faith duty obligates the insurer to advise the insured of settlement opportunities, to advise as to the probable outcome of the litigation, to warn of the possibility of an excess judgment, and to advise the insured of any steps he might take to avoid same. The insurer must investigate the facts, give fair consideration to a settlement offer that is not unreasonable under the facts, and settle, if possible, where a reasonably prudent person, faced with the prospect of paying the total recovery, would do so. Because the duty of good faith involves diligence and care in the investigation and evaluation of the claim against the insured, negligence is relevant to the question of good faith.<sup>24</sup>

## Conduct of the Claimant in the Settlement Context

Florida courts place the focus in a bad faith case on the conduct of the insurer.<sup>25</sup> However, Florida courts do not completely ignore the conduct of the claimant. In *Barry v. GEICO General*

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<sup>18</sup> *Boston Old Colony Insurance Company v. Gutierrez*, 386 So.2d 783, 785 (Fla. 1980).

<sup>19</sup> *Berges v. Infinity Insurance Company*, 896 So.2d 665, 680 (Fla. 2005).

<sup>20</sup> See *Harvey*, 259 So.3d at 7.

<sup>21</sup> *Cadle v. GEICO General Insurance Company*, 838 F.3d 1113, 1119 (11<sup>th</sup> Cir. 2016).

<sup>22</sup> *Boston Old Colony Insurance Company v. Gutierrez*, 386 So.2d 783, 785 (Fla. 1980).

<sup>23</sup> *Barry v. GEICO General Insurance Company*, 938 So.2d 613, 618 (Fla. 4th DCA 2006).

<sup>24</sup> See *Harvey*, 259 So.3d at 6-7 (quoting *Boston Old Colony Insurance Company*, 386 So.2d at 785).

<sup>25</sup> *Id.*

*Ins. Co.*, the 4<sup>th</sup> District Court of Appeals of Florida addressed the question of whether the trial court abused its discretion in shifting the focus to the motives of the claimant in a bad faith case where the claimant refused the insurer's settlement offer. The appeals court denied the trial court abused its discretion, explaining:

Although Barry is correct that the focus of an insurance bad faith case is not on the motive of the claimant but of the insurer in fulfilling its duty to its insured, that does not mean that all inquiries into prior conduct and motives are irrelevant and prejudicial. In a bad faith case, the insurer has the burden to show that there was no realistic possibility of settlement within the policy limits. This question is decided based upon the totality of the circumstances. The conduct of Capelli and her attorney would be relevant to the question of whether there was any realistic possibility of settlement. Despite Capelli's testimony at trial that she would have settled the case if GEICO had not made the mistake, her actions and those of her attorney suggested otherwise. The jury could have concluded that the failure of her attorney to notify GEICO of his representation coupled with her refusal to meet with Stone on the settlement, among other incidents, showed that she did not want to settle with GEICO for the policy limits. Thus, GEICO did not inject irrelevant information into the case, and therefore we reject Barry's argument as to the cumulative nature of the errors.<sup>26</sup>

### Interpleader Actions

Interpleader is an equitable remedy by which a court determines the rightful claimant of two or more claimants making the same claim against a third party.<sup>27</sup> Interpleader serves the purpose of allowing the defendant to avoid multiple litigations and multiple liability stemming from the same claim.<sup>28</sup> It is not intended to prevent multiple recoveries under the claim.<sup>29</sup> In the insurance context, insurers use interpleaders if claims are made by different parties.<sup>30</sup> For example, when a life insurer is presented with two or more competing life insurance claims, the insurer deposits the life insurance proceeds under the policy with the court until the court decides the rightful beneficiary.

Under common law, Florida courts recognize four requirements to maintain an interpleader action:

- The claims to the stake were dependent or had common origin;
- The same thing, debt, or stake was claimed by the defendants;
- The plaintiff had “no interest in the subject matter—that is, in strict interpleader as distinguished from a suit in the nature of interpleader”; and
- The plaintiff was appearing that “no act on his part ... caused the embarrassment of conflicting claims and the peril of double vexation.”<sup>31</sup>

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<sup>26</sup> *Id.*

<sup>27</sup> Barron's Dictionary of Insurance Terms, 267 (6<sup>th</sup> ed. 2013)

<sup>28</sup> *Paul v. Harold Davis, Inc.*, 20 So.2d 795, 796 (1945).

<sup>29</sup> *Id.*

<sup>30</sup> See *supra* at Note 30.

<sup>31</sup> *Red Beryl, Inc. v. Sarasota Vault Depository, Inc.*, 176 So.3d 375, 383 (Fla. 2nd DCA 2015); *Riverside Bank of Jacksonville v. Fla. Dealers & Growers Bank*, 151 So.2d 834, 836 (Fla. 1st DCA 1963).

In contrast to common law, the Florida Rules of Civil Procedure provides that the only requirement to maintain an interpleader action is whether the stakeholder is or may be exposed to double or multiple liability for competing claims to a single fund.<sup>32</sup>

Rule 1.240, as adopted by the Florida Supreme Court, provides in pertinent part:

Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability. It is not grounds for objection to the joinder that the claim of the several claimants or the titles on which their claims depend do not have common origin or are not identical but are adverse to and independent of one another, or that the plaintiff avers that the plaintiff is not liable in whole or in part to any or all of the claimants.<sup>33</sup>

### **Reckless Disregard Standard Under s. 624.155, F.S.**

Section 624.155, F.S., prohibits the award of punitive damages under the section unless the acts giving rise to the violation occur with such frequency as to indicate a general business practice and these acts are:

- Willful, wanton, and malicious;
- In reckless disregard for the rights of any insured; or
- In reckless disregard for the rights of a beneficiary under a life insurance contract.

Section 624.155, F.S., does not define “reckless disregard.” In the absence of a statutory definition supplied by the Legislature, the courts follow the common law definition.<sup>34</sup>

In *Farmer v. Brennan*, the Supreme Court of the United States (SCOTUS) recognized the common law definition of “recklessness” in the civil liability sphere to mean conduct or actions that objectively entail “an unjustifiably high risk of harm that is either known or so obvious that it should be known.”<sup>35</sup>

SCOTUS in *Safeco Ins. Co. of America v. Burr* similarly recognized and applied the common law of “reckless disregard,” citing to the Restatement (Second) of Torts at s. 500:

The actor's conduct is in reckless disregard of the safety of another if he does an act or intentionally fails to do an act which it is his duty to the other to do, knowing or having reason to know of facts which would lead a reasonable man to realize, not only that his conduct creates an unreasonable risk of physical harm to another, but also that such risk is substantially greater than that which is necessary to make his conduct negligent.<sup>36</sup>

Florida courts, in turn, have distinguished between the “reckless disregard” and “willful, wanton, and malicious” standards under s. 624.155, F.S. For example, the Florida 4th District Court of Appeals in *Howell-Demarest v. State Farm Mut. Auto. Ins. Co.* noted that in the context of punitive damages under s. 624.155, F.S., the “reckless disregard” standard appears to be less stringent than the “willful, wanton, and malicious” standard that is necessary to support a

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<sup>32</sup> Fla. R. Civ. P. 1.240.

<sup>33</sup> *Id.*

<sup>34</sup> *Morrisette v. US*, 342 U.S. 246, 263 (1952).

<sup>35</sup> *Farmer v. Brennan*, 511 U.S. 825, 836 (1994).

<sup>36</sup> *Safeco Ins. Co. of America v. Burr*, 551 U.S. 47, 69 (2007).

punitive damage award in general and equivalent to the criminal standard as applied to manslaughter.<sup>37</sup> However, the same court in *Home Ins. Co. v. Owens*, previously noted that the “culpable negligence” standard for manslaughter is defined as “reckless indifference to the rights of others,” observed:

As a consequence, any supposed variation between [the willful, wanton, and malicious standard] and the [reckless disregard standard] becomes somewhat amorphous and perhaps even circular.<sup>38</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 624.155, F.S., to provide an insured or claimant bringing either a statutory or common law third-party bad faith action has the burden to prove the insurer acted in bad faith. The claimant must prove the insurer acted in reckless disregard for the rights of the insured and that the insurer’s reckless disregard caused damaged to the insured or claimant.

The bill provides that the conduct of the insured or claimant is relevant for the trier of fact to consider when deciding a third-party bad faith claim. The bill creates an affirmative defense to a third-party bad faith claim where the conduct of the insured or claimant, in whole or in part, caused an excess judgment.

The bill requires the insurer to advise the insured of settlement opportunities, the probable outcome of litigation, the possibility of an excess judgment, the steps to avoid an excess judgment, and defend the insured against an action when the complaint alleged facts that fairly and potentially bring the action within policy coverage. The bill precludes the insurer from a determination of third-party bad faith if the insurer satisfied this paragraph’s requirements and stood ready and willing to settle for the policy limits within 45 days of receiving written notice of the loss.

The bill further provides the insurer is not liable beyond the policy limits if the insurer brings an interpleader action against two or more third-party claimants to a single claim within 90 days of receiving notice of the competing claims. The bill provides that competing third-party claims are entitled to a prorated share of the policy limits, determined by the trier of fact.

**Section 2** provides an effective date of July 1, 2020.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>37</sup> *Howell-Demarest v. State Farm Mut. Auto. Ins. Co.*, 673 So.2d 526, 528-529 (Fla. 4th DCA 1996).

<sup>38</sup> *Home Ins. Co. v. Owens*, 573 So.2d 343, 346 (Fla. 4th DCA 1990).



C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 624.155 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Brandes

24-00450C-20

2020924\_\_

1 A bill to be entitled  
 2 An act relating to civil actions against insurers;  
 3 amending s. 624.155, F.S.; providing that, in third-  
 4 party bad faith actions against insurers, insureds and  
 5 claimants have the burden to prove that an insurer  
 6 acted in reckless disregard for insured rights which  
 7 resulted in damage to the insured or the claimant;  
 8 providing that insured or claimant actions or  
 9 inactions are relevant in bad faith actions;  
 10 specifying an affirmative defense; specifying an  
 11 insurer's duties to insureds; providing that an  
 12 insurer is not liable if certain conditions are met;  
 13 providing that an insurer is not liable beyond  
 14 available policy limits as to certain competing third-  
 15 party claims if it files an interpleader action within  
 16 a certain timeframe; providing construction; providing  
 17 an effective date.  
 18  
 19 Be It Enacted by the Legislature of the State of Florida:  
 20  
 21 Section 1. Subsection (1) of section 624.155, Florida  
 22 Statutes, is amended, and subsections (10) and (11) are added to  
 23 that section, to read:  
 24 624.155 Civil remedy.—  
 25 (1) Any person may bring a civil action against an insurer  
 26 when such person is damaged:  
 27 (a) By a violation of any of the following provisions by  
 28 the insurer:  
 29 1. Section 626.9541(1)(i), (o), or (x);

Page 1 of 4

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

24-00450C-20

2020924\_\_

30 2. Section 626.9551;  
 31 3. Section 626.9705;  
 32 4. Section 626.9706;  
 33 5. Section 626.9707; or  
 34 6. Section 627.7283.  
 35 (b) By the commission of any of the following acts by the  
 36 insurer:  
 37 1. Not attempting in good faith to settle claims when,  
 38 under all the circumstances, it could and should have done so,  
 39 had it acted fairly and honestly toward its insured and with due  
 40 regard for her or his interests;  
 41 2. Making claims payments to insureds or beneficiaries not  
 42 accompanied by a statement setting forth the coverage under  
 43 which payments are being made; or  
 44 3. Except as to liability coverages, failing to promptly  
 45 settle claims, when the obligation to settle a claim has become  
 46 reasonably clear, under one portion of the insurance policy  
 47 coverage in order to influence settlements under other portions  
 48 of the insurance policy coverage.  
 49  
 50 Notwithstanding paragraphs (a) and (b) the provisions of the  
 51 above to the contrary, a person pursuing a remedy under this  
 52 section need not prove that such act was committed or performed  
 53 with such frequency as to indicate a general business practice.  
 54 (10) Notwithstanding subsections (1)-(9), in an action for  
 55 third-party bad faith under this chapter or at common law:  
 56 (a) An insured or a claimant has the burden to prove that  
 57 the insurer acted in bad faith. An insured or a claimant must  
 58 prove that the insurer acted in reckless disregard for the

Page 2 of 4

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

24-00450C-20

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rights of any insured and that the reckless disregard caused damage to the insured or claimant.

(b) The actions or inactions of the insured or claimant are relevant in an action for bad faith. It is an affirmative defense to a claim for bad faith that the insured's or claimant's own conduct, in whole or in part, caused an excess judgment.

(c) An insurer must advise an insured of settlement opportunities, advise an insured as to the probable outcome of the litigation, warn an insured of the possibility of an excess judgment, advise an insured of steps to avoid an excess judgment, and defend an insured against a legal action when the complaint alleges facts that fairly and potentially bring the suit within policy coverage. An insurer is not liable if the insurer fulfills such obligations and the trier of fact finds that, within 45 days after receipt of the written notice of loss, the insurer stood ready and willing to settle for policy limits.

(11) If two or more third-party claimants in a liability claim make competing claims arising out of a single occurrence which in total exceed the available policy limits of one or more of the insured parties who may be liable to the third-party claimants, an insurer is not liable beyond the available policy limits for failure to pay all or any portion of the available policy limits to one or more of the third-party claimants if, within 90 days after receiving notice of the competing claims in excess of the available policy limits, the insurer files an interpleader action under the Florida Rules of Civil Procedure. The competing third-party claimants are entitled to a prorated

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share of the policy limits as determined by the trier of fact.  
An insurer's interpleader action does not alter or amend the insurer's obligation to defend its insured.

Section 2. This act shall take effect July 1, 2020.



The Florida Senate

## Committee Agenda Request

**To:** Senator Doug Broxson  
Committee on Banking and Insurance

**Subject:** Committee Agenda Request

**Date:** January 13, 2019

---

I respectfully request that **Senate Bill #924**, relating to **Civil Actions Against Insurers**, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", is written over a horizontal line.

Senator Jeff Brandes  
Florida Senate, District 24

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date \_\_\_\_\_

924  
Bill Number (if applicable) \_\_\_\_\_

Topic Bad Faith

Amendment Barcode (if applicable) \_\_\_\_\_

Name Walter Swartz

Job Title \_\_\_\_\_

Address 1234 1<sup>st</sup> Ave.

Phone \_\_\_\_\_

Street

City

Tampa

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Tax payers against this Bad Faith

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20

Meeting Date

924

Bill Number (if applicable)

Topic BAD FAITH

Amendment Barcode (if applicable)

Name TIM STANFIELD

Job Title ATTY

Address 101 College Ave

Phone 850 222 6891

Street

Tallahassee

City

FL

State

32301

Zip

Email stanfieldt@ghaw.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Insurance Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20

Meeting Date

SB 924

Bill Number (if applicable)

Topic

Civil Actions against insurers

Amendment Barcode (if applicable)

Name

Beth Vecchioli

Job Title

Jr. Director Gov't Consulting

Address

215 S. Monroe St, Ste 500

Phone

850-425-3393

Street

Tallahassee FL

32301

Email

bvecchioli@earthlink.net

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

National Association of Mutual Insurance Companies

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20

Meeting Date

924

Bill Number (if applicable)

Topic Bad Faith

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St

Street

Phone 521-1200

Tallahassee

City

State

Zip

Email cjohnson@fichcomer.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20

Meeting Date

924

Bill Number (if applicable)

Topic Civil Actions against Insurers

Amendment Barcode (if applicable)

Name George Ferjoo - ("Fay-Jew")

Job Title Consultant

Address 108 S. Monroe St.  
Street

Phone 305 720 7099

Tallahassee FL 32301  
City State Zip

Email grferjoo@lawpartners.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing The Institute for Legal Reform

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02.04.20

*Meeting Date*

924

*Bill Number (if applicable)*

Topic Civil Actions Against Insurers

*Amendment Barcode (if applicable)*

Name Kathy Maus

Job Title \_\_\_\_\_

Address 3600 Maclay Boulevard, Suite 101

Phone 850-894-4111

*Street*

Tallahassee

FL

32312

Email kmaus@butler.legal

*City*

*State*

*Zip*

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Justice Reform Institute

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/4/20

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 924

Bill Number (if applicable)

Topic INSURER BAD FAITH

Amendment Barcode (if applicable)

Name FRED CUNNINGHAM

Job Title FIA

Address 2401 PGA BLVD, STE 140

Phone 561 676 3333

Street

PALE BEACH

City

FL

State

33410

Zip

Email fred@dcwlaw.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FIA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Banking and Insurance

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BILL: SB 1334

INTRODUCER: Senator Brandes

SUBJECT: Financial Services

DATE: February 3, 2020

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Knudson	Knudson	BI	<b>Pre-meeting</b>
2. _____	_____	IS	_____
3. _____	_____	RC	_____

---

**I. Summary:**

SB 1334 addresses various statutes governing financial services.

The bill makes the following changes related to the Florida Hurricane Catastrophe Fund:

- Directs the Florida Hurricane Catastrophe Fund (Cat Fund) to reimburse collateral protection (force-placed) insurance policy losses that cover the amount requested by the mortgage lender, which may be limited to the remaining indebtedness on the property.
- Directs the OIR to retain an independent consultant to audit the reimbursement premium formula of the Cat Fund.

The bill makes the following changes to the statutory civil remedy for insurer bad faith:

- Specifies that the 60 days' written civil remedy notice of the violation required under the statute must be delivered to the name and address designated by the insurer under s. 624.422(2), F.S.
- Revises the 60 day period for the insurer to cure an alleged bad faith violation by starting upon the insurer's receipt of notice, rather than starting upon the filing of the notice.
- Requires that the civil remedy notice specify the demand for damages available under the policy to be paid by the insurer for the claim, less amounts the insurer has paid on the claim and any applicable deductibles, and prohibits demands for vague remedial action regarding changes to claims-handling procedures or practices.
- Requires the applicable statute of limitations for statutory bad faith actions to be tolled for 60 days after the date appraisal is invoked in a residential property insurance claim.

The bill makes the following changes regarding surplus lines insurers and insurance:

- Allows the formation of a surplus insurer that is wholly owned by an insurer domiciled in Florida that has been authorized in Florida for at least the 3 preceding years as to the kind or kinds of insurance that would be placed with the surplus lines insurer. The bill applies to

such surplus lines insurers certain provisions of the Insurance Code related to insurer solvency, the fitness of management, and accounting requirements.

- Requires that alternative dispute resolution such as appraisal or arbitration must be conducted in Florida under any policy placed with an eligible surplus lines insurer that is wholly owned by a Florida-domiciled insurer.
- Repeals the requirement that each surplus lines agent must, within 45 days of the end of the calendar quarter, file an affidavit with the Florida Surplus Lines Service Office (FSLSO) attesting that the agent met reporting and diligent effort requirements.
- Provides that surplus lines agents must remit the surplus lines tax to the FSLSO at the same time as the agent pays the surplus lines service fee.
- Allows surplus lines agents to export flood coverage to eligible surplus lines insurers without meeting the diligent effort requirement.

The bill makes the following changes regarding the rates and forms that may be used by property insurers:

- Allows an insurer to offer a policy or endorsement providing that a non-hurricane claim on a roof older than 10 years will be adjusted on the basis of actual cash value, and not replacement cost.
- Prohibits the OIR from disapproving a rate for homeowners' insurance solely because the rate filing uses a modeling indication that is the weighted or straight average of two or more models found accurate or reliable by the Florida Commission on Hurricane Loss Projection Methodology.
- Provides insurers discretion regarding the utilization of positive and negative rate factors based on a statewide rating organization's building code rating factor plan that evaluates the manner in which building code enforcement in a particular jurisdiction addresses wind risk.
- Provides that when the OIR periods for reviewing specified rates and forms end on a weekend or holiday, period is extended until the conclusion of the next business day.

The bill makes the following changes regarding property insurance claims, their adjustment, and litigation related to such claims:

- Repeals the requirement that any person acting on behalf of an insurer must provide at least 48 hours' notice to the insured, claimant, public adjuster or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property.
- Bars any non-sinkhole property insurance claim, supplemental claim, or reopened claim for which notice is not provided to the insurer in accordance with the terms of the insurance policy within 3 years after the date of loss.
- Requires the named insured must serve a written notice of intent to initiate litigation to the insurer at least 10 business days before filing suit under a property insurance policy. The notice must specify the damages in dispute and the amount claimed and must include a detailed written invoice or estimate of services, including itemized information on equipment, materials, and supplies; the number of labor hours; and proof that any work that has been performed was done so in accordance with accepted industry standards.
- Requires a named insured filing suit under a property insurance policy must sign any complaint seeking relief under the policy.

- Provides that the named insured has the burden to demonstrate that the insurer is not prejudiced by a failure to cooperate in the adjustment of a claim when such alleged failure is asserted as a defense by an insurer during litigation.
- Specifies that the notice of intent to initiate litigation that must be sent by an assignee of benefits to an insurer as a condition precedent to filing suit must be sent to the email address or name and address designated by the insurer in the policy forms.

The bill also makes the following changes:

- Requires that an electronic signature used to satisfy the signature requirement for a salvage certificate of title must be executed using a system providing a Level 2 background check.
- Prohibits OIR from disseminating aggregated information if it contains trade secret information that can be individually extrapolated.
- Clarifies that the maximum amount that a condominium unit owner's assessment insurance coverage may be assessed is the loss assessment coverage limit in effect 1 day before the date of the occurrence that gave rise to the loss.
- Reduces from 60 days to 30 days the period during which an insurer may not cancel a new policy or binder of private passenger motor vehicle insurance except for the disallowance of the initial premium payment.
- Provides that a licensed personal lines or general lines agent may solicit, negotiate, advertise, or sell motor vehicle service agreements, service warranties, or home warranties, and need not obtain licensure under the laws governing those respective products.

## II. Present Situation:

### The Florida Hurricane Catastrophe Fund (FHCF)

The FHCF is a tax-exempt<sup>1</sup> fund created in 1993<sup>2</sup> after Hurricane Andrew<sup>3</sup> as a form of mandatory reinsurance for residential property insurers. The FHCF is administered by the State Board of Administration (SBA)<sup>4</sup> and is a tax-exempt source of reimbursement to property insurers for a selected percentage (45, 75, or 90 percent)<sup>5</sup> of hurricane losses above the insurer's retention (deductible). The FHCF provides insurers an additional source of reinsurance that is less expensive than what is available in the private market, enabling insurers to generally write more residential property insurance in the state than would otherwise be written. Because of the low cost of coverage from the FHCF, the fund acts to lower residential property insurance premiums for consumers.

All insurers admitted to do business in this state writing residential property insurance that includes wind coverage must buy reimbursement coverage (reinsurance) on their residential property exposure through the FHCF.<sup>6</sup> The FHCF is authorized by statute to sell \$17 billion of

<sup>1</sup> Section 215.555(1)(f), F.S.

<sup>2</sup> Ch. 93-409, Laws of Fla.

<sup>3</sup> Ed Rappaport, *Preliminary Report, Hurricane Andrew* (updated Dec. 10, 1993; addendum Feb. 7, 2005), <https://www.nhc.noaa.gov/1992andrew.html>.

<sup>4</sup> State Board of Administration of Florida, *About the SBA*, <https://www.sbafla.com/fsb/> (last visited March 27, 2019).

<sup>5</sup> Section 215.555(2)(e), F.S.

<sup>6</sup> See s. 215.555(4)(a), F.S.

mandatory layer coverage.<sup>7</sup> Each insurer that purchases coverage may receive up to its proportional share of the \$17 billion mandatory layer of coverage based upon the insurer's share of the actual premium paid for the contract year, multiplied by the claims paying capacity of the fund. Each insurer may select a reimbursement contract wherein the FHCF promises to reimburse the insurer for 45 percent, 75 percent, or 90 percent of covered losses, plus 10 percent<sup>8</sup> of the reimbursed losses for loss adjustment expenses.<sup>9</sup>

### ***FHCF Premiums and Ratemaking Formula***

The FHCF must charge insurers the actuarially indicated premium<sup>10</sup> for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology.<sup>11</sup> The actuarially indicated premium is an amount determined by the principles of actuarial science to be adequate to pay current and future obligations and expenses of the fund.<sup>12</sup>

The State Board of Administration is required by law to select an independent consultant to develop a formula for determining the actuarially indicated premium to be paid to the fund.<sup>13</sup> The SBA selects an independent actuarial consultant through a competitive procurement process every 5 years, with the most recent contract entered into in 2018.<sup>14</sup> Paragon Strategic Solutions, Inc., is the current independent actuarial consultant. The reimbursement premium formula is adopted by rule.<sup>15</sup> Thus the process of adopting the reimbursement premium formula includes public notice and public meetings as required by the Florida Administrative Code.

In practice, each insurer pays the FHCF annual reimbursement premiums that are proportionate to each insurer's share of the FHCF's risk exposure. Historically, FHCF coverage is generally costs less than private reinsurance because the fund is a tax-exempt non-profit corporation and does not charge a risk load as it relates to overhead and operating expenses incurred by other private insurers.<sup>16</sup>

When the moneys in the FHCF are or will be insufficient to cover losses, the law<sup>17</sup> authorizes the FHCF to issue revenue bonds funded by emergency assessments on all lines of insurance except medical malpractice and workers compensation.<sup>18</sup> Emergency assessments may be levied up to 6 percent of premium for losses attributable to any one contract year, and up to 10 percent of premium for aggregate losses from multiple years. The FHCF's broad-based assessment

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<sup>7</sup> Section 215.555(4)(c)1., F.S.

<sup>8</sup> Section 215.555(4)(b)1., F.S.

<sup>9</sup> Loss adjustment expenses are costs incurred by insurers when investigating, adjusting, and processing a claim.

<sup>10</sup> Section 215.555(5)(a), F.S.

<sup>11</sup> See, *Florida Commission on Hurricane Loss Methodology*, <https://www.sbafla.com/method/> (last visited March 29, 2019).

<sup>12</sup> Section 215.555(2)(a), F.S.

<sup>13</sup> Section 215.555(5)(b), F.S.

<sup>14</sup>

<sup>15</sup> Rule 19-8.028, F.A.C.

<sup>16</sup> [State Board of Administration of Florida, Florida Hurricane Catastrophe Fund, 2016 Annual Report, https://www.sbafla.com/fhcf/Portals/FHCF/Content/Reports/Annual/20170606\\_FHCF\\_2016\\_AnnualReport\\_A.pdf?ver=2017-07-06-085215-943](https://www.sbafla.com/fhcf/Portals/FHCF/Content/Reports/Annual/20170606_FHCF_2016_AnnualReport_A.pdf?ver=2017-07-06-085215-943) (last visited March 29, 2019).

<sup>17</sup> Section 215.555(6), F.S.

<sup>18</sup> Section 215.555(6)(b), F.S.

authority is one of the reasons the FHCF was able to obtain an exemption from federal taxation from the Internal Revenue Service as an integral part of state government.<sup>19</sup>

### ***Reimbursement of Collateral Protection Insurance***

Collateral protection insurance, sometimes referred to as “lender-placed” or “force-placed” insurance, is insurance that is placed by a lender, at the expense of the borrower, to protect the lender’s security interest in property pursuant to a loan such as a home mortgage. Collateral protection insurance is placed by the lender when it deems the homeowners’ insurance insufficient, usually because the borrower’s insurance policy is lapsed or cancelled. The FHCF covers policies of collateral protection insurance if the collateral protection insurance covers a personal residence and protects both the borrower’s and the lender’s financial interests in an amount at least equal to the coverage for the dwelling in place under the lapsed homeowners policy.<sup>20</sup>

### **Transfer of Title of a “Total Loss” Motor Vehicle or Mobile Home by an Insurer to the Department of Highway Safety and Motor Vehicles (DHSMV)**

When an insurance company pays money as compensation for the total loss of a motor vehicle or mobile home, the insurer must obtain the certificate of title and forward it to the DHSMV for processing.<sup>21</sup>

Under s. 319.30, F.S., if an insurance company is unable to obtain a properly assigned certificate of title for the owner or lienholder, then the company may receive a salvage certificate of title or certificate of destruction from the DHSMV.<sup>22</sup> However, the company may only receive this if the motor vehicle or mobile home does not carry an electronic lien on the title and the insurance company has:

- Obtained the release of all liens on the motor vehicle or mobile home;
- Provided proof of payment of the total loss claim; and
- Provided an affidavit, on letterhead signed by the insurance company or its authorized agent, stating the attempts made to obtain the title from the owner or lienholder, and stating that all attempts are to no avail.<sup>23</sup>

An electronic signature that is consistent with ch. 668, F.S., satisfies the signature requirements of s. 319.30, F.S., except that electronic signature on an odometer disclosure submitted by an insurer must be executed using a system that verifies identity through a background check equivalent to Level 2 for a certificate of destruction, and Level 3, for a salvage certificate of title. The security levels were chosen based on ongoing federal rule development that governs odometer disclosures. The draft federal regulations included the use of Level 2 requirements in certain instances and Level 3 requirements in others. HB 301 mirrored this structure; however,

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<sup>19</sup> The U.S. Internal Revenue Service has, by a Private Letter Ruling, authorized the FHCF to issue tax-exempt bonds. The initial ruling was granted on March 27, 1998, for 5 years until June 30, 2003. On May 28, 2008, the Internal Revenue Service issued a private letter ruling holding that the prior exemption, which was to expire on June 30, 2008, could continue to be relied upon on a permanent basis (on file with the Committee on Banking and Insurance).

<sup>20</sup> Section 215.555(2)(c), F.S.

<sup>21</sup> Section 319.30(3)(b), F.S.

<sup>22</sup> Section 319.30(3)(b)1., F.S.

<sup>23</sup> *Id.*



the final federal regulation was published after the 2019 session with an unexpected change. Only Level 2 requirements were implemented. So, the Level 3 requirement of s. 319.30(3)(d), F.S., applicable to odometer disclosures for obtaining salvage certificates of title exceed the federal standard.<sup>24</sup>

## **Remedies for Insurer Bad Faith**

### ***Common Law and Statutory Bad Faith***

Bad faith law was designed to protect insureds who have paid their premiums and who have fulfilled their contractual obligations by cooperating fully with their insurer in the resolution of claims. Bad faith jurisprudence holds insurers accountable for failing to fulfill their obligations.<sup>25</sup> There are two distinct but very similar types of bad faith causes of action that may be initiated against an insurer: first-party and third-party.

Florida courts have recognized common law third-party bad faith causes of action since 1938.<sup>26</sup> A third-party bad faith cause of action arises when an insurer fails in good faith to settle a third party's claim against the insured within policy limits and exposes the insured to liability in excess of his or her insurance coverage.<sup>27</sup> Third-party bad faith causes of actions arose in response to the argument that there was a practice in the insurance industry of rejecting without sufficient investigation or consideration claims presented by third parties against an insured, thereby exposing the insured individual to judgments exceeding the coverage limits of the policy while the insurer remained protected by a policy limit.<sup>28</sup> With no actionable remedy, insureds in this state and elsewhere were left personally responsible for the excess judgment amount.<sup>29</sup> Florida courts recognized common law third-party bad faith causes of action in part because the insurers had the power and authority to litigate or settle any claim, and thus owed the insured a corresponding duty of good faith and fair dealing in handling these third-party claims.<sup>30</sup>

In contrast to common law third-party bad faith causes of action, Florida courts do not recognize a common law first-party bad faith cause of action by the insured against its own insurer.<sup>31</sup> If an insurer acts in bad faith in settling a claim filed by its insured, the only common law remedy available to the insured is a breach of contract action against its own insurer with recoverable damages limited to those contemplated by the parties to the policy.<sup>32</sup>

### ***Civil Remedy for First-Party Bad Faith***

The 1982 Legislature's enactment of s. 624.155, F.S., created a statutory first-party bad faith cause of action,<sup>33</sup> codified Florida Supreme Court precedent authorizing a common-law third-

<sup>24</sup> 84 Fed. Reg. 52664, at 52665 (Oct. 2, 2019).

<sup>25</sup> *Harvey v. GEICO General Insurance Company*, 251 So.3d 1, 6, (Fla. 2018)(quoting *Berges v. Infinity Insurance Company*, 896 So.2d 665 at 682).

<sup>26</sup> *Auto Mut. Indem. Co. v. Shaw*, 184, So. 852 (Fla. 1938).

<sup>27</sup> *Opperman v. Nationwide Mutual Fire Insurance Company*, 515 So.2d 263, 265 (Fla. 5th DCA 1987).

<sup>28</sup> *Allstate Indem. Co. v. Ruiz*, 899 So.2d 1121, 1125 (Fla. 2005).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So.2d 55, 58-59 (Fla. 1995).

<sup>32</sup> *Talat Enterprises, Inc. v. Aetna Cas. and Sur. Co.*, 753 So.2d 1278, 1281 (Fla. 2000).

<sup>33</sup> Chapter 82-243, s. 9, L.O.F.

party bad faith cause of action,<sup>34</sup> and eliminated the distinction between statutory first- and third-party bad faith causes of action.<sup>35</sup>

Section 624.155, F.S., provides that any party may bring a bad faith action against an insurer, and defines bad faith on the part of the insurer as:

- Not attempting in good faith to settle claims when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward its insured with due regard for her or his interests;
- Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made; or
- Except as to liability coverages, failing to promptly settle claims, when the obligation to settle the claim has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.<sup>36</sup>

#### ***Civil Remedy Notice - Opportunity for Notice and Cure***

Prior to bringing a bad faith action under s. 624.155, F.S., the person seeking to bring the action must give a civil remedy notice to the insurer and Department of Financial Services. The notice is a condition precedent to bringing the bad faith action and must be given 60 days prior to bringing the statutory bad faith action. The civil remedy notice is on a form provided by the DFS and must include the statutory provision the insurer allegedly violated, the facts and circumstances giving rise to the violation, the name of any individual involved in the violation, and must<sup>37</sup> reference any specific policy language relevant to the violation.

A bad faith action may not be brought under s. 624.155, F.S., if within 60 days after the civil remedy notice is filed, the damages are paid or the circumstances giving rise to the violation are corrected.<sup>38</sup>

The applicable statute of limitations for an action under s. 624.155, F.S., is tolled for 65 days by the mailing of a civil remedy notice.

#### **Collection and Dissemination of Information by the Office of Insurance Regulation and Department of Financial Services**

One of the general powers possessed by both the Office of Insurance Regulation and the Department of Financial Services is that each may collect, propose, publish, and disseminate information relating to the subject matter of any duties imposed upon it by law.

One of the duties imposed upon the OIR is in s. 624.315, F.S., which requires the OIR with assistance from the DFS produce a written annual report and submit it to the Legislature and Governor. The report must include various types of information including abstracts of the

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<sup>34</sup> *Macola v. Government Employees Ins. Co.*, 953 So.2d 451, 456 (Fla. 2006). See also *State Farm Fire & Cas. Co. v. Zebrowski*, 706 So.2d 275, 277 (Fla. 1997).

<sup>35</sup> *Id.*

<sup>36</sup> Section 624.155(1)(b)(1)-(3), F.S.

<sup>37</sup> Third party claimants not provided a copy of the policy are exempted from this requirement.

<sup>38</sup> Section 624.155(3)(c), F.S.

financial statements of all Florida-authorized insurers, a summary of all delinquency proceedings against such insurers, and other pertinent information and matters the OIR deems to be in the public interest. Similarly, s. 624.313, F.S., directs the OIR to annually create a statistical report that contains various required information including the financial condition of insurers, the market share of various insurers, the profitability of insurers, an analysis of the impact of the insurance industry on the state economy, information regarding complaints and market examinations, an analysis of lines of insurance that the OIR determines lack availability in this state, and other information the OIR determines is relevant.

In addition to having the power to publish and disseminate information, the OIR and DFS are subject to ch. 119, F.S., the Public Records Act, which requires every state agency that “has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.”<sup>39</sup> The Public Records Act provides the framework for the application Art. I, Sect. 24 of the Florida Constitution, which provides that “[e]very person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state....”

The obligation that the OIR and DFS allow the inspection of all records and their power to publish and disseminate information may be limited when the Legislature enacts a public records exemption by a two-thirds vote of each house, or the information is confidential proprietary business information or a trade secret. Proprietary business information is information owned or controlled by an insurer that is intended to be private because the disclosure of the information would bring harm, and that has not been voluntarily disclosed to the public by the insurer.<sup>40</sup> Proprietary business information includes trade secret information that meets the definition in s. 688.002, F.S., if properly submitted to the OIR pursuant to s. 624.4213, F.S. Section 688.002, F.S., defines a trade secret as:

- “Information, including a formula, pattern, compilation, program, device method, technique, or process that:
- (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
  - (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Proprietary business information held by the OIR is confidential and exempt from public disclosure pursuant to the public records exemption in s. 624.4212, F.S. Such information may only be disclosed upon prior written consent of the insurer or pursuant to a court order. The OIR may disclose to the Actuarial Board for Counseling and Discipline for the purpose of professional disciplinary proceedings or to other governmental or law enforcement agencies that agree to maintain confidentiality. The OIR may also aggregate proprietary business information on an industrywide basis and disclose it to the public if the specific identities of the insurers, or persons or affiliated persons, are not revealed.

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<sup>39</sup> Section 119.07(1), F.S.

<sup>40</sup> See s. 624.4212(1), F.S.

Any person to submit documents or information to the OIR or DFS pursuant to the Insurance Code or agency rule may file a notice of trade secret with the agency that the submission contains a trade secret under s. 624.4213, F.S. Failure to do so is a waiver of the claim of trade secret protection. To file a notice of trade secret, each page or specific portion of a document claimed to be a trade secret must be clearly marked as “trade secret” and all such material must be separately submitted in a separate envelope clearly marked as trade secret. The submitting party must include a sworn affidavit that the information is trade secret information. If OIR or DFS receives a public records request for information marked a trade secret, it must promptly notify the person that certified the document as a trade secret has 30 days to file an action in circuit court seeking an order barring public disclosure. The agency may not release the information during the 30 day period or while the legal action is pending.

### **Public Adjusters**

Public adjusters prepare, complete, and file insurance claims, and engage in settlement negotiations with insurers, on behalf of insureds or third-party claimants in return for compensation. Public adjusters are subject to licensure under the Insurance Adjusters Law in part VI, ch. 626, F.S. Section 626.854, F.S., contains a number of provisions that govern the practice of public adjusting and insurers’ interactions with public adjusters. An example of the latter is in subsection (13) of s. 626.854, F.S., which provides that a company employee adjuster, independent adjuster, attorney, investigator, or other persons acting on behalf of an insurer that needs access to an insured, claimant, or the insured property, must provide at least 48 hours’ notice to the insured or claimant, public adjuster, or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. If such notice is not provided, the insured or claimant may deny access to the insured property.

### **Surplus Lines Insurance**

Surplus lines insurance refers to a category of insurance for which the admitted market is unable or unwilling to provide coverage.<sup>41</sup> There are three basic categories of surplus lines risks:

- Specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
- Niche risks for which admitted carriers do not have a filed policy form or rate; and
- Capacity risks that are risks where an insured needs higher coverage limits than those that are available in the admitted market.

Surplus lines insurers are not “authorized” insurers as defined in the Florida Insurance Code,<sup>42</sup> which means they do not obtain a certificate of authority from the OIR to transact insurance in Florida.<sup>43</sup> Rather, surplus lines insurers are “unauthorized” insurers,<sup>44</sup> but may transact surplus lines insurance if they are made eligible by the OIR. To be made eligible to transact insurance, a surplus lines insurer must meet the following requirements related to regulatory oversight in other jurisdictions and solvency:

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<sup>41</sup> The admitted market is comprised of insurance companies licensed to transact insurance in Florida. The administration of surplus lines insurance business is managed by the Florida Surplus Lines Service Office. S. 626.921, F.S.

<sup>42</sup> Section 624.01, F.S., provides that the Florida Insurance Code is chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S.

<sup>43</sup> Section 624.09(1), F.S.

<sup>44</sup> Section 624.09(2), F.S.

- An authorized insurer in the state or county of its domicile as to the kind or kinds of insurance proposed to be placed with the surplus lines insurer.
  - The insurer must have been an authorized insurer for at least the 3 preceding years. The OIR may waive the 3-year requirement if the insurer provides a product or service not readily available to Florida consumers or has operated successfully for a period of at least 1 year and has capital and surplus of not less than \$25 million.
- The surplus lines insurer or an agent requesting to export a policy to the surplus lines insurer must provide the OIR with a duly authenticated copy of the surplus lines insurer's current annual financial statement, and also must provide any additional information regarding the insurer that the OIR requests.
- The surplus lines insurer must maintain a surplus as to policyholders of at least \$15 million.
  - Alien surplus lines insurers (insurers formed under laws other than those of Florida or any state, district, territory, or commonwealth of the United States) must also maintain in the United States a trust fund for the protection of policyholders deemed adequate by the OIR of at least \$5.4 million.
  - A surplus lines insurer which is a member of an insurance holding company that includes a member which is a Florida domestic insurer may elect to maintain surplus as to policyholders in an amount equal to the requirements of s. 624.408, F.S., and must be in compliance with ch. 625, F.S.
- The insurer must be of good reputation as to the providing of service to its policyholders and the payment of losses and claims.
- The officers and directors of the insurer must be competent and trustworthy, meeting the requirements of s. 624.404(3), F.S.

Policies issued by an impaired or insolvent surplus lines insurer are not covered by any of Florida's guaranty associations.

***Placement of Insurance With an Eligible Surplus Lines Insurer***

"To export" a policy means an insurance agent,<sup>45</sup> with the consent of the insurance applicant, placing a policy with an unauthorized insurer under the Surplus Lines Law through a surplus lines agent.<sup>46</sup> Unless an exception applies, before an insurance agent can place insurance in the surplus lines market, the insurance agent must make a diligent effort to procure the desired coverage from admitted insurers.<sup>47</sup> "Diligent effort" means seeking and coverage being rejected from at least three authorized insurers in the admitted market; however, if the cost to replace a residential dwelling is one million dollars or more, then only one coverage rejection is needed prior to export. In that case, diligent effort is seeking and being denied coverage from at least one authorized insurer in the admitted market.<sup>48</sup> The law further specifies that:<sup>49</sup>

- The premium rate for policies written by a surplus lines insurer cannot be less than the premium rate used by a majority of authorized insurers for the same coverage on similar risks;

<sup>45</sup> Typically, the applicant's usual insurance agent works with the surplus lines agent to arrange the placement, rather than the applicant working directly with the surplus lines agent.

<sup>46</sup> Section 626.914(3), F.S.

<sup>47</sup> Section 626.916(1)(a), F.S.

<sup>48</sup> Section 626.914(4), F.S.

<sup>49</sup> Section 626.916(1), F.S.

- The policy exported cannot provide coverage or rates that are more favorable than those that are used by the majority of authorized insurers actually writing similar coverages on similar risks;
- The deductibles must be the same as those used by one or more authorized insurers, unless the coverage is for fire or windstorm; and
- For personal residential property risks,<sup>50</sup> the policyholder must be advised in writing that coverage may be available and less expensive from Citizens Property Insurance Corporation (Citizens).

All licensed surplus lines agents are members of the Florida Surplus Lines Service Office (FSLSO), a nonprofit association created by statute and directed by a board of governors.<sup>51</sup> The FSLSO receives, records, and reviews all surplus lines insurance policies and documents, maintains records of such policies, produces monthly reports to the OIR, collects from surplus lines agents the surplus lines premium tax<sup>52</sup> and surplus lines service fee,<sup>53</sup> and other specified duties.<sup>54</sup> Each surplus lines agent that transacts business during a calendar quarter must file an affidavit stating that all surplus lines insurance the agent transacted during that quarter has been submitted to the FSLSO.<sup>55</sup> The affidavit must also include the diligent efforts the agent made to place coverages with authorized insurers.

### **Regulation of Property Insurance Rates**

Part I of ch. 627, F.S., is the Rating Law<sup>56</sup> governing property, casualty, and surety insurance that covers subject of insurance resident, located, or to be performed in this state.<sup>57</sup> The Rating Law provides that the rates for all classes of insurance it governs may not be excessive, inadequate, or unfairly discriminatory.<sup>58</sup> Though the terms “rate” and “premium” are often used interchangeably, the rating law specifies that “rate” is the unit charge that is multiplied by the measure of exposure or amount of insurance specified in the policy to determine the premium, which is the consideration paid by the consumer.<sup>59</sup>

All insurers or rating organizations must file rates with the OIR either 90 days before the proposed effective date of a new rate, which is considered a “file and use” rate filing, or 30 days after the effective date of a new rate, which is considered a “use and file” rate filing.

Upon receiving a rate filing, the OIR reviews the filing to determine if the rate is excessive, inadequate, or unfairly discriminatory. The office makes that determination in accordance with generally acceptable actuarial techniques and, in a property insurance rate filing, considers the following:

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<sup>50</sup> Personal residential policies include homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners, and similar policies.

<sup>51</sup> Section 626.921, F.S.

<sup>52</sup> See Section 626.932, F.S.

<sup>53</sup> See Section 626.9325, F.S.

<sup>54</sup> Section 626.921(3), F.S.

<sup>55</sup> Section 626.931, F.S.

<sup>56</sup> Section 627.011, F.S.

<sup>57</sup> Section 627.021, F.S.

<sup>58</sup> Section 627.062(1), F.S.

<sup>59</sup> Section 627.041, F.S.

- Past and prospective loss experience.
- Past and prospective expenses.
- The degree of competition among insurers for the risk insured.
- Investment income reasonably expected by the insurer.
- The reasonableness of the judgment reflected in the rate filing.
- Dividends, savings, or unabsorbed premium deposits returned to policyholders.
- The adequacy of loss reserves.
- The cost of reinsurance.
- Trend factors, including trends in actual losses per insured unit for the insurer.
- Conflagration and catastrophe hazards.
- Projected hurricane losses.
- Projected flood losses, if the policy covers the risk of flood.
- A reasonable margin for underwriting profit and contingencies.
- Other relevant factors that affect the frequency or severity of claims or expenses.

Projected hurricane losses in a rate filing must be estimated using a model or method found to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology.<sup>60</sup> The commission consists of 12 members, with expertise in the elements, are used to develop computer models to estimate hurricane and flood loss. Members of the commission include State University System faculty experts in insurance finance, statistics, computer system design, meteorology, and structural engineering; three actuaries; the insurance consumer advocate; the director of the Cat Fund; the Executive Director of Citizens Property Insurance Corporation; and the Director of the Division of Emergency Management.<sup>61</sup>

### **Homeowner's Property Insurance Policies – Offer of Replacement Cost Coverage**

Insurers are required under s. 627.7011, F.S., to offer homeowner's insurance policies providing that any loss will be adjusted on the basis of replacement costs to the dwelling. Such policyholders must also be provided an offer of replacement cost coverage that includes law and ordinances coverage of 25 percent or 50 percent of the dwelling limit.

### **Time limit for Filing Property Insurance Claims**

Section 95.11(2), F.S., provides a 5-year statute of limitations on legal or equitable civil actions on contracts, examples of which include insurance policies. Though this technically does not bar the filing of a claim 5 years after the date of loss, it has the effect of barring a legal action to challenge a breach of the insurance contract. Florida law in s. 627.70132, F.S., requires each windstorm or hurricane claim, supplemental claim, or reopened claim under a property insurance policy to be given to the insurer within 3 years of the hurricane's landfall or the date the windstorm caused the covered damage. Section 627.706(5), F.S., requires that sinkhole claims must be made within 2 years after the policyholder knew or should have known of the sinkhole loss.

<sup>60</sup> Section 627.062(2)(b)11., F.S.

<sup>61</sup> Section 627.0628(2)(b), F.S.

## **Notice of Claims and Litigations Under Assignment Agreements**

An assignment is the voluntary transfer of the rights of one party under a contract to another party. Current law generally allows an insurance policyholder to assign the benefits of the policy, such as the right to be paid, to another party. This assignment is often called an “assignment of benefits” or “AOB.” Once an assignment is made, the assignee can take action to enforce the contract. Accordingly, if the benefits are assigned and the insurer refuses to pay, the assignee may file a lawsuit against the insurer to recover the insurance benefits.<sup>62</sup>

The Legislature in 2019 enacted s. 627.7152, F.S., which governs the execution of assignments, provides duties that assignees must meet when filing a claim under a property insurance policy, provides requirements pursuant to litigation brought by assignees under property insurance policies, and revises the standards for awarding attorney fees in such litigation.

Prior to litigation, under s. 627.7152(9), F.S., an assignee must provide the named insured and the assignor a written notice of intent to initiate litigation, delivered at least 10 business days before filing suit, but not before the insurer has made a determination of coverage. The notice must also include a detailed written invoice or estimate of services that includes itemized information and proof work was performed in accordance with accepted industry standards.

In a claim arising under an assignment agreement, the assignee has the burden under s. 627.7152(3)(b), F.S., to demonstrate that the insurer is not prejudiced by the assignee’s failure to cooperate with the insurer in the claim investigation.

## **Condominium Unit Owner Loss Assessment Coverage**

Loss assessment coverage is insurance coverage for condominium unit owners that provides protection for situations where the owner of a condominium unit, as the owner of shared property, is held financially responsible for: deductibles owed when a claim is made under a condominium association’s property insurance policy; damage that occurs to the condominium building or the common areas of a condominium property; or injuries that occur in the common areas of a condominium property.<sup>63</sup> Florida law requires that property insurance policies held by condominium unit owners include a minimum property loss assessment coverage of \$2000 for all assessments made as a result of the same direct loss to the condominium property.<sup>64</sup> The law further establishes that the maximum amount of any unit owner’s coverage that can be assessed for any loss is an amount equal to the unit owner’s loss assessment coverage limit in effect 1 day before the date of an occurrence, but it does not specify exactly what occurrence is referenced.<sup>65</sup>

## **Cancellation of Motor Vehicle Insurance For Non-Payment of Premium**

Section 627.7295(7), F.S., provides that policies or binders of private passenger motor vehicle insurance may only be issued if the insurer or agent collects at least 1 month’s premium. Prior to

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<sup>62</sup> *Nationwide Mutual Insurance Company v. Pinnacle Medical, Inc.* 753 So.2d 55, 57 (Fla. 2000)(“The right of assignee to sue for breach of contract to enforce assigned rights predates the Florida Constitution”).

<sup>63</sup> The Balance, *Loss Assessment Explained for Condo Insurance*, <https://www.thebalance.com/loss-assessment-explained-for-condo-insurance-4060435> (last visited Jan. 8, 2020).

<sup>64</sup> S. 627.714(1), F.S.

<sup>65</sup> Section 627.714(2), F.S.



a 2019 legislative revision of this requirement, the insurer or agent had to collect at least 2 month's premium. The prohibition against cancelling a new policy for nonpayment of premium unless the initial payment was dishonored lasts for 60 days, however, corresponding to the previous requirement of prepayment of at least 2 month's premium.

## **Agent Licensing**

### ***General Lines Agent***

A general lines agent<sup>66</sup> is one who sells the following lines of insurance: property,<sup>67</sup> casualty,<sup>68</sup> including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund,<sup>69</sup> or a workers' compensation self-insurance fund;<sup>70</sup> surety;<sup>71</sup> health;<sup>72</sup> and marine.<sup>73</sup> The general lines agent may only transact health insurance for an insurer that the general lines agent also represents for property and casualty insurance.<sup>74</sup> If the general lines agent wishes to represent health insurers that are not also property and casualty insurers, they must be licensed as a health insurance agent.<sup>75</sup>

### ***Personal Lines Agent***

A personal lines agent is a general lines agent who is limited to transacting business related to property and casualty insurance sold to individuals and families for noncommercial purposes.<sup>76</sup>

### ***Motor Vehicle Servicing Agreements***

Motor vehicle service agreements provide vehicle owners with protection when the manufacturer's warranty expires. A motor vehicle service agreement indemnifies the vehicle owner (or holder of the agreement) against loss caused by failure of any mechanical or other component part, or any mechanical or other component part that does not function as it was originally intended.<sup>77</sup> Motor vehicle service agreements can only be sold by a licensed and appointed salesperson.<sup>78</sup> Salespersons are licensed in the same manner as insurance representatives under ch. 626, F.S., with some exceptions to the requirements applied to insurance representatives.<sup>79</sup>

### ***Service Warranty Contracts***

A service warranty is an agreement or maintenance service contract equal to or greater than 1 year in length to repair, replace, or maintain a consumer product, or for indemnification for

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<sup>66</sup> Section 626.015(5), F.S.

<sup>67</sup> Section 624.604, F.S.

<sup>68</sup> Section 624.605, F.S.

<sup>69</sup> As defined in s. 624.462, F.S.

<sup>70</sup> Pursuant to s. 624.4621, F.S.

<sup>71</sup> Section 626.606, F.S.

<sup>72</sup> Section 624.603, F.S.

<sup>73</sup> Section 624.607, F.S.

<sup>74</sup> Section 626.827, F.S.

<sup>75</sup> Section 626.829, F.S.

<sup>76</sup> Section 626.015(17), F.S.

<sup>77</sup> Section 634.011(8), F.S.

<sup>78</sup> Section 634.031, F.S.

<sup>79</sup> Section 634.171, F.S.

repair, replacement, or maintenance, for operational or structural failure due to a defect in materials or workmanship, normal wear and tear, power surge, or accidental damage from handling in return for the payment of a segregated charge by the consumer.<sup>80</sup> No person or entity shall solicit, negotiate, advertise, or effectuate service warranty contracts in this state unless such person or entity is licensed and appointed as a sales representative.<sup>81</sup>

### ***Home Warranty Contracts***

A home warranty is any contract or agreement whereby a person undertakes to indemnify the warranty holder against the cost of repair or replacement, or actually furnishes repair or replacement, of any structural component or appliance of a home, necessitated by wear and tear or an inherent defect of any such structural component or appliance or necessitated by the failure of an inspection to detect the likelihood of any such loss.<sup>82</sup> No person shall solicit, negotiate, or effectuate home warranty contracts for remuneration in this state unless such person is licensed and appointed as a sales representative.<sup>83</sup>

## **III. Effect of Proposed Changes:**

**Section 1** amends s. 215.555, F.S., governing the Florida Hurricane Catastrophe Fund.

### **Revising Cat Fund Reimbursement of Collateral Protection (Force-Placed) Insurance**

Paragraph (2)(c) is amended to revise the requirements for Cat Fund reimbursement of collateral protection (“force-placed”) insurance. Currently the Cat Fund provides reimbursement for a loss under force-placed coverage if the coverage is in an amount at least equal to the coverage amount for the dwelling under the lapsed policy. The bill directs the Cat Fund to also make reimbursement available if the force-placed policy covers the amount requested by the mortgage lender, which may be limited to the remaining indebtedness on the property. Cat Fund reimbursement must also be available if the homeowner requested the coverage amount on the force-placed policy.

### **Requiring a Third-Party Audit of the Cat Fund Reimbursement Premium Formula**

The reimbursement premium formula is developed by an independent consultant selected by the SBA. The reimbursement premium is the proper actuarially indicated premium paid by the insurer for the insurer’s reimbursement contract.

The bill creates a new paragraph (5)(f), which directs the OIR to retain an independent consultant to audit the reimbursement premium formula of the Cat Fund. The consultant retained by the

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<sup>80</sup> Section 634.401(13), F.S.

<sup>81</sup> Section 634.419, F.S. A “sales representative” is any person, retail store, corporation, partnership, or sole proprietorship utilized by an insurer or service warranty association for the purpose of selling or issuing service warranties. However, in the case of service warranty associations selling service warranties from one or more business locations, the person in charge of each location may be considered the sales representative. Section 634.401(12), F.S.

<sup>82</sup> Section 634.301, F.S.

<sup>83</sup> Section 634.317, F.S. “Sales representative” is any person with whom an insurer or home inspection or warranty association has a contract and who is utilized by such insurer or association for the purpose of selling or issuing home warranties. The term includes all employees of an insurer or association engaged directly in the sale or issuance of home warranties. Section 634.301(12), F.S.

OIR may not be the consultant that developed the formula. The audit must evaluate whether the formula uses actuarially sound principles and whether insurers are paying an actuarially sound premium. The OIR must also recommend any factors which would enhance the actuarial sophistication of ratemaking for the fund. The audit will be first performed to evaluate the premium formula for the 2021 contract year and every 3 years thereafter. The audit report must be presented to the Financial Services Commission and the Legislature on or before March 1 of the year after the contract year audited (March 1, 2022, for the audit of the 2021 premium formula).

### **Revising the Signature Requirement for Obtaining a Salvage Certificate of Title or Certificate of Destruction**

**Section 2** amends s. 319.30, F.S., to require that an electronic signature used to satisfy the signature requirement for a salvage certificate of title must use a system providing a level 2 background check.

### **Revisions Regarding the Civil Remedy Notice for Insurer Bad Faith**

**Section 3** amends s. 624.155(3), F.S., which provides the notice requirements that are a condition precedent to bringing a bad faith action against an insurer under the statute.

The bill specifies that the 60 days' written civil remedy notice of the violation required under the statute must be delivered to the name and address designated by the insurer under s. 624.422(2), F.S. Under s. 624.422(2), F.S., each authorized insurer must designate a person to whom service of process may be forwarded when process is served against the CFO because each authorized insurer is deemed to have appointed the CFO as an attorney for the purpose of receiving service of legal process.

Under current law, no bad faith action may be brought if, within 60 days after the civil remedy notice is filed, the damages are paid or the circumstances giving rise to the violation are corrected. The bill revises the 60 day period for the insurer to cure the alleged violation by starting upon the insurer's receipt of notice, which the bill requires must be delivered to the name and address designated under s. 624.422(2), F.S.

The bill requires the civil remedy notice to specify the damages to be paid by the insurer for the claim that are available under the policy, less amounts the insurer has paid on the claim and any applicable deductibles. The bill prohibits demands for vague remedial action regarding changes to claims-handling procedures or practices.

The bill also requires the applicable statute of limitations for bad faith actions under the statute to be tolled for 60 days after the date appraisal is invoked in a residential property insurance claim. This conforms to the existing requirement in paragraph (3)(f) that prohibits the filing of a civil remedy notice within 60 days after appraisal is invoked by any party in a residential property insurance claim.

### **Limiting the Release of Aggregated Trade Secret Information**

**Sections 4 and 5** amend ss. 624.307 and 624.315, F.S., to specify that the OIR and DFS may only disseminate aggregated trade secret information pursuant to their general powers, within the OIR annual report, or pursuant to a request for information regarding certain insurer financial and insurance marketplace metrics that must be maintained by the OIR, if such trade secret information cannot be individually extrapolated. If the trade secret information can be individually extrapolated, it remains protected as provided under s. 624.4213, F.S., which provides that when the OIR requires the submission of trade secrets, it must notify an insurer of any request for such information and refuse to release the alleged trade secret information for at least 30 days or until the outcome of a legal action brought by the insurer barring public disclosure of the trade secrets.

### **Repeal of Requirement to Provide 48 Hour Notice to the Insured, Claimant, Public Adjuster, or Attorney Prior to Meeting the Insured or Claimant or Inspecting the Insured Property**

**Section 6** amends 626.854, F.S., to repeal the requirement that any person acting on behalf of an insurer must provide at least 48 hours' notice to the insured, claimant, public adjuster or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. Currently, the insured or claimant may waive the notice requirement or, if there is no waiver, may deny access to the property if notice was not provided.

### **Allowing Florida-Domiciled Insurers to Wholly Own a Surplus Lines Insurer**

**Section 8** amends s. 626.918, F.S., to allow a surplus insurer to be eligible to have policies placed with it if it is wholly owned by an insurer domiciled in Florida that has been authorized in Florida for at least the 3 preceding years as to the kind or kinds of insurance that would be placed with the surplus lines insurer. The bill also provides that an eligible surplus lines insurer wholly owned by a Florida-domiciled insurer must comply with the following solvency requirements under Florida law:

- Section 624.404, F.S., regarding compliance with the Florida Insurance Code and fitness of management, officers, or directors.
- Section 624.407, F.S., regarding surplus requirements for new insurers.
- Section 624.4073, F.S., generally prohibiting officers and directors of insolvent insurers from serving as an officer or director of an authorized insurer or having control over the selection of officers or directors.
- Section 624.408, F.S., regarding surplus requirements for existing insurers.
- Section 624.4085, F.S., regarding risk-based capital requirements for insurers.
- Section 624.40851, F.S., regarding the confidentiality of risk-based capital information.
- Section 624.4095, F.S., providing required premium to surplus ratios.
- Section 624.424, F.S., requiring each authorized insurer to file an annual financial statement with the OIR.
- Chapter 625, F.S., providing standards for accounting, investments, and deposits by insurers.

**Section 7** amends s. 626.916(1), F.S., to require that alternative dispute resolution such as appraisal or arbitration must be conducted in Florida under any policy placed with an eligible surplus lines insurer that is wholly owned by a Florida-domiciled insurer.

### **Repeal of the Surplus Lines Agent Affidavit Requirement**

**Section 9** amends s. 626.931, F.S., to repeal the requirement that each surplus lines agent currently transacting business must, within 45 days of the end of the calendar quarter, file an affidavit with the Florida Surplus Lines Service Office. The affidavit must state that all surplus lines insurance transacted by the agent during the calendar quarter was submitted to the FSLSO and must include efforts made to place coverage with authorized insurers and the results of those efforts.

**Section 10** amends s. 626.932(2), F.S., to provide that surplus lines agents must remit the surplus lines tax to the FSLSO at the same time as the agent pays the surplus lines service fee required by s. 626.9325, F.S. The change is necessitated by the repeal of the agent affidavit requirement, but will not change the time frame for remission of the surplus lines tax because the service fee is due 45 days after each calendar quarter, which is when agent affidavits are due.

**Section 11** provides a conforming amendment to s. 626.935, F.S., to provide that failure to make and file surplus lines agent affidavits is no longer grounds for disciplinary action against a surplus lines agent's license and appointments.

**Section 23** provides a conforming amendment to s. 629.401, F.S., regarding insurance exchanges created to underwrite surplus lines insurance.

### **Calculating Homeowners' Property Rates Using Modeling Indications that are the Weighted or Straight Average of Multiple Models**

**Section 12** amends s. 627.062(2)(j), F.S., to provide that the OIR may not disapprove a rate for homeowners' insurance solely because the rate filing uses a modeling indication that is the weighted or straight average of two or more models found accurate or reliable under s. 627.0628, F.S., by the Florida Commission on Hurricane Loss Projection Methodology.

### **Property Insurance Rating Factors Based on Building Code Enforcement**

**Section 13** amends s. 627.0629, F.S., to provide insurers discretion regarding the utilization of positive and negative rate factors based on a statewide rating organization's building code rating factor plan that evaluates the manner in which building code enforcement in a particular jurisdiction addresses wind risk. Currently, insurers must include positive and negative rate factors based on the aforementioned evaluation of how a jurisdiction's building code enforcement addresses wind risk.

### **Extension of OIR Periods for Review of Rates and Forms**

**Sections 12, 14, and 15** amend ss. 627.062(2)(a)1., F.S., 627.0651(1)(a), F.S., and s. 627.410(2), F.S., to provide that when the OIR periods for reviewing rates and forms under those sections

end on a weekend or holiday, the review period must be extended until the conclusion of the next business day.

### **Actual Cash Value Adjustment of Non-Hurricane Claims on Roofs Older than 10 Years**

**Section 16** amends s. 627.7011, F.S., to allow an insurer to offer a policy or endorsement providing that a non-hurricane claim on a roof older than 10 years will be adjusted on the basis of actual cash value, and not replacement cost.

### **Notice of Property Insurance Claims**

**Section 17** amends s. 627.70132, F.S., to bar any non-sinkhole property insurance claim, supplemental claim, or reopened claim for which notice is not provided to the insurer in accordance with the terms of the insurance policy within 3 years after the date of loss. This expands the existing requirement for property insurance losses caused by a windstorm or hurricane, which are barred if notice is not provided within 3 years of the hurricane's landfall or the windstorm caused the covered damage. Under the bill, sinkhole loss claims continue to be subject to the 2 year time limitation under s. 627.706(5), F.S.

### **Requirements Insureds Must Meet When Litigating Suits Arising Under a Property Insurance Policy**

**Section 18** creates s. 627.70152, F.S., which provides requirements insureds must meet when litigating suits under a property insurance policy.

The bill creates two conditions precedent that the named insured must meet prior to filing suit under a property insurance policy. The first condition precedent is that the named insured must serve a written notice of intent to initiate litigation to the insurer at least 10 business days before filing suit under the policy. The notice must specify the damages in dispute and the amount claimed. The notice may not be served before the insurer makes a determination of coverage under s. 627.70131, F.S., which generally provides that a property insurer must pay or deny a claim, or a portion of the claim, within 90 days of receiving notice of the claim. The notice must be served by electronic delivery or certified mail, return receipt requested to the name and address or email designed by the insurer in the policy.

The second condition precedent is that the named insured, concurrent with the aforementioned notice, must provide a detailed written invoice or estimate of services, including itemized information on equipment, materials, and supplies; the number of labor hours; and proof that any work that has been performed was done so in accordance with accepted industry standards. The bill requires a named insured filing suit under a property insurance policy must sign any complaint seeking relief under the policy.

If during litigation an insurer asserts a defense that the named insured or the named insured's attorney or public adjuster failed to cooperate with the insurer in the claim investigation, including, but not limited to, by not allowing the insurer to inspect the property, the bill provides that the named insured has the burden to demonstrate that the insurer is not prejudiced by such failure to cooperate. Currently, the insurer has the burden to demonstrate both that a named

insured failed to cooperate with the adjustment of the claim and that such failure prejudiced the insurer.

### **Condominium Unit Owner's Loss Assessment Insurance Coverage**

**Section 19** amends s. 627.714(2), F.S., to clarify that the maximum amount that a condominium unit owner's assessment insurance coverage may be assessed is the loss assessment coverage limit in effect 1 day before the date of the occurrence that gave rise to the loss. Such coverage is applicable to any loss assessment regardless of the date of the assessment by the condominium association.

### **Placement of Private-Market Flood Insurance With Surplus Lines Insurance Carriers**

**Section 20** revives, reenacts, and amends s. 627.715(4), F.S., to allow surplus lines agents to export flood coverage to eligible surplus lines insurers without meeting the diligent effort requirement of s. 626.916(1)(a), F.S. The diligent effort requirement requires surplus lines agents to attempt to place coverage with at least three Florida-admitted insurance carriers prior to placing the coverage with an eligible surplus lines carrier.

The exemption from the diligent effort requirement lasts until July 1, 2025, or on the date the Insurance Commissioner determines that there is an adequate admitted market to provide private flood insurance.

### **Delivery of Notice to Initiate Litigation Under an Assignment of Benefits**

**Section 21** amends s. 627.7152, F.S., to specify that the notice of intent to initiate litigation that must be sent by an assignee of benefits to an insurer as a condition precedent to filing suit must be sent to the email address or name and address designated by the insurer in the policy forms.

### **Cancellation of Motor Vehicle Insurance For Non-Payment of Premium**

**Section 22** amends s. 627.7295(4), F.S., to reduce from 60 days to 30 days the period during which an insurer may not cancel a new policy or binder of private passenger motor vehicle insurance except for the disallowance of the initial premium payment. This corresponds to a revision to s. 627.7295(7) in ch. 2019-108, Laws of Florida, that allows private passenger motor vehicle insurance to be issued upon the collection of at least 1 month's premium. The current 60 day noncancellation period corresponds to the previous requirement that 2 month's premium had to be collected before issuing the policy.

### **Transaction of Motor Vehicle Service Agreements, Home Warranties, and Service Warranties by Licensed Personal Lines Agents and General Lines Agents**

**Section 24** amends s. 634.171, F.S., to provide that a licensed personal lines or general lines agent may solicit, negotiate, advertise, or sell motor vehicle service agreements and need not be licensed under the section. **Section 25** amends s. 634.317, F.S., to the same effect for home warranty contracts and **section 26** amends s. 634.419, F.S., to the same effect for service warranty contracts.

**Effective Date**

**Section 27** provides that, except as otherwise expressly provided, the act is effective July 1, 2020.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Office of Insurance regulation estimates that the requirement that the OIR retain an independent consultant to audit the Florida Hurricane Catastrophe Fund reimbursement premium formula once every 3 years, beginning with the 2021 contract year, will require the OIR to expend \$200,000 in recurring funds during those years when audits are required.<sup>84</sup>

**VI. Technical Deficiencies:**

None.

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<sup>84</sup> Office of Insurance Regulation, *2020 Agency Legislative Bill Analysis HB 359*, pg. 4 (Nov. 1, 2019).



**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 215.555, 319.30, 624.155, 624.307, 624.315, 626.854, 626.916, 626.918, 626.931, 626.932, 626.935, 627.062, 627.0629, 627.0651, 627.410, 627.7011, 627.70132, 627.714, 627.715, 627.7152, 627.7295, 629.401, 634.171, 634.317, and 634.419.

This bill creates section 627.70152 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Rouson) recommended the following:

**Senate Amendment (with directory and title amendments)**

Between lines 148 and 149  
insert:

(b) The State Board of Administration shall select an independent consultant to develop a formula for determining the actuarially indicated premium to be paid to the fund. The rate formula must ~~shall~~ specify, for each zip code or other limited geographical area, the amount of premium to be paid by an insurer for each \$1,000 of insured value under covered policies



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11 in that zip code or other area. In establishing premiums, the  
12 board shall consider the coverage elected under paragraph (4) (b)  
13 and any factors that tend to enhance the actuarial  
14 sophistication of ratemaking for the fund, including  
15 deductibles, type of construction, type of coverage provided,  
16 relative concentration of risks, and other such factors deemed  
17 by the board to be appropriate. Beginning in the 2020-2021  
18 contract year, the fund's formula may provide for a rapid cash  
19 build-up factor of up to 25 percent only when the available cash  
20 balance as of December 31 of the previous year is less than 70  
21 percent of the statutory capacity. For the purpose of  
22 calculating the rapid cash build-up factor trigger, the  
23 available cash balance may not be reduced by reserves for  
24 projected participating insurer reimbursements ~~The formula must~~  
25 ~~provide for a cash build-up factor. For the 2009-2010 contract~~  
26 ~~year, the factor is 5 percent. For the 2010-2011 contract year,~~  
27 ~~the factor is 10 percent. For the 2011-2012 contract year, the~~  
28 ~~factor is 15 percent. For the 2012-2013 contract year, the~~  
29 ~~factor is 20 percent. For the 2013-2014 contract year and~~  
30 ~~thereafter, the factor is 25 percent.~~ The rate formula may  
31 provide for a procedure to determine the premiums to be paid by  
32 new insurers that begin writing covered policies after the  
33 beginning of a contract year, taking into consideration when the  
34 insurer starts writing covered policies, the potential exposure  
35 of the insurer, the potential exposure of the fund, the  
36 administrative costs to the insurer and to the fund, and any  
37 other factors deemed appropriate by the board. The formula must  
38 be approved by unanimous vote of the board. The board may, at  
39 any time, revise the formula pursuant to the procedure provided



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in this paragraph.

===== D I R E C T O R Y   C L A U S E   A M E N D M E N T =====

And the directory clause is amended as follows:

Delete lines 97 - 98

and insert:

Section 1. Paragraph (c) of subsection (2) and paragraph (b) of subsection (5) of section 215.555, Florida Statutes, are amended, and paragraph (f) is

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete line 6

and insert:

policies; providing that the fund's rate formula may provide for a rapid cash build-up factor only if certain conditions are met; specifying a limitation on calculating the trigger for the cash build-up factor; requiring the Office of Insurance Regulation



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Rouson) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete lines 149 - 163

and insert:

(b) The State Board of Administration shall select an independent consultant to develop a formula for determining the actuarially indicated premium to be paid to the fund. The rate formula must ~~shall~~ specify, for each zip code or other limited geographical area, the amount of premium to be paid by an insurer for each \$1,000 of insured value under covered policies



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11 in that zip code or other area. In establishing premiums, the  
12 board shall consider the coverage elected under paragraph (4) (b)  
13 and any factors that tend to enhance the actuarial  
14 sophistication of ratemaking for the fund, including  
15 deductibles, type of construction, type of coverage provided,  
16 relative concentration of risks, and other such factors deemed  
17 by the board to be appropriate. Beginning in the 2020-2021  
18 contract year, the fund's formula may provide for a rapid cash  
19 build-up factor of up to 25 percent only when the available cash  
20 balance as of December 31 of the previous year is less than 70  
21 percent of the statutory capacity. For the purpose of  
22 calculating the rapid cash build-up factor trigger, the  
23 available cash balance may not be reduced by reserves for  
24 projected participating insurer reimbursements ~~The formula must~~  
25 ~~provide for a cash build-up factor. For the 2009-2010 contract~~  
26 ~~year, the factor is 5 percent. For the 2010-2011 contract year,~~  
27 ~~the factor is 10 percent. For the 2011-2012 contract year, the~~  
28 ~~factor is 15 percent. For the 2012-2013 contract year, the~~  
29 ~~factor is 20 percent. For the 2013-2014 contract year and~~  
30 ~~thereafter, the factor is 25 percent.~~ The rate formula may  
31 provide for a procedure to determine the premiums to be paid by  
32 new insurers that begin writing covered policies after the  
33 beginning of a contract year, taking into consideration when the  
34 insurer starts writing covered policies, the potential exposure  
35 of the insurer, the potential exposure of the fund, the  
36 administrative costs to the insurer and to the fund, and any  
37 other factors deemed appropriate by the board. The formula must  
38 be approved by unanimous vote of the board. The board may, at  
39 any time, revise the formula pursuant to the procedure provided



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in this paragraph.

(f) The Office of Insurance Regulation shall retain an independent consultant to audit the formula developed under this subsection beginning with the 2021 contract year and every 3 years thereafter. The audit may not be performed by the independent consultant who developed the formula. The audit must evaluate whether the formula uses actuarially sound principles and whether insurers are paying an actuarially indicated premium. The Office of Insurance Regulation shall also recommend factors, if any, which would enhance the actuarial sophistication of ratemaking for the fund. The Office of Insurance Regulation shall report the findings of the audit and any recommendation to the Financial Services Commission, the President of the Senate, and the Speaker of the House of Representatives on or before March 1 of the year after the contract year audited.

(17) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL COVERAGE.—

(a) Findings and intent.—

1. The Legislature finds that:

a. Because of temporary disruptions in the market for catastrophic reinsurance, many property insurers were unable to procure affordable reinsurance for the 2019 hurricane season with an attachment point below the insurers' respective Florida Hurricane Catastrophe Fund attachment points, were unable to procure sufficient amounts of such reinsurance, or were able to procure such reinsurance only by incurring substantially higher costs than in prior years.

b. The reinsurance market problems were responsible, at least in part, for substantial premium increases to many



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consumers and potential increases in the number of policies issued by the Citizens Property Insurance Corporation.

c. It is likely that the reinsurance market disruptions will not significantly abate before the 2020 hurricane season.

2. It is the intent of the Legislature to create a temporary emergency program, applicable to the 2020, 2021, and 2022 hurricane seasons, to address these market disruptions and enable insurers, at their option, to procure additional coverage from the Florida Hurricane Catastrophe Fund.

(b) Applicability of other provisions of this section.—All other provisions of this section and the rules adopted under this section apply to the program created by this subsection unless specifically superseded by this subsection.

(c) Optional coverage.—For the contract year commencing June 1, 2020, and ending May 31, 2021, the contract year commencing June 1, 2021, and ending May 31, 2022, and the contract year commencing June 1, 2022, and ending May 31, 2023, the board shall offer for each of such years the optional coverage as provided in this subsection.

(d) Additional definitions.—As used in this subsection, the term:

1. "TEACO addendum" means an addendum to the reimbursement contract reflecting the obligations of the fund and TEACO insurers under the program created by this subsection.

2. "TEACO insurer" means an insurer that has opted to obtain coverage under the TEACO options in addition to the coverage provided to the insurer under its reimbursement contract.

3. "TEACO options" means the temporary emergency additional





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coverage options created under this subsection.

4. "TEACO reimbursement premium" means the premium charged by the fund for coverage provided under the TEACO options.

5. "TEACO retention" means the amount of losses below which a TEACO insurer is not entitled to reimbursement from the fund under the TEACO option selected. A TEACO insurer's retention options shall be calculated as follows:

a. The board shall calculate and report to each TEACO insurer the TEACO retention multiples. There shall be three TEACO retention multiples for defining coverage. Each multiple shall be calculated by dividing \$3 billion, \$4 billion, or \$5 billion by the total estimated TEACO reimbursement premium, assuming all insurers selected that option. The total estimated TEACO reimbursement premium, for purposes of the calculation under this sub-subparagraph, shall be calculated using the assumption that all insurers have selected a specific TEACO retention multiple option and have selected the 90-percent coverage level.

b. The TEACO retention multiples as determined under sub-subparagraph a. shall be adjusted to reflect the coverage level elected by the insurer. For insurers electing the 90-percent coverage level, the adjusted retention multiple is 100 percent of the amount determined under sub-subparagraph a. For insurers electing the 75-percent coverage level, the retention multiple is 120 percent of the amount determined under sub-subparagraph a. For insurers electing the 45-percent coverage level, the adjusted retention multiple is 200 percent of the amount determined under sub-subparagraph a.

c. An insurer shall determine its provisional TEACO



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retention by multiplying its provisional TEACO reimbursement premium by the applicable adjusted TEACO retention multiple and shall determine its actual TEACO retention by multiplying its actual TEACO reimbursement premium by the applicable adjusted TEACO retention multiple.

d. For a TEACO insurer that experiences multiple covered events causing loss during the contract year, the insurer's full TEACO retention shall be applied to each of the covered events causing the two largest losses for that insurer. For other covered events resulting in losses, the TEACO option does not apply and the insurer's retention shall be one-third of the full retention as calculated under paragraph (2) (e).

(e) TEACO addendum.—

1. The TEACO addendum shall provide for reimbursement of TEACO insurers for covered events occurring during the contract year in exchange for the TEACO reimbursement premium paid into the fund under paragraph (f). Any insurer writing covered policies has the option of choosing to accept the TEACO addendum for any of the three contract years that the coverage is offered.

2. The TEACO addendum shall contain a promise by the board to reimburse the TEACO insurer for 45 percent, 75 percent, or 90 percent of its losses from each covered event in excess of the insurer's TEACO retention, plus 10 percent of the reimbursed losses to cover loss adjustment expenses. The percentage shall be the same as the coverage level selected by the insurer under paragraph (4) (b).

3. The TEACO addendum shall provide that reimbursement amounts shall not be reduced by reinsurance paid or payable to



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the insurer from other sources.

4. The TEACO addendum shall also provide that the obligation of the board with respect to all TEACO addenda shall not exceed an amount equal to two times the difference between the industry retention level calculated under paragraph (2)(e) and the \$3 billion, \$4 billion, or \$5 billion industry TEACO retention level options actually selected, but in no event may the board's obligation exceed the actual claims-paying capacity of the fund plus the additional capacity created in paragraph (g). If the actual claims-paying capacity and the additional capacity created under paragraph (g) fall short of the board's obligations under the reimbursement contract, each insurer's share of the fund's capacity shall be prorated based on the premium an insurer pays for its normal reimbursement coverage and the premium paid for its optional TEACO coverage as each such premium bears to the total premiums paid to the fund times the available capacity.

5. The priorities, schedule, and method of reimbursements under the TEACO addendum shall be the same as provided under subsection (4).

6. A TEACO insurer's maximum reimbursement under the TEACO addendum shall be calculated by multiplying the insurer's share of the estimated total TEACO reimbursement premium as calculated under sub-subparagraph (d)5.a. by an amount equal to two times the difference between the industry retention level calculated under paragraph (2)(e) and the \$3 billion, \$4 billion, or \$5 billion industry TEACO retention level specified in sub-subparagraph (d)5.a. as selected by the TEACO insurer.

(f) TEACO reimbursement premiums.-



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185       1. Each TEACO insurer shall pay to the fund, in the manner  
186 and at the time provided in the reimbursement contract for  
187 payment of reimbursement premiums, a TEACO reimbursement premium  
188 calculated as specified in this paragraph.

189       2. The TEACO reimbursement premiums shall be calculated  
190 based on the assumption that if all insurers entering into  
191 reimbursement contracts under subsection (4) also accepted the  
192 TEACO option:

193       a. The industry TEACO reimbursement premium associated with  
194 the \$3 billion retention option would be equal to 85 percent of  
195 the difference between the industry retention level calculated  
196 under paragraph (2) (e) and the \$3 billion industry TEACO  
197 retention level.

198       b. The TEACO reimbursement premium associated with the \$4  
199 billion retention option would be equal to 80 percent of the  
200 difference between the industry retention level calculated under  
201 paragraph (2) (e) and the \$4 billion industry TEACO retention  
202 level.

203       c. The TEACO reimbursement premium associated with the \$5  
204 billion retention option would be equal to 75 percent of the  
205 difference between the industry retention level calculated under  
206 paragraph (2) (e) and the \$5 billion industry TEACO retention  
207 level.

208       3. Each insurer's TEACO reimbursement premium shall be  
209 calculated based on its share of the total TEACO reimbursement  
210 premiums based on its coverage selection under the TEACO  
211 addendum.

212       (g) Effect on claims-paying capacity of the fund.—For the  
213 contract term commencing June 1, 2020, the contract year



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commencing June 1, 2021, and the contract term beginning June 1,  
2022, the program created by this subsection shall increase the  
claims-paying capacity of the fund as provided in subparagraph  
(4)(c)1. by an amount equal to two times the difference between  
the industry retention level calculated under paragraph (2)(e)  
and the \$3 billion industry TEACO retention level specified in  
sub-subparagraph (d)5.a. The additional capacity shall apply  
only to the additional coverage provided by the TEACO option and  
shall not otherwise affect any insurer's reimbursement from the  
fund.

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D I R E C T O R Y   C L A U S E   A M E N D M E N T  
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And the directory clause is amended as follows:

Delete lines 97 - 99  
and insert:

Section 1. Paragraph (c) of subsection (2) and paragraph  
(b) of subsection (5) of section 215.555, Florida Statutes, are  
amended, and paragraph (f) of subsection (5) and subsection (17)  
are added to that section, to read:

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T I T L E   A M E N D M E N T  
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And the title is amended as follows:

Delete lines 6 - 12  
and insert:

policies; providing that the fund's rate formula may  
provide for a rapid cash build-up factor only if  
certain conditions are met; specifying a limitation on  
calculating the trigger for the cash build-up factor;  
requiring the Office of Insurance Regulation to retain



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an independent consultant to audit the fund's  
reimbursement premium formula at specified intervals;  
specifying requirements for the audit; requiring the  
office to report audit findings and certain  
recommendations to the Financial Services Commission  
and the Legislature; providing legislative findings  
and intent; providing applicability; requiring the  
State Board of Administration to offer temporary  
emergency additional coverage options (TEACO) to  
insurers during specified contract years; defining  
terms; specifying requirements for the TEACO addendum  
to the reimbursement contract; specifying requirements  
for, and calculations of, TEACO reimbursement  
premiums; specifying the effect of the TEACO program  
on the fund's claims-paying capacity; amending s.  
319.30,



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Broxson) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 183 and 184  
insert:

Section 3. Subsections (16) and (17) are added to section  
440.107, Florida Statutes, to read:

440.107 Department powers to enforce employer compliance  
with coverage requirements.—

(16) (a) Each subcontractor contracting with a contractor as  
defined in s. 489.105(3) shall, in connection with each



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construction project contracted for and before commencement of work, provide to each of its contractors that it directly contracts with a written certification from a principal or an authorized officer of the subcontractor. The certification must contain an attestation that the subcontractor has secured workers' compensation coverage for all of its employees, including leased employees pursuant to part XI of chapter 468, and that for all of its employees, including leased employees, for the duration of the contract, workers' compensation insurance coverage will be maintained while the subcontractor is performing work for the contractor. Each contractor who receives such certification shall retain each certification for at least 3 years after the termination date of the project.

(b) The department shall verify the coverage attested to in certifications under this subsection.

(c) An employee leasing company as defined in s. 468.520(5) shall provide the department with notice within 30 days after any employee of a client company, as defined in s. 468.520(6), which is operating pursuant to an employee leasing arrangement is denied workers' compensation benefits by the employee leasing company or the carrier of the employee leasing company on the basis that the employee of the client company was not an employee of the employee leasing company.

(d) The department shall adopt rules to administer this subsection.

(17) The Office of Program Policy Analysis and Government Accountability shall conduct a study and prepare a report to determine the feasibility of regulation of employee leasing companies by the department. The study must include a survey of





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the regulation of employee leasing companies in other states and  
the staffing requirements and potential costs to the department.  
The report must be completed by October 1, 2020, and presented  
to the Governor, the Chief Financial Officer, the President of  
the Senate, and the Speaker of the House of Representatives.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete line 15

and insert:

title; amending s. 440.107, F.S.; requiring a  
subcontractor, before commencement of work, to provide  
a specified written certification to each of its  
contractors relating to workers' compensation coverage  
for the subcontractor's employees; requiring  
contractors to retain the certifications for a certain  
time after a project ends; requiring the Department of  
Financial Services to verify coverage attested to in  
the certifications; requiring employee leasing  
companies to provide the department with notice of  
certain denied workers' compensation benefits within a  
certain timeframe; requiring the department to adopt  
rules; requiring the Office of Program Policy Analysis  
and Government Accountability to perform a certain  
study and prepare a report relating to the feasibility  
of employee leasing company regulation by the  
department; requiring the report to be completed by a  
certain date and presented to the Governor, the Chief  
Financial Officer, and the Legislature; amending s.



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624.155, F.S.; revising



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Thurston) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 184 - 231.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 15 - 21

and insert:

title; amending ss. 624.307 and 624.315, F.S.;



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Taddeo) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 252 - 270.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 25 - 29

and insert:

certain circumstances; amending s.



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Thurston) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 485 - 493.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 52 - 56

and insert:

the conclusion of the next business day; amending s.  
627.70132, F.S.;



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Taddeo) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 494 - 513.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 56 - 60

and insert:

on certain losses; creating s.



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Taddeo) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 497 - 504

and insert:

~~hurricane claim.~~ An initial A claim, ~~supplemental claim, or~~  
~~reopened claim~~ under an insurance policy that provides property  
insurance, as defined in s. 624.604, ~~for loss or damage caused~~  
~~by the peril of windstorm or hurricane~~ is barred unless initial  
notice of the claim ~~is, supplemental claim, or reopened claim~~  
~~was~~ given to the insurer in accordance with the terms of the



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policy within 3 years after the date of loss ~~hurricane first~~  
~~made landfall or the windstorm caused the covered damage.~~ Notice  
of all supplemental claims or reopened claims must be made  
within the later of 3 years after the date of loss or 12 months  
after the last payment by the insurer on the loss. This section  
does not

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 57 - 59

and insert:

revising property insurance coverages and types of  
claims for which a notice of a claim must be given to  
the insurer within a specified timeframe; specifying  
the timeframe in which notices of supplemental or  
reopened claims must be made; revising the timeframe  
for





461914

LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Taddeo) recommended the following:

**Senate Substitute for Amendment (787114) (with title amendment)**

Delete lines 497 - 504

and insert:

~~hurricane claim.~~ An initial A claim, ~~supplemental claim, or reopened claim~~ under an insurance policy that provides property insurance, as defined in s. 624.604, ~~for loss or damage caused by the peril of windstorm or hurricane~~ is barred unless initial notice of the claim ~~is,~~ supplemental claim, or reopened claim



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~~was~~ given to the insurer in accordance with the terms of the  
policy within 3 years after the date of loss ~~hurricane first~~  
~~made landfall or the windstorm caused the covered damage.~~ Notice  
of all supplemental claims or reopened claims must be made  
within the later of 3 years after the date of loss or 12 months  
after the insurer's final payment of the initial claim. This  
section does not

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 57 - 59

and insert:

revising property insurance coverages and types of  
claims for which a notice of a claim must be given to  
the insurer within a specified timeframe; specifying  
the timeframe in which notices of supplemental or  
reopened claims must be made; revising the timeframe  
for



670458

LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Rouson) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 514 - 544.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 60 - 70

and insert:

providing notices of hurricane claims; amending s.



392164

LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Brandes) recommended the following:

**Senate Substitute for Amendment (670458) (with title amendment)**

Delete lines 516 - 544  
and insert:

627.70152 Suits arising under a property insurance policy.-  
As a condition precedent to filing suit under a property  
insurance policy, the attorney of record must provide the  
insurer and insured with a written notice of intent to initiate  
litigation before filing suit under the policy.



392164

11  
12 ===== T I T L E   A M E N D M E N T =====

13 And the title is amended as follows:

14       Delete lines 61 - 70

15 and insert:

16       627.70152, F.S.; requiring the attorney of record, as  
17       a condition precedent to filing suit under a property  
18       insurance policy, to provide the insurer and insured a  
19       written notice of intent to initiate litigation;  
20       amending s.



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 536 - 542.

Between lines 693 and 694

insert:

Section 27. Paragraph (a) of subsection (1) of section 440.12, Florida Statutes, is amended to read:

440.12 Time for commencement and limits on weekly rate of compensation.—

(1) Compensation is not allowed for the first 7 days of the



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disability, except for benefits provided under s. 440.13.  
However, if the injury results in more than 21 days of  
disability, compensation is allowed from the commencement of the  
disability.

(a) All weekly compensation payments, except for the first  
payment, must be paid by check or, if authorized by the  
employee, on a prepaid card pursuant to paragraph (b) or  
deposited directly into the employee's account at a financial  
institution as defined in s. 655.005 or transmitted to the  
employee's account with a money transmitter licensed under part  
II of chapter 560.

Section 28. Paragraph (a) of subsection (1) and paragraph  
(a) of subsection (6) of section 440.20, Florida Statutes, are  
amended to read:

440.20 Time for payment of compensation and medical bills;  
penalties for late payment.—

(1)(a) Unless the carrier denies compensability or  
entitlement to benefits, the carrier shall pay compensation  
directly to the employee as required by ss. 440.14, 440.15, and  
440.16, in accordance with those sections. Upon receipt of the  
employee's authorization as provided for in s. 440.12(1)(a), the  
carrier's obligation to pay compensation directly to the  
employee is satisfied when the carrier directly deposits, by  
electronic transfer or other means, compensation into the  
employee's account at a financial institution as defined in s.  
655.005 or onto a prepaid card in accordance with s. 440.12(1)  
or transmits the employee's compensation to the employee's  
account with a money transmitter licensed under part II of  
chapter 560. Compensation by direct deposit or through the use



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of a prepaid card or through transmission is considered paid on the date the funds become available for withdrawal by the employee.

(6)(a) If any installment of compensation for death or dependency benefits, or compensation for disability benefits payable without an award is not paid within 7 days after it becomes due, as provided in subsection (2), subsection (3), or subsection (4), there shall be added to such unpaid installment a penalty of an amount equal to 20 percent of the unpaid installment, which shall be paid at the same time as, but in addition to, such installment of compensation. This penalty shall not apply for late payments resulting from conditions over which the employer or carrier had no control. When any installment of compensation payable without an award has not been paid within 7 days after it became due and the claimant concludes the prosecution of the claim before a judge of compensation claims without having specifically claimed additional compensation in the nature of a penalty under this section, the claimant will be deemed to have acknowledged that, owing to conditions over which the employer or carrier had no control, such installment could not be paid within the period prescribed for payment and to have waived the right to claim such penalty. However, during the course of a hearing, the judge of compensation claims shall on her or his own motion raise the question of whether such penalty should be awarded or excused. The department may assess without a hearing the penalty against either the employer or the carrier, depending upon who was at fault in causing the delay. The insurance policy cannot provide that this sum will be paid by the carrier if the department or





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the judge of compensation claims determines that the penalty should be paid by the employer rather than the carrier. Any additional installment of compensation paid by the carrier pursuant to this section shall be paid directly to the employee by check or, if authorized by the employee, by direct deposit into the employee's account at a financial institution or by transmission to the employee's account with a money transmitter licensed under part II of chapter 560.

Section 29. Subsection (4) of section 627.914, Florida Statutes, is redesignated as subsection (5), a new subsection (4) is added to that section, and subsections (2) and (3) of that section are amended, to read:

627.914 Reports of information by workers' compensation insurers required.—

(2) (a) Each insurer and self-insurance fund authorized to write a policy of workers' compensation insurance shall report ~~transmit~~ the following information annually on both Florida experience and nationwide experience separately:

1. ~~(a)~~ Payrolls by classification.

2. ~~(b)~~ Manual premiums by classification.

3. ~~(c)~~ Standard premiums by classification.

4. ~~(d)~~ Losses by classification and injury type.

5. ~~(e)~~ Expenses.

An insurer or self-insurance fund that is placed in receivership pursuant to part I of chapter 631 must continue to report the information required under this paragraph. At the discretion of the receiver, the insurer or self-insurance fund may outsource the reporting of such information to a third-party reporting



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98 vendor. The office shall approve a modified reporting plan that  
99 is limited in terms of data elements.

100 (b) A report of the ~~this~~ information required under  
101 paragraph (a) shall be filed no later than July 1 of each year.  
102 All reports shall be filed in accordance with standard reporting  
103 procedures for insurers, which procedures have received approval  
104 by the office, and shall contain data for the most recent policy  
105 period available. A statistical or rating organization may be  
106 used by insurers and self-insurance funds to report the data  
107 required by this section. The statistical or rating organization  
108 shall report each data element in the aggregate only for  
109 insurers and self-insurance funds required to report under this  
110 section who elect to have the organization report on their  
111 behalf. Such insurers and self-insurance funds shall be named in  
112 the report.

113 (3) Individual self-insurers as defined in s. 440.02 shall  
114 report only Florida data as prescribed in subparagraphs  
115 (2)(a)1.-5. paragraphs ~~(2)(a)-(e)~~ to the office.

116 (a) The office shall publish the dates and forms necessary  
117 to enable individual self-insurers to comply with this section.

118 (b) A statistical or rating organization may be used by  
119 individual self-insurers for the purposes of reporting the data  
120 required by this section and calculating experience ratings.

121 (4) The office may use the information it receives under  
122 this section in its adoption of rates and experience ratings  
123 modifications.

124 Section 30. Paragraph (c) of subsection (1) of section  
125 626.321, Florida Statutes, is amended to read:

126 626.321 Limited licenses and registration.—



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(1) The department shall issue to a qualified applicant a license as agent authorized to transact a limited class of business in any of the following categories of limited lines insurance:

(c) *Travel insurance.*—License covering only policies and certificates of travel insurance which are subject to review by the department office. Policies and certificates of travel insurance may provide coverage for travel insurance, as defined in s. 647.02 ~~risks incidental to travel, planned travel, or accommodations while traveling, including, but not limited to, accidental death and dismemberment of a traveler; trip or event cancellation, interruption, or delay; loss of or damage to personal effects or travel documents; damages to travel accommodations; baggage delay; emergency medical travel or evacuation of a traveler; or medical, surgical, and hospital expenses related to an illness or emergency of a traveler. Such policy or certificate may be issued for terms longer than 90 days, but, other than a policy or certificate providing coverage for air ambulatory services only, each policy or certificate must be limited to coverage for travel or use of accommodations of no longer than 90 days.~~ The license may be issued only to an individual or business entity that has filed with the department an application for a license in a form and manner prescribed by the department.÷

1. A limited lines travel insurance producer, as defined in s. 647.02, shall be licensed to sell, solicit, or negotiate travel insurance through a licensed insurer.

2. A person may not act as a limited lines travel insurance producer or travel retailer unless properly licensed or



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156 registered, respectively. As used in this paragraph, the term  
157 "travel retailer" means a business entity that:

158 a. Makes, arranges, or offers planned travel.

159 b. May, under subparagraph 3., offer and disseminate travel  
160 insurance as a service to its customers on behalf of and under  
161 the direction of a limited lines travel insurance producer.

162 3. A travel retailer may offer and disseminate travel  
163 insurance under a limited lines travel insurance producer  
164 business entity license only if all of the following  
165 requirements are met:

166 a. The limited lines travel insurance producer or travel  
167 retailer provides to purchasers of travel insurance:

168 (I) A description of the material terms or the actual  
169 material terms of the insurance coverage.

170 (II) A description of the process for filing a claim.

171 (III) A description of the review or cancellation process  
172 for the travel insurance policy.

173 (IV) The identity and contact information of the insurer  
174 and limited lines travel insurance producer.

175 b. At the time of licensure, the limited lines travel  
176 insurance producer establishes and maintains a register, on a  
177 form prescribed by the department, of each travel retailer that  
178 offers travel insurance on behalf of the limited lines travel  
179 insurance producer. The limited lines travel insurance producer  
180 must maintain and update the register, which must include the  
181 travel retailer's federal tax identification number and the  
182 name, address, and contact information of the travel retailer  
183 and an officer or person who directs or controls the travel  
184 retailer's operations. The limited lines travel insurance



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producer shall submit the register to the department upon reasonable request. The limited lines travel insurance producer shall also certify that the travel retailer register complies with 18 U.S.C. s. 1033. The grounds for the suspension and revocation and the penalties applicable to resident insurance producers under this section apply to the limited lines travel insurance producers and travel retailers.

c. The limited lines travel insurance producer has designated one of its employees as the designated responsible producer. The designated responsible producer, who must be a licensed insurance producer, is responsible for the compliance with the travel insurance laws and regulations applicable to the limited lines travel insurance producer and its registrants. The designated responsible producer and the president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations must comply with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer.

d. The limited lines travel insurance producer has paid all applicable licensing fees as set forth in applicable general law.

e. The limited lines travel insurance producer requires each employee and each authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which is subject, at the discretion of the department, to review and approval. The training material must, at a minimum, contain adequate instructions on the types of insurance offered, ethical



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sales practices, and required disclosures to prospective purchasers.

As used in this paragraph, the term "offer and disseminate" means to provide general information, including a description of the coverage and price, as well as processing the application and collecting premiums.

4. A travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that have been approved by the travel insurer. Such materials must include information that, at a minimum:

a. Provides the identity and contact information of the insurer and the limited lines travel insurance producer.

b. Explains that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer.

c. Explains that a travel retailer is authorized to provide only general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

5. A travel retailer employee or authorized representative who is not licensed as an insurance producer may not:

a. Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

b. Evaluate or provide advice concerning a prospective



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purchaser's existing insurance coverage; or

c. Hold himself or herself or the travel retailer out as a  
licensed insurer, licensed producer, or insurance expert.

Notwithstanding any other provision of law, a travel retailer  
whose insurance-related activities, and those of its employees  
and authorized representatives, are limited to offering and  
disseminating travel insurance on behalf of and under the  
direction of a limited lines travel insurance producer meeting  
the conditions in this section may receive related compensation  
upon registration by the limited lines travel insurance producer  
as described in paragraph (2) (b).

6. As the insurer's designee, the limited lines travel  
insurance producer is responsible for the acts of the travel  
retailer and shall use reasonable means to ensure compliance by  
the travel retailer with this section.

7. Any person licensed in a major line of authority as an  
insurance producer, including a property and casualty insurance  
producer who is not appointed by an insurer, may sell, solicit,  
and negotiate travel insurance.

~~1. To a full-time salaried employee of a common carrier or  
a full-time salaried employee or owner of a transportation  
ticket agency and may authorize the sale of such ticket policies  
only in connection with the sale of transportation tickets, or  
to the full-time salaried employee of such an agent. Such policy  
may not be for more than 48 hours or more than the duration of a  
specified one-way trip or round trip.~~

~~2. To an entity or individual that is:~~

~~a. The developer of a timeshare plan that is the subject of~~



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~~an approved public offering statement under chapter 721;~~

~~b. An exchange company operating an exchange program approved under chapter 721;~~

~~c. A managing entity operating a timeshare plan approved under chapter 721;~~

~~d. A seller of travel as defined in chapter 559; or~~

~~e. A subsidiary or affiliate of any of the entities described in sub-subparagraphs a.-d.~~

~~3. To a full-time salaried employee of a licensed general lines agent or a business entity that offers travel planning services if insurance sales activities authorized by the license are in connection with, and incidental to, travel.~~

~~a. A license issued to a business entity that offers travel planning services must encompass each office, branch office, or place of business making use of the entity's business name in order to offer, solicit, and sell insurance pursuant to this paragraph.~~

~~b. The application for licensure must list the name, address, and phone number for each office, branch office, or place of business that is to be covered by the license. The licensee shall notify the department of the name, address, and phone number of any new location that is to be covered by the license before the new office, branch office, or place of business engages in the sale of insurance pursuant to this paragraph. The licensee shall notify the department within 30 days after the closing or terminating of an office, branch office, or place of business. Upon receipt of the notice, the department shall delete the office, branch office, or place of business from the license.~~





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~~e. A licensed and appointed entity is directly responsible and accountable for all acts of the licensee's employees and parties with whom the licensee has entered into a contractual agreement to offer travel insurance.~~

~~A licensee shall require each individual who offers policies or certificates under subparagraph 2. or subparagraph 3. to receive initial training from a general lines agent or an insurer authorized under chapter 624 to transact insurance within this state. For an entity applying for a license as a travel insurance agent, the fingerprinting requirement of this section applies only to the president, secretary, and treasurer and to any other officer or person who directs or controls the travel insurance operations of the entity.~~

Section 31. The Division of Law Revision is directed to create chapter 647, Florida Statutes, consisting of ss. 647.01-647.08, Florida Statutes, to be entitled "Travel Insurance."

Section 32. Section 647.01, Florida Statutes, is created to read:

647.01 Purpose and scope.—

(1) The purpose of this chapter is to promote the public welfare by creating a comprehensive legal framework within which travel insurance may be sold in this state.

(2) This chapter applies to:

(a) Travel insurance that covers any resident of this state and that is sold, solicited, negotiated, or offered in this state.

(b) Policies and certificates that are delivered or issued for delivery in this state.



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This chapter does not apply to cancellation fee waivers or travel assistance services, except as expressly provided in this chapter.

(3) All other applicable provisions of the insurance laws of this state continue to apply to travel insurance, except that the specific provisions of this chapter shall supersede any general provisions of law that would otherwise be applicable to travel insurance.

Section 33. Section 647.02, Florida Statutes, is created to read:

647.02 Definitions.—As used in this chapter, the term:

(1) "Aggregator site" means a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.

(2) "Blanket travel insurance" means a policy of travel insurance issued to an eligible group providing coverage to all members of the eligible group without a separate charge to individual members of the eligible group.

(3) "Cancellation fee waiver" means a contractual agreement between a supplier of travel services and its customer to waive some or all of the nonrefundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.

(4) "Department" means the Department of Financial Services.

(5) "Eligible group," solely for the purposes of travel



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insurance, means two or more persons who are engaged in a common enterprise or who have an economic, educational, or social affinity or relationship, including, but not limited to, any of the following:

(a) An entity engaged in the business of providing travel or travel services, including, but not limited to:

1. A tour operator, lodging provider, vacation property owner, hotel, resort, travel club, travel agency, property manager, and cultural exchange program.

2. An operator, owner, or lessor of a means of transportation of passengers, including, but not limited to, a common carrier, airline, cruise line, railroad, steamship company, and public bus carrier.

With regard to any particular travel or type of travel or travelers, all members or customers of the group must have a common exposure to risk attendant to such travel.

(b) A university, college, school, or other institution of learning, covering students, teachers, employees, or volunteers.

(c) An employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests.

(d) A sports team or camp, or a sponsor thereof, covering participants, members, campers, employees, officials, supervisors, or volunteers.

(e) A religious, charitable, recreational, educational, or civic organization, or a branch thereof, covering any group of members, participants, or volunteers.

(f) A financial institution or financial institution



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388 vendor, or a parent holding company, trustee, or agent of or  
389 designated by one or more financial institutions or financial  
390 institution vendors, including account holders, credit card  
391 holders, debtors, guarantors, or purchasers.

392 (g) An incorporated or unincorporated association,  
393 including a labor union, having a common interest and  
394 constitution and bylaws, which is organized and maintained in  
395 good faith for purposes other than obtaining insurance coverage  
396 for its members or participants.

397 (h) A trust or the trustees of a fund that covers its  
398 members, employees, or customers and is established, created, or  
399 maintained for the benefit of its members, employees, or  
400 customers, subject to:

401 1. The department's authorizing the use of a trust.

402 2. The premium tax provisions in s. 647.03 applicable to  
403 incorporated or unincorporated associations that have a common  
404 interest and constitution and bylaws and that are organized and  
405 maintained in good faith for purposes other than obtaining  
406 insurance coverage for their members, employees, or customers.

407 (i) An entertainment production company covering any group  
408 of participants, volunteers, audience members, contestants, or  
409 workers.

410 (j) A volunteer fire department, ambulance, rescue, police,  
411 court, first-aid, civil defense, or other such volunteer group.

412 (k) A preschool, daycare institution for children or  
413 adults, or senior citizen club.

414 (l) An automobile or truck rental or leasing company  
415 covering a group of individuals who may become renters, lessees,  
416 or passengers as defined by their travel status on the rented or



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leased vehicles. The common carrier, the operator, owner, or  
lessor of a means of transportation, or the motor vehicle or  
truck rental or leasing company is the policyholder under a  
policy to which this section applies.

(m) Any other group for which the department has made the  
following determinations:

1. The group members are engaged in a common enterprise or  
have an economic, educational, or social affinity or  
relationship.

2. Issuance of the travel insurance policy is not contrary  
to the public interest.

(6) "Fulfillment materials" means documentation sent to the  
purchaser of a travel protection plan confirming the purchase  
and providing the travel protection plan's coverage and  
assistance details.

(7) "Group travel insurance" means travel insurance issued  
to an eligible group.

(8) "Limited lines travel insurance producer" means:

(a) A licensed or third-party administrator;

(b) A licensed insurance producer, including a limited  
lines producer; or

(c) A travel administrator.

(9) "Travel administrator" means a person who directly or  
indirectly underwrites policies for, collects charges,  
collateral, or premiums from, or adjusts or settles claims on,  
residents of this state, in connection with travel insurance,  
except that a person is not considered a travel administrator if  
the person is:

(a) A person working for a travel administrator, to the



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446 extent that the person's activities are subject to the  
447 supervision and control of the travel administrator;

448 (b) An insurance producer selling insurance or engaged in  
449 administrative and claims-related activities within the scope of  
450 the producer's license;

451 (c) A travel retailer, as defined s. 626.321(1)(c)2.,  
452 offering and disseminating travel insurance and registered under  
453 the license of a limited lines travel insurance producer in  
454 accordance with s. 626.321(1)(c);

455 (d) A person adjusting or settling claims in the normal  
456 course of the person's practice or employment as an attorney at  
457 law, without collecting charges or premiums in connection with  
458 insurance coverage; or

459 (e) A business entity that is affiliated with a licensed  
460 insurer while acting as a travel administrator for the direct  
461 and assumed insurance business of the affiliated insurer.

462 (10) "Travel assistance services" means noninsurance  
463 services for which the consumer is not indemnified based on a  
464 fortuitous event, and the provision of which does not result in  
465 the transfer or shifting of risk which would constitute the  
466 business of insurance. The term includes, but is not limited to,  
467 security advisories, destination information, vaccination and  
468 immunization information services, travel reservation services,  
469 entertainment, activity and event planning, translation  
470 assistance, emergency messaging, international legal and medical  
471 referrals, medical case monitoring, coordination of  
472 transportation arrangements, emergency cash transfer assistance,  
473 medical prescription replacement assistance, passport and travel  
474 document replacement assistance, lost luggage assistance,



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concierge services, and any other service that is furnished in connection with planned travel. Travel assistance services are not insurance and are not related to insurance.

(11) "Travel insurance" means insurance coverage for personal risks incidental to planned travel, including:

(a) Interruption or cancellation of trip or event;

(b) Loss of baggage or personal effects;

(c) Damages to accommodations or rental vehicles;

(d) Sickness, accident, disability, or death occurring during travel;

(e) Emergency evacuation;

(f) Repatriation of remains; or

(g) Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the Commissioner of Insurance Regulation.

The term does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting longer than 6 months, including major medical plans for those working or residing overseas as expatriates, or any other product that requires a specific insurance producer license.

(12) "Travel protection plan" means a plan that provides one or more of the following: travel insurance, travel assistance services, and cancellation fee waivers.

Section 34. Section 647.03, Florida Statutes, is created to read:

647.03 Premium tax.—

(1) As used in this section, the term:



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(a) "Primary certificateholder" means an individual who purchases travel insurance under a group policy.

(b) "Primary policyholder" means an individual who purchases individual travel insurance.

(2) A travel insurer shall pay the premium tax, as required under s. 624.509, on travel insurance premiums paid by any of the following:

(a) A primary policyholder who is a resident of this state.

(b) A primary certificateholder who is a resident of this state.

(c) A blanket travel insurance policyholder:

1. Who is a resident in this state;

2. Who has his or her principal place of business in this state; or

3. Whose affiliate or subsidiary who has purchased blanket travel insurance for eligible blanket group members has his or her principal place of business in this state.

The premium tax under this subsection is subject to any apportionment rules that apply to an insurer across multiple taxing jurisdictions or that authorize an insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(3) A travel insurer shall:

(a) Document the state of residence or principal place of business of the policyholder or certificateholder, or an affiliate or subsidiary thereof, as required under subsection (2).

(b) Report as premium only the amount allocable to travel





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insurance and not any amounts received for travel assistance services or cancellation fee waivers.

Section 35. Section 647.04, Florida Statutes, is created to read:

647.04 Travel protection plans.—A travel protection plan may be offered for one price for the combined features that the travel protection plan offers in this state if the travel protection plan meets all of the following requirements:

(1) The travel protection plan clearly discloses to the consumer, at or before the time of purchase, that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and provides information and an opportunity, at or before the time of purchase, for the consumer to obtain additional information regarding the features and pricing of each.

(2) The fulfillment materials:

(a) Describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan.

(b) Include the travel insurance disclosures required in this chapter, the contact information for persons providing travel assistance services, and cancellation fee waivers, as applicable.

Section 36. Section 647.05, Florida Statutes, is created to read:

647.05 Sales practices.—

(1)(a) All documents provided to a consumer before the purchase of travel insurance, including, but not limited to, sales materials, advertising materials, and marketing materials,



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must be consistent with the travel insurance policy, including, but not limited to, forms, endorsements, policies, rate filings, and certificates of insurance.

(b) For travel insurance policies or certificates that contain preexisting condition exclusions, information and an opportunity to learn more about the preexisting condition exclusions must be provided any time before the purchase. Information on the exclusions and the opportunity to learn more about these exclusions must be included in the coverage's fulfillment materials.

(c) The fulfillment materials and the information described in s. 626.321(1)(c)3.a. must be provided to a policyholder or certificateholder as soon as practicable after the purchase of a travel protection plan. Unless the insured has started a covered trip or filed a claim under the travel insurance coverage, the policyholder or certificateholder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least:

1. Fifteen days after the date of delivery of the travel protection plan's fulfillment materials by postal mail; or

2. Ten days after the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail.

For the purposes of this paragraph, the term "delivery" means handing fulfillment materials to the policyholder or certificateholder or sending fulfillment materials by postal mail or electronic means to the policyholder or



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certificateholder.

(d) An insurer shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.

(e) If travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it is not an unfair trade practice or other violation of law if the following requirements are met:

1. The web page provides an accurate summary or short description of the coverage.

2. The consumer has access to the full provisions of the policy through electronic means.

(2) A person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis may not do so by using a negative or opt-out option that would require a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form, when the consumer purchases a trip.

(3) If a consumer's destination jurisdiction requires insurance coverage, it is not an unfair trade practice to require that the consumer choose between the following options as a condition of purchasing a trip or travel package:

(a) Purchasing the coverage required by the destination jurisdiction through the travel retailer, as defined s. 626.321(1)(c)2., or limited lines travel insurance producer supplying the trip or travel package; or

(b) Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements before departure.



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(4) (a) A person offering travel insurance to residents of this state is subject to part IX of chapter 626, the Unfair Insurance Trade Practices Act, except as otherwise provided in this chapter. If a conflict arises between this chapter and the Unfair Insurance Trade Practices Act regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this chapter shall control.

(b) A person commits an unfair insurance trade practice under the Unfair Insurance Trade Practices Act if the person:

1. Offers or sells a travel insurance policy that could never result in payment of any claims for any insured under the policy; or

2. Markets blanket travel insurance coverage as free.

Section 37. Section 647.06, Florida Statutes, is created to read:

647.06 Travel administrators.—

(1) Notwithstanding any other provision of the Florida Insurance Code, a person may not act or represent himself or herself as a travel administrator in this state unless the person:

(a) Is a licensed property and casualty insurance producer in this state for activities authorized under that producer license;

(b) Is appointed as a managing general agent in this state;  
or

(c) Holds a valid third-party administrator license in this state.

(2) A travel administrator and its employees are exempt from the licensing requirements of part VI of chapter 626 for



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the travel insurance it administers.

(3) An insurer is responsible for ensuring that a travel administrator administering travel insurance underwritten by the insurer:

(a) Acts in accordance with this chapter.

(b) Maintains all books and records that are relevant to the insurer and makes these books and records available to the department upon request.

Section 38. Section 647.07, Florida Statutes, is created to read:

647.07 Travel insurance policy.—

(1) Notwithstanding any other provision of the Florida Insurance Code, travel insurance shall be classified and filed for purposes of rates and forms under the inland marine line of insurance; however, travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively or in conjunction with related coverages of emergency evacuation or repatriation of remains, or incidental limited property and casualty benefits such as baggage or trip cancellation, may be classified and filed for purposes of rates and forms under either the accident and health line of insurance or the inland marine line of insurance.

(2) Travel insurance may be in the form of an individual, group, or blanket policy.

(3) Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, if those standards also meet the state's underwriting standards for inland marine insurance.



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Section 39. Section 647.08, Florida Statutes, is created to read:

647.08 Rulemaking authority.—The department shall adopt rules to administer this chapter.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 67 - 69

and insert:

Timeframe; requiring the

Delete line 92

and insert:

respectively, without specified licenses; amending s. 440.12, F.S.; providing that an employee receiving workers' compensation payments may authorize a carrier to transmit compensation payments to a licensed money transmitter; amending s. 440.20, F.S.; specifying that the carrier's transmission of compensation with a licensed money transmitter to the employee's account satisfies the carrier's obligation to pay compensation directly to the employee; amending s. 626.321, F.S.; providing that certain travel insurance licenses are subject to review by the Department of Financial Services rather than the Office of Insurance Regulation; revising persons who may be licensed to transact in travel insurance; specifying licensure and registration requirements for certain persons; defining the term "travel retailer"; specifying requirements for, restrictions on, and authorized acts



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by travel retailers and limited lines travel insurance producers; defining the term "offer and disseminate"; authorizing certain persons to sell, solicit, and negotiate travel insurance; amending s. 627.914, F.S.; requiring insurers or self-insurance funds that write workers' compensation insurance and that are in receivership to continue to report certain information to the office; authorizing the outsourcing of reporting under certain circumstances; requiring the office to approve a certain reporting plan; authorizing the office to use the information for certain purposes; creating ch. 647, F.S., entitled "Travel Insurance"; creating s. 647.01, F.S.; providing legislative purpose; providing applicability; creating s. 647.02, F.S.; defining terms; creating s. 647.03, F.S.; defining the terms "primary certificateholder" and "primary policyholder"; requiring travel insurers to pay the insurance premium tax on specified travel insurance premiums; providing construction; specifying requirements for travel insurers; creating s. 647.04, F.S.; providing that a travel protection plan may be offered for one price if its meets specified requirements; creating s. 647.05, F.S.; specifying sales practice requirements, prohibited sales practices, and authorized sales practices relating to travel insurance; specifying a policyholder or certificateholder's right to cancel a travel protection plan for a full refund; defining the term



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"delivery"; specifying unfair insurance trade  
practices; providing construction; creating s. 647.06,  
F.S.; specifying qualifications for travel  
administrators; providing an exemption from certain  
licensure; providing that insurers are responsible for  
ensuring certain acts by travel administrators;  
creating s. 647.07, F.S.; specifying the  
classification for travel insurance for rate filing  
purposes; specifying authorized forms of travel  
insurance; authorizing certain eligibility and  
underwriting standards for travel insurance; creating  
s. 647.08, F.S.; requiring the department to adopt  
rules; providing





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LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Brandes) recommended the following:

**Senate Substitute for Amendment (893146) (with title amendment)**

Between lines 693 and 694  
insert:

Section 27. Paragraph (a) of subsection (1) of section 440.12, Florida Statutes, is amended to read:

440.12 Time for commencement and limits on weekly rate of compensation.—

(1) Compensation is not allowed for the first 7 days of the



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disability, except for benefits provided under s. 440.13.  
However, if the injury results in more than 21 days of  
disability, compensation is allowed from the commencement of the  
disability.

(a) All weekly compensation payments, except for the first  
payment, must be paid by check or, if authorized by the  
employee, paid on a prepaid card pursuant to paragraph (b), or  
deposited directly into the employee's account at a financial  
institution as defined in s. 655.005, or transmitted to the  
employee's account with a money transmitter licensed under part  
II of chapter 560.

Section 28. Paragraph (a) of subsection (1) and paragraph  
(a) of subsection (6) of section 440.20, Florida Statutes, is  
amended to read:

440.20 Time for payment of compensation and medical bills;  
penalties for late payment.—

(1)(a) Unless the carrier denies compensability or  
entitlement to benefits, the carrier shall pay compensation  
directly to the employee as required by ss. 440.14, 440.15, and  
440.16, in accordance with those sections. Upon receipt of the  
employee's authorization as provided for in s. 440.12(1)(a), the  
carrier's obligation to pay compensation directly to the  
employee is satisfied when the carrier directly deposits, by  
electronic transfer or other means, compensation into the  
employee's account at a financial institution as defined in s.  
655.005 or onto a prepaid card in accordance with s. 440.12(1)  
or transmits the employee's compensation to the employee's  
account with a money transmitter licensed under part II of  
chapter 560. Compensation by direct deposit, ~~or~~ through the use



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of a prepaid card, or through transmission is considered paid on the date the funds become available for withdrawal by the employee.

(6)(a) If any installment of compensation for death or dependency benefits, or compensation for disability benefits payable without an award is not paid within 7 days after it becomes due, as provided in subsection (2), subsection (3), or subsection (4), there shall be added to such unpaid installment a penalty of an amount equal to 20 percent of the unpaid installment, which shall be paid at the same time as, but in addition to, such installment of compensation. This penalty shall not apply for late payments resulting from conditions over which the employer or carrier had no control. When any installment of compensation payable without an award has not been paid within 7 days after it became due and the claimant concludes the prosecution of the claim before a judge of compensation claims without having specifically claimed additional compensation in the nature of a penalty under this section, the claimant will be deemed to have acknowledged that, owing to conditions over which the employer or carrier had no control, such installment could not be paid within the period prescribed for payment and to have waived the right to claim such penalty. However, during the course of a hearing, the judge of compensation claims shall on her or his own motion raise the question of whether such penalty should be awarded or excused. The department may assess without a hearing the penalty against either the employer or the carrier, depending upon who was at fault in causing the delay. The insurance policy cannot provide that this sum will be paid by the carrier if the department or



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the judge of compensation claims determines that the penalty should be paid by the employer rather than the carrier. Any additional installment of compensation paid by the carrier pursuant to this section shall be paid directly to the employee by check or, if authorized by the employee, by direct deposit into the employee's account at a financial institution or by transmission to the employee's account with a money transmitter licensed under part II of chapter 560.

Section 29. Paragraph (c) of subsection (1) of section 626.321, Florida Statutes, is amended to read:

626.321 Limited licenses and registration.—

(1) The department shall issue to a qualified applicant a license as agent authorized to transact a limited class of business in any of the following categories of limited lines insurance:

(c) *Travel insurance.*—License covering only policies and certificates of travel insurance which are subject to review by the office. Policies and certificates of travel insurance may provide coverage for travel insurance, as defined in s. 647.02 ~~risks incidental to travel, planned travel, or accommodations while traveling, including, but not limited to, accidental death and dismemberment of a traveler; trip or event cancellation, interruption, or delay; loss of or damage to personal effects or travel documents; damages to travel accommodations; baggage delay; emergency medical travel or evacuation of a traveler; or medical, surgical, and hospital expenses related to an illness or emergency of a traveler. Such policy or certificate may be issued for terms longer than 90 days, but, other than a policy or certificate providing coverage for air ambulatory services~~



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~~only, each policy or certificate must be limited to coverage for~~  
~~travel or use of accommodations of no longer than 90 days.~~ The  
license may be issued only to an individual or business entity  
that has filed with the department an application for a license  
in a form and manner prescribed by the department.

1. A limited lines travel insurance producer, as defined in  
s. 647.02, shall be licensed to sell, solicit, or negotiate  
travel insurance through a licensed insurer.

2. A person may not act as a limited lines travel insurance  
producer or travel retailer unless properly licensed or  
registered, respectively. As used in this paragraph, the term  
"travel retailer" means a business entity that:

a. Makes, arranges, or offers planned travel.

b. May, under subparagraph 3., offer and disseminate travel  
insurance as a service to its customers on behalf of and under  
the direction of a limited lines travel insurance producer.

3. A travel retailer may offer and disseminate travel  
insurance under a limited lines travel insurance producer  
business entity license only if all of the following  
requirements are met:

a. The limited lines travel insurance producer or travel  
retailer provides to purchasers of travel insurance:

(I) A description of the material terms or the actual  
material terms of the insurance coverage.

(II) A description of the process for filing a claim.

(III) A description of the review or cancellation process  
for the travel insurance policy.

(IV) The identity and contact information of the insurer  
and limited lines travel insurance producer.



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b. At the time of licensure, the limited lines travel insurance producer establishes and maintains a register on the department's website and appoints each travel retailer that offers travel insurance on behalf of the limited lines travel insurance producer. The limited lines travel insurance producer must maintain and update the register, which must include the travel retailer's federal tax identification number and the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations. The limited lines travel insurance producer shall submit the register to the department upon reasonable request. The limited lines travel insurance producer shall also certify that the travel retailer register complies with 18 U.S.C. s. 1033. The grounds for the suspension and revocation and the penalties applicable to resident insurance producers under this section apply to the limited lines travel insurance producers and travel retailers.

c. The limited lines travel insurance producer has designated one of its employees as the designated responsible producer. The designated responsible producer, who must be a licensed insurance producer, is responsible for the compliance with the travel insurance laws and regulations applicable to the limited lines travel insurance producer and its registrants. The designated responsible producer and the president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations must comply with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer.



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d. The limited lines travel insurance producer has paid all applicable licensing and appointment fees, as set forth in applicable general law.

e. The limited lines travel insurance producer requires each employee and each authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which is subject, at the discretion of the department, to review and approval. The training material must, at a minimum, contain adequate instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective purchasers.

As used in this paragraph, the term "offer and disseminate" means to provide general information, including a description of the coverage and price, as well as processing the application and collecting premiums.

4. A travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that have been approved by the travel insurer. Such materials must include information that, at a minimum:

a. Provides the identity and contact information of the insurer and the limited lines travel insurance producer.

b. Explains that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer.

c. Explains that a travel retailer is authorized to provide only general information about the insurance offered by the



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travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

5. A travel retailer employee or authorized representative who is not licensed as an insurance producer may not:

a. Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

b. Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

c. Hold himself or herself or the travel retailer out as a licensed insurer, licensed producer, or insurance expert.

Notwithstanding any other provision of law, a travel retailer whose insurance-related activities, and those of its employees and authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions in this section may receive related compensation upon registration by the limited lines travel insurance producer as described in paragraph (2)(b).

6. As the insurer's designee, the limited lines travel insurance producer is responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with this section.

7. Any person licensed as a general or personal lines agent may sell, solicit, and negotiate travel insurance.

~~: 1. To a full-time salaried employee of a common carrier~~





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~~or a full-time salaried employee or owner of a transportation ticket agency and may authorize the sale of such ticket policies only in connection with the sale of transportation tickets, or to the full-time salaried employee of such an agent. Such policy may not be for more than 48 hours or more than the duration of a specified one-way trip or round trip.~~

~~2. To an entity or individual that is:~~

~~a. The developer of a timeshare plan that is the subject of an approved public offering statement under chapter 721;~~

~~b. An exchange company operating an exchange program approved under chapter 721;~~

~~c. A managing entity operating a timeshare plan approved under chapter 721;~~

~~d. A seller of travel as defined in chapter 559; or~~

~~e. A subsidiary or affiliate of any of the entities described in sub-subparagraphs a.-d.~~

~~3. To a full-time salaried employee of a licensed general lines agent or a business entity that offers travel planning services if insurance sales activities authorized by the license are in connection with, and incidental to, travel.~~

~~a. A license issued to a business entity that offers travel planning services must encompass each office, branch office, or place of business making use of the entity's business name in order to offer, solicit, and sell insurance pursuant to this paragraph.~~

~~b. The application for licensure must list the name, address, and phone number for each office, branch office, or place of business that is to be covered by the license. The licensee shall notify the department of the name, address, and~~



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~~phone number of any new location that is to be covered by the  
license before the new office, branch office, or place of  
business engages in the sale of insurance pursuant to this  
paragraph. The licensee shall notify the department within 30  
days after the closing or terminating of an office, branch  
office, or place of business. Upon receipt of the notice, the  
department shall delete the office, branch office, or place of  
business from the license.~~

~~e. A licensed and appointed entity is directly responsible  
and accountable for all acts of the licensee's employees and  
parties with whom the licensee has entered into a contractual  
agreement to offer travel insurance.~~

~~A licensee shall require each individual who offers policies or  
certificates under subparagraph 2. or subparagraph 3. to receive  
initial training from a general lines agent or an insurer  
authorized under chapter 624 to transact insurance within this  
state. For an entity applying for a license as a travel  
insurance agent, the fingerprinting requirement of this section  
applies only to the president, secretary, and treasurer and to  
any other officer or person who directs or controls the travel  
insurance operations of the entity.~~

Section 30. Present subsection (4) of section 627.914,  
Florida Statutes, is redesignated as subsection (5), a new  
subsection (4) is added to that section, and subsections (2) and  
(3) of that section are amended, to read:

627.914 Reports of information by workers' compensation  
insurers required.—

(2) (a) Each insurer and self-insurance fund authorized to



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write a policy of workers' compensation insurance shall report  
~~transmit~~ the following information annually on both Florida  
experience and nationwide experience separately:

- 1.~~(a)~~ Payrolls by classification.
- 2.~~(b)~~ Manual premiums by classification.
- 3.~~(c)~~ Standard premiums by classification.
- 4.~~(d)~~ Losses by classification and injury type.
- 5.~~(e)~~ Expenses.

An insurer or self-insurance fund that is placed in receivership  
pursuant to part I of chapter 631 must continue to report the  
information required under this paragraph. At the discretion of  
the receiver, the insurer or self-insurance fund may outsource  
the reporting of such information to a third-party reporting  
vendor. The office shall approve a modified reporting plan that  
is limited in terms of data elements.

(b) A report of the ~~this~~ information required under  
paragraph (a) shall be filed no later than July 1 of each year.  
All reports shall be filed in accordance with standard reporting  
procedures for insurers, which procedures have received approval  
by the office, and shall contain data for the most recent policy  
period available. A statistical or rating organization may be  
used by insurers and self-insurance funds to report the data  
required by this section. The statistical or rating organization  
shall report each data element in the aggregate only for  
insurers and self-insurance funds required to report under this  
section who elect to have the organization report on their  
behalf. Such insurers and self-insurance funds shall be named in  
the report.



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(3) Individual self-insurers as defined in s. 440.02 shall report only Florida data as prescribed in subparagraphs (2)(a)1.-5. paragraphs (2)(a)-(e) to the office.

(a) The office shall publish the dates and forms necessary to enable individual self-insurers to comply with this section.

(b) A statistical or rating organization may be used by individual self-insurers for the purposes of reporting the data required by this section and calculating experience ratings.

(4) The office may use the information it receives under this section in its adoption of rates and experience ratings modifications.

Section 31. The Division of Law Revision is directed to create chapter 647, Florida Statutes, consisting of ss. 647.01-647.08, Florida Statutes, to be entitled "Travel Insurance."

Section 32. Section 647.01, Florida Statutes, is created to read:

647.01 Purpose and scope.-

(1) The purpose of this chapter is to promote the public welfare by creating a comprehensive legal framework within which travel insurance may be sold in this state.

(2) This chapter applies to:

(a) Travel insurance that covers any resident of this state and that is sold, solicited, negotiated, or offered in this state.

(b) Policies and certificates that are delivered or issued for delivery in this state.

This chapter does not apply to cancellation fee waivers or travel assistance services, except as expressly provided in this



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chapter.

(3) All other applicable provisions of the insurance laws of this state continue to apply to travel insurance, except that the specific provisions of this chapter shall supersede any general provisions of law that would otherwise be applicable to travel insurance.

Section 33. Section 647.02, Florida Statutes, is created to read:

647.02 Definitions.—As used in this chapter, the term:

(1) "Aggregator site" means a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.

(2) "Blanket travel insurance" means a policy of travel insurance issued to an eligible group providing coverage to all members of the eligible group without a separate charge to individual members of the eligible group.

(3) "Cancellation fee waiver" means a contractual agreement between a supplier of travel services and its customer to waive some or all of the nonrefundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.

(4) "Department" means the Department of Financial Services.

(5) "Eligible group," solely for the purposes of travel insurance, means two or more persons who are engaged in a common enterprise or who have an economic, educational, or social affinity or relationship, including, but not limited to, any of



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the following:

(a) An entity engaged in the business of providing travel or travel services, including, but not limited to:

1. A tour operator, lodging provider, vacation property owner, hotel, resort, travel club, travel agency, property manager, and cultural exchange program.

2. An operator, owner, or lessor of a means of transportation of passengers, including, but not limited to, a common carrier, airline, cruise line, railroad, steamship company, and public bus carrier.

With regard to any particular travel or type of travel or travelers, all members or customers of the group must have a common exposure to risk attendant to such travel.

(b) A university, college, school, or other institution of learning, covering students, teachers, employees, or volunteers.

(c) An employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests.

(d) A sports team or camp, or a sponsor thereof, covering participants, members, campers, employees, officials, supervisors, or volunteers.

(e) A religious, charitable, recreational, educational, or civic organization, or a branch thereof, covering any group of members, participants, or volunteers.

(f) A financial institution or financial institution vendor, or a parent holding company, trustee, or agent of or designated by one or more financial institutions or financial institution vendors, including account holders, credit card



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holders, debtors, guarantors, or purchasers.

(g) An incorporated or unincorporated association, including a labor union, having a common interest and constitution and bylaws, which is organized and maintained in good faith for purposes other than obtaining insurance coverage for its members or participants.

(h) A trust or the trustees of a fund that covers its members, employees, or customers and is established, created, or maintained for the benefit of its members, employees, or customers, subject to:

1. The department's authorizing the use of a trust.

2. The premium tax provisions in s. 647.03 applicable to incorporated or unincorporated associations that have a common interest and constitution and bylaws and that are organized and maintained in good faith for purposes other than obtaining insurance coverage for their members, employees, or customers.

(i) An entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers.

(j) A volunteer fire department, ambulance, rescue, police, court, first-aid, civil defense, or other such volunteer group.

(k) A preschool, daycare institution for children or adults, or senior citizen club.

(l) An automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers as defined by their travel status on the rented or leased vehicles. The common carrier, the operator, owner, or lessor of a means of transportation, or the motor vehicle or truck rental or leasing company is the policyholder under a



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policy to which this section applies.

(m) Any other group for which the department has made the following determinations:

1. The group members are engaged in a common enterprise or have an economic, educational, or social affinity or relationship.

2. Issuance of the travel insurance policy is not contrary to the public interest.

(6) "Fulfillment materials" means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details.

(7) "Group travel insurance" means travel insurance issued to an eligible group.

(8) "Limited lines travel insurance producer" means:

(a) A licensed or third-party administrator;

(b) A licensed insurance producer, including a limited lines producer; or

(c) A travel administrator.

(9) "Travel administrator" means a person who directly or indirectly underwrites policies for, collects charges, collateral, or premiums from, or adjusts or settles claims on, residents of this state, in connection with travel insurance, except that a person is not considered a travel administrator if the person is:

(a) A person working for a travel administrator, to the extent that the person's activities are subject to the supervision and control of the travel administrator;

(b) An insurance producer selling insurance or engaged in





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administrative and claims-related activities within the scope of the producer's license;

(c) A travel retailer, as defined s. 626.321(1)(c)2., offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer in accordance with s. 626.321(1)(c);

(d) A person adjusting or settling claims in the normal course of the person's practice or employment as an attorney at law, without collecting charges or premiums in connection with insurance coverage; or

(e) A business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of the affiliated insurer.

(10) "Travel assistance services" means noninsurance services for which the consumer is not indemnified based on a fortuitous event, and the provision of which does not result in the transfer or shifting of risk which would constitute the business of insurance. The term includes, but is not limited to, security advisories, destination information, vaccination and immunization information services, travel reservation services, entertainment, activity and event planning, translation assistance, emergency messaging, international legal and medical referrals, medical case monitoring, coordination of transportation arrangements, emergency cash transfer assistance, medical prescription replacement assistance, passport and travel document replacement assistance, lost luggage assistance, concierge services, and any other service that is furnished in connection with planned travel. Travel assistance services are not insurance and are not related to insurance.



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(11) "Travel insurance" means insurance coverage for personal risks incidental to planned travel, including:  
(a) Interruption or cancellation of trip or event;  
(b) Loss of baggage or personal effects;  
(c) Damages to accommodations or rental vehicles;  
(d) Sickness, accident, disability, or death occurring during travel;  
(e) Emergency evacuation;  
(f) Repatriation of remains; or  
(g) Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as determined by the office.

The term does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting longer than 6 months, including major medical plans for those working or residing overseas as expatriates, or any other product that requires a specific insurance producer license.

(12) "Travel protection plan" means a plan that provides one or more of the following: travel insurance, travel assistance services, and cancellation fee waivers.

Section 34. Section 647.03, Florida Statutes, is created to read:

647.03 Premium tax.—

(1) As used in this section, the term:

(a) "Primary certificateholder" means an individual who purchases travel insurance under a group policy.

(b) "Primary policyholder" means an individual who purchases individual travel insurance.



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(2) A travel insurer shall pay the premium tax, as required under s. 624.509, on travel insurance premiums paid by any of the following:

(a) A primary policyholder who is a resident of this state.

(b) A primary certificateholder who is a resident of this state.

(c) A blanket travel insurance policyholder:

1. Who is a resident in this state;

2. Who has his or her principal place of business in this state; or

3. Whose affiliate or subsidiary who has purchased blanket travel insurance for eligible blanket group members has his or her principal place of business in this state.

The premium tax under this subsection is subject to any apportionment rules that apply to an insurer across multiple taxing jurisdictions or that authorize an insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(3) A travel insurer shall:

(a) Document the state of residence or principal place of business of the policyholder or certificateholder, or an affiliate or subsidiary thereof, as required under subsection (2).

(b) Report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

Section 35. Section 647.04, Florida Statutes, is created to read:



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647.04 Travel protection plans.—A travel protection plan may be offered for one price for the combined features that the travel protection plan offers in this state if the travel protection plan meets all of the following requirements:

(1) The travel protection plan clearly discloses to the consumer, at or before the time of purchase, that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and provides information and an opportunity, at or before the time of purchase, for the consumer to obtain additional information regarding the features and pricing of each.

(2) The fulfillment materials:

(a) Describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan.

(b) Include the travel insurance disclosures required in this chapter, the contact information for persons providing travel assistance services, and cancellation fee waivers, as applicable.

Section 36. Section 647.05, Florida Statutes, is created to read:

647.05 Sales practices.—

(1) (a) All documents provided to a consumer before the purchase of travel insurance, including, but not limited to, sales materials, advertising materials, and marketing materials, must be consistent with the travel insurance policy, including, but not limited to, forms, endorsements, policies, rate filings, and certificates of insurance.

(b) For travel insurance policies or certificates that



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contain preexisting condition exclusions, information and an opportunity to learn more about the preexisting condition exclusions must be provided any time before the purchase. Information on the exclusions and the opportunity to learn more about these exclusions must be included in the coverage's fulfillment materials.

(c) The fulfillment materials and the information described in s. 626.321(1)(c)3.a. must be provided to a policyholder or certificateholder as soon as practicable after the purchase of a travel protection plan. Unless the insured has started a covered trip or filed a claim under the travel insurance coverage, the policyholder or certificateholder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least:

1. Fifteen days after the date of delivery of the travel protection plan's fulfillment materials by postal mail; or
2. Ten days after the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail.

For the purposes of this paragraph, the term "delivery" means handing fulfillment materials to the policyholder or certificateholder or sending fulfillment materials by postal mail or electronic means to the policyholder or certificateholder.

(d) An insurer shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.



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(e) If travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it is not an unfair trade practice or other violation of law if the following requirements are met:

1. The web page provides an accurate summary or short description of the coverage.

2. The consumer has access to the full provisions of the policy through electronic means.

(2) A person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis may not do so by using a negative or opt-out option that would require a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form, when the consumer purchases a trip.

(3) If a consumer's destination jurisdiction requires insurance coverage, it is not an unfair trade practice to require that the consumer choose between the following options as a condition of purchasing a trip or travel package:

(a) Purchasing the coverage required by the destination jurisdiction through the travel retailer, as defined s. 626.321(1)(c)2., or limited lines travel insurance producer supplying the trip or travel package; or

(b) Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements before departure.

(4) (a) A person offering travel insurance to residents of this state is subject to part IX of chapter 626, the Unfair Insurance Trade Practices Act, except as otherwise provided in this chapter. If a conflict arises between this chapter and the



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Unfair Insurance Trade Practices Act regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this chapter shall control.

(b) A person commits an unfair insurance trade practice under the Unfair Insurance Trade Practices Act if the person:

1. Offers or sells a travel insurance policy that could never result in payment of any claims for any insured under the policy; or

2. Markets blanket travel insurance coverage as free.

Section 37. Section 647.06, Florida Statutes, is created to read:

647.06 Travel administrators.—

(1) Notwithstanding any other provision of the Florida Insurance Code, a person may not act or represent himself or herself as a travel administrator in this state unless the person:

(a) Is a licensed and appointed property and casualty insurance producer in this state for activities authorized under that producer license;

(b) Is a licensed insurance agency, appointed as a managing general agent in this state; or

(c) Holds a valid third-party administrator license in this state.

(2) A travel administrator and its employees are exempt from the licensing requirements of part VI of chapter 626 for the travel insurance it administers.

(3) An insurer is responsible for ensuring that a travel administrator administering travel insurance underwritten by the insurer:



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(a) Acts in accordance with this chapter.

(b) Maintains all books and records that are relevant to the insurer and makes these books and records available to the department upon request.

Section 38. Section 647.07, Florida Statutes, is created to read:

647.07 Travel insurance policy.—

(1) Notwithstanding any other provision of the Florida Insurance Code, travel insurance shall be classified and filed for purposes of rates and forms under the inland marine line of insurance; however, travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively or in conjunction with related coverages of emergency evacuation or repatriation of remains, or incidental limited property and casualty benefits such as baggage or trip cancellation, may be classified and filed for purposes of rates and forms under either the accident and health line of insurance or the inland marine line of insurance.

(2) Travel insurance may be in the form of an individual, group, or blanket policy. Group or blanket policies are classified as commercial inland marine insurance under s. 627.021(2)(d). Travel insurance policies not issued to a commercial entity and primarily used for personal, family, or household purposes are considered personal inland marine insurance and shall not be subject to s. 627.062. Sections of policies or endorsements for travel insurance which are considered personal inland marine insurance consisting of travel assistance services or cancellation fee waivers are not subject to s. 627.410.





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(3) Travel insurance programs may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels.

Section 39. Section 647.08, Florida Statutes, is created to read:

647.08 Rulemaking authority.—The department shall adopt rules to administer this chapter.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete line 92

and insert:

respectively, without specified licenses; amending ss. 440.12 and 440.20, F.S.; authorizing the payment of certain workers' compensation benefits to be transmitted to the employee's account with a licensed money transmitter; amending s. 626.321, F.S.; providing that certain travel insurance licenses are subject to review by the department rather than the office; revising persons who may be licensed to transact in travel insurance; specifying licensure and registration requirements for certain persons; defining the term "travel retailer"; specifying requirements for, restrictions on, and authorized acts by travel retailers and limited lines travel insurance producers; defining the term "offer and disseminate"; authorizing certain persons to sell, solicit, and negotiate travel insurance; amending s. 627.914, F.S.; requiring insurers or self-insurance funds that write



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workers' compensation insurance and that are in  
receivership to continue to report certain information  
to the office; authorizing the outsourcing of  
reporting under certain circumstances; requiring the  
office to approve a certain reporting plan;  
authorizing the office to use the information for  
certain purposes; creating ch. 647, F.S., entitled  
"Travel Insurance"; creating s. 647.01, F.S.;  
providing legislative purpose; providing  
applicability; creating s. 647.02, F.S.; defining  
terms; creating s. 647.03, F.S.; defining the terms  
"primary certificateholder" and "primary  
policyholder"; requiring travel insurers to pay the  
insurance premium tax on specified travel insurance  
premiums; providing construction; specifying  
requirements for travel insurers; creating s. 647.04,  
F.S.; providing that a travel protection plan may be  
offered for one price if its meets specified  
requirements; creating s. 647.05, F.S.; specifying  
sales practice requirements, prohibited sales  
practices, and authorized sales practices relating to  
travel insurance; specifying a policyholder or  
certificateholder's right to cancel a travel  
protection plan for a full refund; defining the term  
"delivery"; specifying unfair insurance trade  
practices; providing construction; creating s. 647.06,  
F.S.; specifying qualifications for travel  
administrators; providing an exemption from certain  
licensure; providing that insurers are responsible for



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736 ensuring certain acts by travel administrators;  
737 creating s. 647.07, F.S.; specifying the  
738 classification for travel insurance for rate filing  
739 purposes; specifying authorized forms of travel  
740 insurance; providing applicability of certain  
741 provisions of the Rating Law; authorizing the  
742 development and provision of travel insurance programs  
743 on certain bases; creating s. 647.08, F.S.; requiring  
744 the department to adopt rules; providing



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 536 - 543

and insert:

(2) A named insured filing suit under a property insurance

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 67 - 69

and insert:



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11            timeframe; requiring the

By Senator Brandes

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1 A bill to be entitled  
 2 An act relating to financial services; amending s.  
 3 215.555, F.S.; redefining the term "covered policy"  
 4 under the Florida Hurricane Catastrophe Fund in  
 5 relation to certain collateral protection insurance  
 6 policies; requiring the Office of Insurance Regulation  
 7 to retain an independent consultant to audit the  
 8 fund's reimbursement premium formula at specified  
 9 intervals; specifying requirements for the audit;  
 10 requiring the office to report audit findings and  
 11 certain recommendations to the Financial Services  
 12 Commission and the Legislature; amending s. 319.30,  
 13 F.S.; revising a certain electronic signature  
 14 requirement for a motor vehicle salvage certificate of  
 15 title; amending s. 624.155, F.S.; revising  
 16 requirements for the civil remedy notice provided to  
 17 insurers and the Department of Financial Services;  
 18 revising the timeframe for an insurer to pay damages  
 19 or for certain circumstances to be corrected; revising  
 20 circumstances that toll the applicable statute of  
 21 limitations; amending ss. 624.307 and 624.315, F.S.;  
 22 providing that certain aggregate information  
 23 containing trade secret information may be publicly  
 24 disclosed by the department or office, except under  
 25 certain circumstances; amending s. 626.854, F.S.;  
 26 deleting a requirement for certain persons acting on  
 27 behalf of an insurer to provide certain notice before  
 28 scheduling a meeting or onsite inspection for certain  
 29 purposes; conforming a cross-reference; amending s.

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30 626.916, F.S.; adding a condition for export  
 31 eligibility under the Surplus Lines Law for certain  
 32 risks; amending s. 626.918, F.S.; adding certain  
 33 unauthorized insurers that may become eligible surplus  
 34 lines insurers; amending s. 626.931, F.S.; deleting a  
 35 requirement for certain surplus lines agents to file  
 36 quarterly affidavits with the Florida Surplus Lines  
 37 Service Office; conforming cross-references; amending  
 38 s. 626.932, F.S.; revising the time when surplus lines  
 39 agents must remit surplus lines taxes; amending s.  
 40 626.935, F.S.; conforming a provision to changes made  
 41 by the act; amending s. 627.062, F.S.; specifying that  
 42 certain periods ending on a weekend or on certain  
 43 holidays are extended until the conclusion of the next  
 44 business day; prohibiting the office from disapproving  
 45 a homeowners' insurance rate in a rate filing solely  
 46 on specified grounds; amending s. 627.0629, F.S.;  
 47 authorizing, rather than requiring, rate filings for  
 48 certain residential property insurance to include  
 49 certain rate factors; amending ss. 627.0651 and  
 50 627.410, F.S.; specifying that certain periods ending  
 51 on a weekend or on certain holidays are extended until  
 52 the conclusion of the next business day; amending s.  
 53 627.7011, F.S.; providing that homeowners' insurers  
 54 are not prohibited from offering policies or  
 55 endorsements providing for a certain adjustment basis  
 56 on certain losses; amending s. 627.70132, F.S.;  
 57 revising property insurance coverages for which a  
 58 notice of a claim must be given to the insurer within

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59 a specified timeframe; revising the timeframe for  
 60 providing notices of hurricane claims; creating s.  
 61 627.70152, F.S.; requiring named insureds to provide  
 62 insurers with a specified notice as a condition  
 63 precedent to filing suit under a property insurance  
 64 policy; specifying the manner and timeframe in which  
 65 such notice must be provided; requiring insurers to  
 66 acknowledge receipt of the notice within a certain  
 67 timeframe; providing that the named insured has the  
 68 burden to demonstrate that the insurer is not  
 69 prejudiced by certain circumstances; requiring the  
 70 named insured to sign the civil complaint; amending s.  
 71 627.714, F.S.; revising criteria for assessing a  
 72 residential condominium unit owner's loss assessment  
 73 coverage; reviving, reenacting, and amending s.  
 74 627.715(4), F.S.; providing an exemption from a  
 75 diligent effort requirement for surplus lines agents  
 76 exporting contracts or endorsements providing flood  
 77 coverage; providing for expiration; amending s.  
 78 627.7152, F.S.; specifying the manner in which an  
 79 assignee of certain property insurance policy benefits  
 80 must serve a notice of intent to initiate litigation;  
 81 amending s. 627.7295, F.S.; decreasing the timeframe  
 82 during which an insurer is prohibited from canceling a  
 83 new policy or binder of motor vehicle insurance for  
 84 nonpayment of premium, except under certain  
 85 circumstances; amending s. 629.401, F.S.; revising  
 86 criteria for surplus lines insurance in insurance  
 87 exchanges; amending ss. 634.171, 634.317, and 634.419,

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88 F.S.; authorizing licensed personal lines and general  
 89 lines agents to solicit, negotiate, advertise, or sell  
 90 motor vehicle service agreements, home warranty  
 91 contracts, and service warranty contracts,  
 92 respectively, without specified licenses; providing  
 93 effective dates.

94  
 95 Be It Enacted by the Legislature of the State of Florida:

96  
 97 Section 1. Paragraph (c) of subsection (2) of section  
 98 215.555, Florida Statutes, is amended, and paragraph (f) is  
 99 added to subsection (5) of that section, to read:

100 215.555 Florida Hurricane Catastrophe Fund.—

101 (2) DEFINITIONS.—As used in this section:

102 (c) "Covered policy" means any insurance policy covering  
 103 residential property in this state, including, but not limited  
 104 to, any homeowner, mobile home owner, farm owner, condominium  
 105 association, condominium unit owner, tenant, or apartment  
 106 building policy, or any other policy covering a residential  
 107 structure or its contents issued by any authorized insurer,  
 108 including a commercial self-insurance fund holding a certificate  
 109 of authority issued by the Office of Insurance Regulation under  
 110 s. 624.462, the Citizens Property Insurance Corporation, and any  
 111 joint underwriting association or similar entity created under  
 112 law. The term "covered policy" includes any collateral  
 113 protection insurance policy covering personal residences which  
 114 protects both the borrower's and the lender's financial  
 115 interests, in an amount at least equal to the coverage amount  
 116 for the dwelling in place under the lapsed homeowner's policy,

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117 the coverage amount requested by the lender, provided the  
 118 homeowner has been notified in writing of the coverage amount,  
 119 or the coverage amount the homeowner requests from the insurer,  
 120 if such collateral protection insurance policy can be accurately  
 121 reported as required in subsection (5). Additionally, covered  
 122 policies include policies covering the peril of wind removed  
 123 from the Florida Residential Property and Casualty Joint  
 124 Underwriting Association or from the Citizens Property Insurance  
 125 Corporation, created under s. 627.351(6), or from the Florida  
 126 Windstorm Underwriting Association, created under s. 627.351(2),  
 127 by an authorized insurer under the terms and conditions of an  
 128 executed assumption agreement between the authorized insurer and  
 129 such association or Citizens Property Insurance Corporation.  
 130 Each assumption agreement between the association and such  
 131 authorized insurer or Citizens Property Insurance Corporation  
 132 must be approved by the Office of Insurance Regulation before  
 133 the effective date of the assumption, and the Office of  
 134 Insurance Regulation must provide written notification to the  
 135 board within 15 working days after such approval. "Covered  
 136 policy" does not include any policy that excludes wind coverage  
 137 or hurricane coverage or any reinsurance agreement and does not  
 138 include any policy otherwise meeting this definition which is  
 139 issued by a surplus lines insurer or a reinsurer. All commercial  
 140 residential excess policies and all deductible buy-back policies  
 141 that, based on sound actuarial principles, require individual  
 142 ratemaking shall be excluded by rule if the actuarial soundness  
 143 of the fund is not jeopardized. For this purpose, the term  
 144 "excess policy" means a policy that provides insurance  
 145 protection for large commercial property risks and that provides

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146 a layer of coverage above a primary layer insured by another  
 147 insurer.  
 148 (5) REIMBURSEMENT PREMIUMS.—  
 149 (f) The Office of Insurance Regulation shall retain an  
 150 independent consultant to audit the formula developed under this  
 151 subsection beginning with the 2021 contract year and every 3  
 152 years thereafter. The audit may not be performed by the  
 153 independent consultant who developed the formula. The audit must  
 154 evaluate whether the formula uses actuarially sound principles  
 155 and whether insurers are paying an actuarially indicated  
 156 premium. The Office of Insurance Regulation shall also recommend  
 157 factors, if any, which would enhance the actuarial  
 158 sophistication of ratemaking for the fund. The Office of  
 159 Insurance Regulation shall report the findings of the audit and  
 160 any recommendation to the Financial Services Commission, the  
 161 President of the Senate, and the Speaker of the House of  
 162 Representatives on or before March 1 of the year after the  
 163 contract year audited.  
 164 Section 2. Effective upon this act becoming a law,  
 165 paragraph (d) of subsection (3) of section 319.30, Florida  
 166 Statutes, is amended to read:  
 167 319.30 Definitions; dismantling, destruction, change of  
 168 identity of motor vehicle or mobile home; salvage.—  
 169 (3)  
 170 (d) An electronic signature that is consistent with chapter  
 171 668 satisfies any signature required under this subsection,  
 172 except that an electronic signature on an odometer disclosure  
 173 submitted through an insurance company must be executed using an  
 174 electronic signature, as defined in s. 668.003(4), which that

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uses a system providing an Identity Assurance Level, Authenticator Assurance Level, and Federation Assurance Level, as described in the National Institute of Standards and Technology Special Publication 800-63-3, as of December 1, 2017, ~~which that~~ are equivalent to or greater than+

~~1. Level 2, for each level, for a certificate of destruction or-~~

~~2. Level 3, for each level, for a salvage certificate of title.~~

Section 3. Subsection (3) of section 624.155, Florida Statutes, is amended to read:

624.155 Civil remedy.—

(3) (a) As a condition precedent to bringing an action under this section, the department and the authorized insurer must have been given 60 days' written notice of the violation. Notice to the authorized insurer must be delivered to the name and address designated by the insurer under s. 624.422(2).

(b) The notice shall be on a form provided by the department and shall state with specificity the following information, and such other information as the department may require:

1. The statutory provision, including the specific language of the statute, which the authorized insurer allegedly violated.

2. The facts and circumstances giving rise to the violation.

3. The name of any individual involved in the violation.

4. Reference to specific policy language that is relevant to the violation, if any. If the person bringing the civil action is a third party claimant, she or he shall not be

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required to reference the specific policy language if the authorized insurer has not provided a copy of the policy to the third party claimant pursuant to written request.

5. The damages to be paid by the insurer for the claim, available under and pursuant to the express terms and conditions of the policy, less any amount earlier paid by the insurer and any applicable policy deductibles. The notice may not demand vague remedial action regarding changes to claims-handling procedures or practices.

6. A statement that the notice is given in order to perfect the right to pursue the civil remedy authorized by this section.

(c) No action shall lie if, within 60 days after the insurer receives filing notice in accordance with this subsection, the damages are paid or the circumstances giving rise to the violation are corrected.

(d) The authorized insurer that is the recipient of a notice filed pursuant to this section shall report to the department on the disposition of the alleged violation.

(e) The applicable statute of limitations for an action under this section shall be tolled for a period of:

1. Sixty-five ~~65~~ days by the mailing of the notice required by this subsection.

2. Sixty days after the date appraisal is invoked pursuant to paragraph (f) or the mailing of a subsequent notice required by this subsection.

(f) A notice required under this subsection may not be filed within 60 days after appraisal is invoked by any party in a residential property insurance claim.

Section 4. Subsection (4) of section 624.307, Florida

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Statutes, is amended to read:

624.307 General powers; duties.—

(4) The department and office may each collect, propose, publish, and disseminate information relating to the subject matter of any duties imposed upon it by law. Aggregate information may include information asserted as trade secret information unless the trade secret information can be individually extrapolated, in which case the trade secret information remains protected as provided under s. 624.4213.

Section 5. Subsection (4) is added to section 624.315, Florida Statutes, to read:

624.315 Department; annual report.—

(4) When aggregate information includes information asserted as trade secret information, the office may include the trade secret information in the report required under subsection (1) or may make the trade secret information available under subsection (2) unless the trade secret information can be individually extrapolated, in which case the trade secret information remains protected as provided under s. 624.4213.

Section 6. Subsection (13) and present subsection (18) of section 626.854, Florida Statutes, are amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

~~(13) A company employee adjuster, independent adjuster, attorney, investigator, or other persons acting on behalf of an insurer that needs access to an insured or claimant or to the insured property that is the subject of a claim must provide at~~

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~~least 48 hours' notice to the insured or claimant, public adjuster, or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. The insured or claimant may deny access to the property if the notice has not been provided. The insured or claimant may waive the 48-hour notice.~~

(17)-(18) Subsections (5)-(16) ~~(5)-(17)~~ apply only to residential property insurance policies and condominium unit owner policies as described in s. 718.111(11).

Section 7. Paragraph (f) is added to subsection (1) of section 626.916, Florida Statutes, to read:

626.916 Eligibility for export.—

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

(f) For risks placed with an insurer made eligible under s. 626.918(2)(a)1., the policy or contract under which the insurance is exported must provide that any form of alternative dispute resolution, including, but not limited to, appraisal or arbitration, must be conducted in this state.

Section 8. Paragraph (a) of subsection (2) of section 626.918, Florida Statutes, is amended to read:

626.918 Eligible surplus lines insurers.—

(2) An unauthorized insurer may not be or become an eligible surplus lines insurer unless made eligible by the office in accordance with the following conditions:

(a) The insurer must be either of the following:

1. Wholly owned by an insurer domiciled in this state which is authorized, and has been authorized for at least the 3 preceding years, in this state as to the kind or kinds of

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291 insurance to be so placed. An insurer that meets this  
 292 requirement is subject to ss. 624.404, 624.407, 624.4073,  
 293 624.408, 624.4085, 624.40851, 624.4095, and 624.424 and chapter  
 294 625.

295 2. Currently an authorized insurer in the state or country  
 296 of its domicile as to the kind or kinds of insurance proposed to  
 297 be so placed and must have been such an insurer for not less  
 298 than the 3 years next preceding or must be the wholly owned  
 299 subsidiary of such authorized insurer or must be the wholly  
 300 owned subsidiary of an already eligible surplus lines insurer as  
 301 to the kind or kinds of insurance proposed for a period of not  
 302 less than the 3 years next preceding. However, the office may  
 303 waive the 3-year requirement if the insurer provides a product  
 304 or service not readily available to the consumers of this state  
 305 or has operated successfully for a period of at least 1 year  
 306 next preceding and has capital and surplus of not less than \$25  
 307 million.

308 Section 9. Section 626.931, Florida Statutes, is amended to  
 309 read:

310 626.931 ~~Agent affidavit and~~ Insurer reporting  
 311 requirements.—

312 (1) ~~Each surplus lines agent that has transacted business~~  
 313 ~~during a calendar quarter shall on or before the 45th day~~  
 314 ~~following the calendar quarter file with the Florida Surplus~~  
 315 ~~Lines Service Office an affidavit, on forms as prescribed and~~  
 316 ~~furnished by the Florida Surplus Lines Service Office, stating~~  
 317 ~~that all surplus lines insurance transacted by him or her during~~  
 318 ~~such calendar quarter has been submitted to the Florida Surplus~~  
 319 ~~Lines Service Office as required.~~

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320 ~~(2) The affidavit of the surplus lines agent shall include~~  
 321 ~~efforts made to place coverages with authorized insurers and the~~  
 322 ~~results thereof.~~

323 ~~(3)~~ Each foreign insurer accepting premiums shall, on or  
 324 before the end of the month following each calendar quarter,  
 325 file with the Florida Surplus Lines Service Office a verified  
 326 report of all surplus lines insurance transacted by such insurer  
 327 for insurance risks located in this state during such calendar  
 328 quarter.

329 (2) ~~(4)~~ Each alien insurer accepting premiums shall, on or  
 330 before June 30 of each year, file with the Florida Surplus Lines  
 331 Service Office a verified report of all surplus lines insurance  
 332 transacted by such insurer for insurance risks located in this  
 333 state during the preceding calendar year.

334 (3) ~~(5)~~ The department may waive the filing requirements  
 335 described in subsections (1) ~~(3)~~ and (2) ~~(4)~~.

336 (4) ~~(6)~~ Each insurer's report and supporting information  
 337 shall be in a computer-readable format as determined by the  
 338 Florida Surplus Lines Service Office or shall be submitted on  
 339 forms prescribed by the Florida Surplus Lines Service Office and  
 340 shall show for each applicable agent:

341 (a) A listing of all policies, certificates, cover notes,  
 342 or other forms of confirmation of insurance coverage or any  
 343 substitutions thereof or endorsements thereto and the  
 344 identifying number; and

345 (b) Any additional information required by the department  
 346 or Florida Surplus Lines Service Office.

347 Section 10. Paragraph (a) of subsection (2) of section  
 348 626.932, Florida Statutes, is amended to read:

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349 626.932 Surplus lines tax.—

350 (2) (a) The surplus lines agent shall make payable to the  
351 department the tax related to each calendar quarter's business  
352 as reported to the Florida Surplus Lines Service Office, and  
353 remit the tax to the Florida Surplus Lines Service Office at the  
354 same time as the fee payment required provided for the filing of  
355 the quarterly affidavit, under s. 626.9325 s. 626.931. The  
356 Florida Surplus Lines Service Office shall forward to the  
357 department the taxes and any interest collected pursuant to  
358 paragraph (b), within 10 days of receipt.

359 Section 11. Paragraph (d) of subsection (1) of section  
360 626.935, Florida Statutes, is amended to read:  
361 626.935 Suspension, revocation, or refusal of surplus lines  
362 agent's license.—

363 (1) The department shall deny an application for, suspend,  
364 revoke, or refuse to renew the appointment of a surplus lines  
365 agent and all other licenses and appointments held by the  
366 licensee under this code, on any of the following grounds:

367 ~~(d) Failure to make and file his or her affidavit or~~  
368 ~~reports when due as required by s. 626.931.~~

369 Section 12. Paragraphs (a) and (j) of subsection (2) of  
370 section 627.062, Florida Statutes, are amended to read:

371 627.062 Rate standards.—

372 (2) As to all such classes of insurance:

373 (a) Insurers or rating organizations shall establish and  
374 use rates, rating schedules, or rating manuals that allow the  
375 insurer a reasonable rate of return on the classes of insurance  
376 written in this state. A copy of rates, rating schedules, rating  
377 manuals, premium credits or discount schedules, and surcharge

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378 schedules, and changes thereto, must be filed with the office  
379 under one of the following procedures:

380 1. If the filing is made at least 90 days before the  
381 proposed effective date and is not implemented during the  
382 office's review of the filing and any proceeding and judicial  
383 review, such filing is considered a "file and use" filing. In  
384 such case, the office shall finalize its review by issuance of a  
385 notice of intent to approve or a notice of intent to disapprove  
386 within 90 days after receipt of the filing. If the 90-day period  
387 ends on a weekend or a holiday under s. 110.117(1)(a)-(i), it  
388 must be extended until the conclusion of the next business day.  
389 The notice of intent to approve and the notice of intent to  
390 disapprove constitute agency action for purposes of the  
391 Administrative Procedure Act. Requests for supporting  
392 information, requests for mathematical or mechanical  
393 corrections, or notification to the insurer by the office of its  
394 preliminary findings does not toll the 90-day period during any  
395 such proceedings and subsequent judicial review. The rate shall  
396 be deemed approved if the office does not issue a notice of  
397 intent to approve or a notice of intent to disapprove within 90  
398 days after receipt of the filing.

399 2. If the filing is not made in accordance with  
400 subparagraph 1., such filing must be made as soon as  
401 practicable, but within 30 days after the effective date, and is  
402 considered a "use and file" filing. An insurer making a "use and  
403 file" filing is potentially subject to an order by the office to  
404 return to policyholders those portions of rates found to be  
405 excessive, as provided in paragraph (h).

406 3. For all property insurance filings made or submitted

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after January 25, 2007, but before May 1, 2012, an insurer seeking a rate that is greater than the rate most recently approved by the office shall make a "file and use" filing. For purposes of this subparagraph, motor vehicle collision and comprehensive coverages are not considered property coverages.

(j) With respect to residential property insurance rate filings:

1. The rate filing must account for mitigation measures undertaken by policyholders to reduce hurricane losses.

2. The office may not disapprove a rate for homeowners' insurance solely because the rate filing uses a modeling indication that is the weighted or straight average of two or more models currently found to be accurate or reliable pursuant to s. 627.0628.

The provisions of this subsection do not apply to workers' compensation, employer's liability insurance, and motor vehicle insurance.

Section 13. Paragraph (b) of subsection (2) of section 627.0629, Florida Statutes, is amended to read:

627.0629 Residential property insurance; rate filings.—

(2)

(b) A rate filing for residential property insurance made more than 150 days after approval by the office of a building code rating factor plan submitted by a statewide rating organization may ~~shall~~ include positive and negative rate factors that reflect the manner in which building code enforcement in a particular jurisdiction addresses risk of wind damage. The rate filing shall include variations from standard

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rate factors on an individual basis based on inspection of a particular structure by a licensed home inspector. If an inspection is requested by the insured, the insurer may require the insured to pay the reasonable cost of the inspection. This paragraph applies to structures constructed or renovated after the implementation of this paragraph.

Section 14. Paragraph (a) of subsection (1) of section 627.0651, Florida Statutes, is amended to read:

627.0651 Making and use of rates for motor vehicle insurance.—

(1) Insurers shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on motor vehicle insurance written in this state. A copy of rates, rating schedules, and rating manuals, and changes therein, shall be filed with the office under one of the following procedures:

(a) If the filing is made at least 60 days before the proposed effective date and the filing is not implemented during the office's review of the filing and any proceeding and judicial review, such filing shall be considered a "file and use" filing. In such case, the office shall initiate proceedings to disapprove the rate and so notify the insurer or shall finalize its review within 60 days after receipt of the filing. If the 60-day period ends on a weekend or a holiday under s. 110.117(1)(a)-(i), it must be extended until the conclusion of the next business day. Notification to the insurer by the office of its preliminary findings shall toll the 60-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue notice to

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the insurer of its preliminary findings within 60 days after the filing.

Section 15. Subsection (2) of section 627.410, Florida Statutes, is amended to read:

627.410 Filing, approval of forms.—

(2) Every such filing must be made at least 30 days in advance of any such use or delivery. At the expiration of the 30 days, the form filed will be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the office. The approval of such form by the office constitutes a waiver of any unexpired portion of such waiting period. The office may extend the period within which it may affirmatively approve or disapprove such form by up to 15 days by giving notice of such extension before expiration of the initial 30-day period. If the initial 30-day period or the 15-day extension period ends on a weekend or a holiday under s. 110.117(1)(a)-(i), the review period must be extended until the conclusion of the next business day. At the expiration of such extended period, and in the absence of prior affirmative approval or disapproval, such form shall be deemed approved.

Section 16. Paragraph (f) is added to subsection (5) of section 627.7011, Florida Statutes, to read:

627.7011 Homeowners' policies; offer of replacement cost coverage and law and ordinance coverage.—

(5) This section does not:

(f) Prohibit an insurer from offering a policy or endorsement providing that a loss to a roof older than 10 years which is caused by a covered peril other than a hurricane will be adjusted on the basis of actual cash value.

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Section 17. Section 627.70132, Florida Statutes, is amended to read:

627.70132 Notice of ~~property insurance windstorm or hurricane~~ claim.—A claim, supplemental claim, or reopened claim under an insurance policy that provides property insurance, as defined in s. 624.604, ~~for loss or damage caused by the peril of windstorm or hurricane~~ is barred unless notice of the claim, supplemental claim, or reopened claim ~~is was~~ given to the insurer in accordance with the terms of the policy within 3 years after the date of loss hurricane first made landfall or the windstorm caused the covered damage. This section does not apply to sinkhole loss claims, which are subject to the time limitation under s. 627.706(5). For purposes of this section, the term "supplemental claim" or "reopened claim" means any additional claim for recovery from the insurer for losses ~~from the same hurricane or windstorm which~~ the insurer has previously adjusted pursuant to the initial claim. This section does not affect any applicable limitation on civil actions provided in s. 95.11 for claims, supplemental claims, or reopened claims timely filed under this section.

Section 18. Section 627.70152, Florida Statutes, is created to read:

627.70152 Suits arising under a property insurance policy.—

(1) As a condition precedent to filing suit under a property insurance policy, the named insured must provide the insurer with a written notice of intent to initiate litigation before filing suit under the policy. Concurrent with the notice and as a precondition to filing suit, the named insured must provide a detailed written invoice or estimate of services,

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including itemized information on equipment, materials, and supplies; the number of labor hours; and, in the case of work performed, proof that the work has been performed in accordance with accepted industry standards. The notice must be served at least 10 business days before filing suit by certified mail, return receipt requested, to the name and address designated by the insurer in the policy forms or by electronic delivery to an e-mail address designated by the insurer in the policy forms, but may not be served before the insurer has made a determination of coverage under s. 627.70131. The notice must specify the damages in dispute and the amount claimed. An insurer must acknowledge receipt of the notice in writing within 10 business days after receiving the notice.

(2) In any suit arising under a property insurance policy, the named insured has the burden to demonstrate that the insurer is not prejudiced by the failure of the named insured, or a public adjuster or attorney representing the named insured, to cooperate with the insurer in the claim investigation, including, but not limited to, failing to allow the insurer to inspect the property.

(3) A named insured filing suit under a property insurance policy must sign any complaint seeking relief under such policy.

Section 19. Subsection (2) of section 627.714, Florida Statutes, is amended to read:

627.714 Residential condominium unit owner coverage; loss assessment coverage required.—

(2) The maximum amount of any unit owner's loss assessment coverage that can be assessed for any loss shall be an amount equal to that unit owner's loss assessment coverage limit in

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effect 1 day before the date of the occurrence that gave rise to the loss. Such coverage is applicable to any loss assessment regardless of the date of the assessment by the association. Any changes to the limits of a unit owner's coverage for loss assessments made on or after the day before the date of the occurrence are not applicable to such loss.

Section 20. Notwithstanding the expiration of subsection (4) of section 627.715, Florida Statutes, which occurred on July 1, 2019, that subsection is revived, reenacted, and amended to read:

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

(4) A surplus lines agent may export a contract or endorsement providing flood coverage to an eligible surplus lines insurer without making a diligent effort to seek such coverage from three or more authorized insurers under s. 626.916(1)(a). This subsection expires July 1, 2025 ~~2019~~, or on the date on which the Commissioner of Insurance Regulation determines in writing that there is an adequate admitted market to provide coverage for the peril of flood consistent with this section, whichever date occurs first. If there are fewer than

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three admitted insurers on the date this subsection expires, the number of declinations necessary to meet the diligent-effort requirement shall be no fewer than the number of authorized insurers providing flood coverage.

Section 21. Paragraph (a) of subsection (9) of section 627.7152, Florida Statutes, is amended to read:

627.7152 Assignment agreements.—

(9) (a) An assignee must provide the named insured, insurer, and the assignor, if not the named insured, with a written notice of intent to initiate litigation before filing suit under the policy. Such notice must be served by certified mail, return receipt requested, to the name and address designated by the insurer in the policy forms or by electronic delivery at the e-mail address designated by the insurer in the policy forms at least 10 business days before filing suit, but may not be served before the insurer has made a determination of coverage under s. 627.70131. The notice must specify the damages in dispute, the amount claimed, and a presuit settlement demand. Concurrent with the notice, and as a precondition to filing suit, the assignee must provide the named insured, insurer, and the assignor, if not the named insured, a detailed written invoice or estimate of services, including itemized information on equipment, materials, and supplies; the number of labor hours; and, in the case of work performed, proof that the work has been performed in accordance with accepted industry standards.

Section 22. Subsection (4) of section 627.7295, Florida Statutes, is amended to read:

627.7295 Motor vehicle insurance contracts.—

(4) The insurer may cancel the policy in accordance with

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this code except that, notwithstanding s. 627.728, an insurer may not cancel a new policy or binder during the first ~~30~~ 60 days immediately following the effective date of the policy or binder for nonpayment of premium unless the reason for the cancellation is the issuance of a check for the premium that is dishonored for any reason or any other type of premium payment that was subsequently determined to be rejected or invalid.

Section 23. Paragraph (a) of subsection (1) of section 629.401, Florida Statutes, is amended to read:

629.401 Insurance exchange.—

(1) There may be created one or more insurance exchanges, with one or more offices each, subject to such rules as are adopted by the commission. For the purposes of this section, the term “exchange” applies to any such insurance exchange proposed or created under this section. The purposes of the exchange are:

(a) To provide a facility for the underwriting of:

1. Reinsurance of all kinds of insurance.

2. Direct insurance of all kinds on risks located entirely outside the United States.

3. Surplus lines insurance for risks located in this state eligible for export under s. 626.916 or s. 626.917 and placed through a licensed Florida surplus lines agent subject to compliance with ~~the provisions of~~ ss. 626.921, 626.922, 626.923, 626.924, 626.929, 626.9295, and 626.930, ~~and 626.931~~. With respect to compliance with s. 626.924, the required legend may refer to any coverage provided for by a security fund established under paragraph (3) (d).

4. Surplus lines insurance in any other state subject to the applicable surplus lines laws of such other state for risks



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639 located entirely outside of this state.

640 Section 24. Section 634.171, Florida Statutes, is amended  
641 to read:

642 634.171 Salesperson to be licensed and appointed;  
643 exceptions.—Salespersons for motor vehicle service agreement  
644 companies and insurers shall be licensed, appointed, renewed,  
645 continued, reinstated, or terminated as prescribed in chapter  
646 626 for insurance representatives in general. However, they  
647 shall be exempt from all other provisions of chapter 626  
648 including fingerprinting, photo identification, education, and  
649 examination provisions. License, appointment, and other fees  
650 shall be those prescribed in s. 624.501. A licensed and  
651 appointed salesperson shall be directly responsible and  
652 accountable for all acts of her or his employees and other  
653 representatives. Each service agreement company or insurer  
654 shall, on forms prescribed by the department, within 30 days  
655 after termination of the appointment, notify the department of  
656 such termination. No employee or salesperson of a motor vehicle  
657 service agreement company or insurer may directly or indirectly  
658 solicit or negotiate insurance contracts, or hold herself or  
659 himself out in any manner to be an insurance agent, unless so  
660 qualified, licensed, and appointed therefor under the Florida  
661 Insurance Code. A licensed personal lines or general lines agent  
662 may solicit, negotiate, advertise, or sell motor vehicle service  
663 agreements and is not required to be licensed under this  
664 section. A motor vehicle service agreement company is not  
665 required to be licensed as a salesperson to solicit, sell,  
666 issue, or otherwise transact the motor vehicle service  
667 agreements issued by the motor vehicle service agreement

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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668 company.

669 Section 25. Section 634.317, Florida Statutes, is amended  
670 to read:

671 634.317 License and appointment required; exception.—No  
672 person may solicit, negotiate, or effectuate home warranty  
673 contracts for remuneration in this state unless such person is  
674 licensed and appointed as a sales representative. A licensed and  
675 appointed sales representative shall be directly responsible and  
676 accountable for all acts of the licensee's employees. A licensed  
677 personal lines or general lines agent may solicit, negotiate,  
678 advertise, or sell home warranty contracts and is not required  
679 to be licensed under this section.

680 Section 26. Section 634.419, Florida Statutes, is amended  
681 to read:

682 634.419 License and appointment required; exception.—No  
683 person or entity shall solicit, negotiate, advertise, or  
684 effectuate service warranty contracts in this state unless such  
685 person or entity is licensed and appointed as a sales  
686 representative. Sales representatives shall be responsible for  
687 the actions of persons under their supervision. However, a  
688 service warranty association licensed as such under this part  
689 shall not be required to be licensed and appointed as a sales  
690 representative to solicit, negotiate, advertise, or effectuate  
691 its products. A licensed personal lines or general lines agent  
692 may solicit, negotiate, advertise, or sell service warranty  
693 contracts and is not required to be licensed under this section.

694 Section 27. Except as otherwise expressly provided in this  
695 act and except for this section, which shall take effect upon  
696 this act becoming a law, this act shall take effect July 1,

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2020.

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The Florida Senate

## Committee Agenda Request

**To:** Senator Doug Broxson  
Committee on Banking and Insurance

**Subject:** Committee Agenda Request

**Date:** January 13, 2019

---

I respectfully request that **Senate Bill #1334**, relating to **Financial Services**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes  
Florida Senate, District 24

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-4-20

Meeting Date

1334

Bill Number (if applicable)

787114

Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Steve Geller

Job Title Attorney

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FAPA + Merlin Law Group

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20

Meeting Date

1334

Bill Number (if applicable)

670458

Amendment Barcode (if applicable)

Topic Pre suit Notice

Name Hillary Cassel

Job Title \_\_\_\_\_

Address 4000 Hollywood Blvd. Ste. 605-S  
Street

Phone (954) 589-5504

Hollywood FL 333021  
City State Zip

Email hcassel@cassel.law

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FPC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/4/20

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1334

Bill Number (if applicable)

Topic Financial Services

Amendment Barcode (if applicable)

Name Scott Matiyow

Job Title Vice President, Legislative's Regulatory Affairs

Address 215 S. Monroe St. Suite 835

Phone 850-570-3883

Street

Tallahassee

FL

32301

City

State

Zip

Email Scott.Mat:ow@PIFF.net

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Personal Insurance Federation of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/4/20

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 1334

Bill Number (if applicable)

Topic Financial Services

Amendment Barcode (if applicable)

Name Laura Pearce

Job Title General Counsel

Address Street

Phone

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Association of Insurance Agents

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/2024  
Meeting Date

1334  
Bill Number (if applicable)

Topic CRN and Roof Replacement

Amendment Barcode (if applicable)

Name AMY BOGGS

Job Title Chair, FJA Property Committee

Address 4554 Central Ave. Suite L  
Street

Phone 727-954-8833

St. Petersburg, FL 33704  
City State Zip

Email ABOGGS@BOGGS  
law  
group

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Justice Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20

Meeting Date

1334

Bill Number (if applicable)

265338

Amendment Barcode (if applicable)

Topic Insurance

Name Carolyn Johnson

Job Title Policy Director

Address 134 S Bronough St

Street

Tallahassee

City

FL

State

32301

Zip

Phone 521-1200

Email cjohnson@flchamber.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/2020

Meeting Date

1334

Bill Number (if applicable)

265338

Amendment Barcode (if applicable)

Topic

Cat Ford Amendments

Name

Mark Delegal

Job Title

Retained Counsel

Address

Street

Tallahassee

City

FL

State

Zip

Phone

850-224-7000

Email

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

State Farm Mutual Automobile Ins. Comp

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20

Meeting Date

1334

Bill Number (if applicable)

647130

Amendment Barcode (if applicable)

Topic Insurance

Name Cadyn Tansan

Job Title Policy Director

Address 136 S Bronough St

Street

Tallahassee

City

FL

State

32301

Zip

Phone 521-1200

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE

# APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-4-2020  
Meeting Date

SB1334  
Bill Number (if applicable)

Topic Financial Services

~~SB1348~~ 586530  
Amendment Barcode (if applicable)

Name Joy Ryan

Job Title \_\_\_\_\_

Address 300 S. Duval St., #410  
Street  
Tallahassee, FL 32301  
City State Zip

Phone 425-4000

Email joy@meenemlawfirm.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Nationwide Insurance Co. *of amendment substitute*

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-4-20

Meeting Date

1334

Bill Number (if applicable)

461914

Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Steve Geller

Job Title \_\_\_\_\_

Address \_\_\_\_\_

Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FAPIA + Merlin Hew Group

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/2020  
Meeting Date

JB 1334  
Bill Number (if applicable)

Topic ACU on Roof - Section 16

472784  
Amendment Barcode (if applicable)  
by Sen. Thurston

Name Amy Boggs

Job Title \_\_\_\_\_

Address 4554 Central Ave Suite L  
Street  
Saint Petersburg, FL 33704  
City State Zip

Phone 727-954-8833

Email ABoggs@boggs-law-group.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FJA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4

Meeting Date

SB 1334

Bill Number (if applicable)

548082 and

Amendment Barcode (if applicable)

787114 by  
Sen. Toddeo

Topic 3 year Notice - Section 17

Name Amy Boggs

Job Title

Address 4554 Central Ave Suite L

Street

Saint Petersburg, FL 33704

City

State

Zip

Phone 727-954-8833

Email ABoggs@BoggsLaw

Group.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FJA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-4-20  
Meeting Date

1334  
Bill Number (if applicable)  
548082  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Steve Geller

Job Title \_\_\_\_\_

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FADIA + Merlin Law Group

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20

Meeting Date

1334

Bill Number (if applicable)

79470

Amendment Barcode (if applicable)

Topic 48 Hour Notice

Name ~~Donald~~ Hillary Cassel

Job Title Hillary Cassel

Address 4000 Hollywood Blvd Ste. 605-S

Street

Hollywood Fl 33021

City

State

Zip

Phone (594) 589-5524

Email hcassel@cassel.law

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FPC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-4-20

Meeting Date

1334

Bill Number (if applicable)

~~297~~ 794 740

Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Steve Geller

Job Title Attorney

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Street

Fort Lauderdale FL 33301

City

State

Zip

Phone 954-315-3926

Email Steve.Geller@lawfirm.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FAPIA + Merlin Law Group

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Banking and Insurance

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BILL: SB 1492

INTRODUCER: Senator Wright

SUBJECT: Consumer Protection

DATE: February 3, 2020

REVISED: 2/4/2020

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
2.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	<b>Fav/1 amendment</b>
3.	<u></u>	<u></u>	<u>RC</u>	

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**Please see Section IX. for Additional Information:**

AMENDMENTS - Significant amendments were recommended

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**I. Summary:**

SB 1492 modifies provisions in several areas that are regulated by the Department of Financial Services (DFS), including:

- Removing a fee for the replacement of PINs for credit freezes implemented under the Keeping I.D. Safe Act;
- Strengthening authority for the DFS to request documents from licensed entities;
- Establishing a required licensure scheme for adjusting firms;
- Classifying the aiding and abetting of unlicensed activity by certain licensees as a third-degree felony;
- Prohibiting the use of “Medicaid” or “Medicare” in new insurance agency names;
- Requiring licensees regulated under ch. 626, F.S., to maintain the privacy of consumers’ personal financial or medical information;
- Extending telemarketing solicitation protections to Florida’s insurance consumers by prohibiting phone solicitation by an insurance licensee after 9 p.m., or before 8 a.m.;
- Ending the sale of industrial life insurance products;
- Increasing the possible suspension period for title insurance agent licensees from a 1-year period to a 2-year suspension period, thereby conforming to the permissible suspension period applicable to other insurance licensees;
- Extending the cooling-off period during which a consumer who entered into a contract with a property adjuster may cancel the contract without cause;

- Requiring that a specific disclosure is signed by any consumer whose policy will be exported into the surplus lines market;
- Expanding the definition of an unfair or deceptive trade practice to include the acts of initiating an insurance policy without a consumer's consent and effectuating an insurance policy by sending an invoice to a mortgagee or escrow agent without a consumer's consent;
- Amending the disclosure required by insurers who will use a consumer's credit score to calculate a premium to include references to the DFS resources for financial literacy and consumer assistance;
- Creating a hurricane season notice, which requires insurance companies to deliver a copy of the Homeowner Claims Bill of Rights and a summary of the consumer's hurricane coverages and deductibles to their consumers in advance of each hurricane season;
- Requiring insurers to provide additional information to their consumers during the claims handling process, e.g., the contact information of any adjuster assigned to the claim and the adjuster's report;
- Instituting a requirement that information communicated to the insurance consumer during the claims handling process also be sent to the consumer's agent of record;
- Updating the Homeowner Claims Bill of Rights to reflect additional duties imposed on insurers during the claims handling process;
- Prohibiting insurance policies sold in Florida after July 1, 2020, from including a forum selection clause that requires the consumer to pursue litigation, arbitration, or mediation outside of Florida;
- Removing the statutory requirement that an insured pay a \$100 deductible to receive payment on their claim through the Florida Insurance Guaranty Association;
- Consolidating the forms used by the DFS' Division of Unclaimed Property; and
- Conforming cross-references.

## II. Present Situation:

The Department of Financial Services (DFS or Department) has broad duties, including licensure and regulation of those who transact insurance; insurance consumer assistance and protection; and holding and attempting to return unclaimed property to its rightful owner.<sup>1</sup>

The present situation for each relevant provision of the bill is discussed in the Effect of Proposed Changes section of this bill analysis, below.

## III. Effect of Proposed Changes:

### Credit Reports

A credit report is a record of a consumer's credit history and other information about the consumer, including his or her name, address, social security number, employment information, date of birth, and court judgments.<sup>2</sup> Three major credit bureaus—Equifax, Experian, and

<sup>1</sup> See, e.g., Department of Financial Services, *What DFS Can Do For You*, <https://www.myfloridacfo.com/division/CFO/DFS.htm> (last visited Jan. 27, 2020).

<sup>2</sup> 15 U.S. Code s. 1681 defines a "credit report" as any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, ... general reputation, [or] personal characteristics...

TransUnion—compile and sell consumer credit reports. Lenders, insurers, utility and cell phone companies, employers, and others may obtain a consumer’s credit report for their use in determining, e.g., whether to extend credit, set insurance rates, or employ the consumer.<sup>3</sup> A consumer may also review his or her credit report at no charge once every 12 months from each of the credit bureaus.

### ***Security Freezes and the Keeping I.D. Safe (KIDS) Act***

The Keeping I.D. Safe (KIDS) Act<sup>4</sup> allows a third party, such as a parent or guardian, to place a security freeze on a minor child’s credit report, or credit score to prevent the information from being released without express authorization to a third party, such as an insurer. After its receipt of a security freeze request, a credit reporting agency must provide a unique personal identification number (PIN) to the minor child’s representative; this PIN is required to remove the security freeze. While credit reporting agencies are prohibited from charging any fee to place or remove a security freeze, they may charge up to \$10 to reissue a PIN.<sup>5</sup>

**Section 1** amends s. 501.0051, F.S., to prohibit a credit reporting agency from charging any fee to reissue a PIN or provide a new unique PIN to a consumer.

### ***Insurer’s Use of Credit Score***

Section 626.9741, F.S., regulates and limits insurer’s use of credit reports and scores for underwriting and rating personal lines motor vehicle insurance and personal lines residential insurance policies for Florida consumers. Specifically, an insurer must inform a consumer that it will access his or her credit report when the consumer submits an application for coverage. If the insurer denies the consumer’s application based on the consumer’s credit report, it must also give the consumer a copy of the credit report it relied on with an explanation of the reasons it denied coverage.

The DFS currently offers financial literacy courses to help consumers make informed financial and insurance-related decisions.<sup>6</sup>

**Section 13** amends s. 626.9741, F.S., to require an insurer to include the following language in its notice that a consumer’s credit report or score is being requested:

The Department of Financial Services offers free financial literacy programs to assist you in understanding how credit scores are calculated, what factors are considered, and how credit works. The Department’s toll-free Insurance Consumer Helpline is available to assist you with insurance-related questions and inquiries. To learn more about the free

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which is used...for the purpose of...establishing the consumer’s eligibility for credit or employment purposes.... The Florida KIDS Act adopts this definition of a “credit report” in s. 501.0051(1)(a), F.S.

<sup>3</sup> Board of Governors of the Federal Reserve System, *Credit Reports and Credit Scores: Consumer’s Guide*, available at [https://www.federalreserve.gov/creditreports/pdf/credit\\_reports\\_scores\\_2.pdf](https://www.federalreserve.gov/creditreports/pdf/credit_reports_scores_2.pdf) (last visited Jan. 27, 2020).

<sup>4</sup> Section 501.0051, F.S.

<sup>5</sup> Section 501.0051(9), F.S.

<sup>6</sup> Florida Department of Financial Services, *Financial Literacy-Empowering You to Make Informed Financial Decisions*, <https://www.myfloridacfo.com/Division/Consumers/FinancialLiteracy.htm> (last visited Jan. 27, 2020).

financial literacy programs or for help with insurance, call 1-877-693-5236 or visit [www.MyFloridaCFO.com](http://www.MyFloridaCFO.com).

### **Division of Consumer Services**

The Division of Consumer Services (Division) provides education, information, and assistance to consumers for all products or services regulated by the DFS or the Financial Services Commission.<sup>7</sup> The Division of Consumer Services' duties specifically include:

- Receiving consumer questions and complaints;
- Educating the public about insurance-related topics;
- Providing mediation to resolve disputes between a consumer and insurance company; and
- Serving as a conduit for referrals for further legal action by the DFS.<sup>8</sup>

Section 624.307(10)(b), F.S., permits the Division to impose an administrative penalty on a person who holds a license or certificate of authority from the Department if he or she fails to respond to the Division's request for information within 20 days. This has been limited by the Fifth Amendment privilege against self-incrimination. A licensed individual must produce those records that are required to be kept by law, but is not required to produce those not within the purview of statutes.<sup>9</sup> Conversely, a corporation has no privilege against self-incrimination, nor does a custodian of corporate records, even if the contents tend to incriminate him or her.<sup>10</sup>

**Section 2** amends s. 624.307(10)(b), F.S., to remove the penalty on individuals for the failure to respond to a Department inquiry, and to create a duty for an entity that is licensed or issued a certificate of authority by the DFS to respond to its written requests for information. This section also updates the duty by requiring the entity to provide any requested documents to the DFS.

### **Communications between a Consumer and Insurer**

Section 627.71031, F.S., provides base requirements for communications between an insurer and consumer who has notified the insurer of a possible claim. Generally, the residential property insurance company must respond to the consumer within 14 days to acknowledge the claim and provide necessary claim forms, instructions, and telephone contact information. The insurer is then required to commence an investigation within 10 days after it received proof of loss statements from the consumer. Lastly, the insurer is required to pay or deny a claim within 90 days after notice of the claim was made; if the insurer fails to make such a payment until after 90 days have passed, the payment bears interest due to the consumer. These duties generally constitute the consumer rights outlined in the Homeowner Claims Bill of Rights.<sup>11</sup>

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<sup>7</sup> Department of Financial Services, *Department of Financial Services Long Range Program Plan: Fiscal Years 2020-21 through 2024-25*, 15 (Sept. 30, 2019), available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=19566&DocType=PDF> (last visited Jan. 27, 2020). See also, Department of Financial Services, *Consumer Guides*, <https://www.myfloridacfo.com/Division/Consumers/understandingCoverage/Guides/Default.htm> (last visited Jan. 27, 2020).

<sup>8</sup> Section 624.307(10)(a), F.S.

<sup>9</sup> *Saviak v. Gunter*, 379 So. 2d 450 (Fla. Dist. Ct. App. 3d Dist. 1980).

<sup>10</sup> *Eller Media Co. v. Serrano*, 761 So. 2d 464 (Fla. Dist. Ct. App. 3d Dist. 2000); *State v. Wellington Precious Metals, Inc.*, 487 So. 2d 326 (Fla. Dist. Ct. App. 3d Dist. 1986).

<sup>11</sup> See further discussion of the Homeowner Claims Bill of Rights, *infra*.

**Section 18** amends s. 627.70131, F.S., to expand residential property insurer's and surplus lines insurer's duties to a consumer after he or she notifies the insurer of a possible claim. This section clarifies that a consumer's initial communication with an insurance company representative, not just an agent, regarding his or her claim initiates the duties outlined in this section of law. This section also expands the application of these duties to surplus lines insurers and surplus lines insurance authorized under ss. 626.913-626.937, F.S.

The additional duties implemented by the bill include the insurer's communication (via electronic communication or mailing) to a claimant of:

- An adjuster's name, license number, and contact information, if the insurer's claim investigation involves a physical inspection of the claimant's property;
- The name, license number, and contact information of any subsequent adjusters assigned to the consumer's claim, which must be provided within 7 days after the change;
- An unedited copy of any adjuster's report that the insurer received, which must be provided within 7 days after the insurer received the report; and
- Specific notices when an insurer provides a preliminary or partial estimate or payment on a claim that the estimate may be revised, or the payment may be supplemented, based on ongoing evaluations.

Additionally, an insurer must establish processes to provide a consumer's agent of record with access to the above information communicated to the consumer (specifically regarding the adjuster's report and adjuster's contact information).

Lastly, this section clarifies several timeframes applied to the insurer's communications by updating terms to either "calendar days" or "business days."

### **The Homeowner Claims Bill of Rights**

The Homeowner Claims Bill of Rights (Bill of Rights) outlines consumers' rights and responsibilities as a homeowner's insurance policyholder during the insurance claims process.<sup>12</sup> An insurance company must provide a consumer with a copy of the Bill of Rights within 14 days of receiving any communication about a claim.<sup>13</sup> Florida law provides form language that the insurer must include in the Bill of Rights, which gives notice of the consumer's right to:<sup>14</sup>

- Receive written confirmation of a claim's coverage, denial, or continued investigation within 30 days of specific communication;
- Obtain full settlement payment, or partial payment on the undisputed portion of a claim, within 90 days;
- Enter mediation of a disputed claim or neutral evaluation of a claim relating to sinkhole damage; and
- Contact the Department of Financial Services for assistance.

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<sup>12</sup> Florida Department of Financial Services, *Know Your Rights- Homeowner Claims Bill of Rights* (Dec. 2018), available at <https://www.myfloridacfo.com/Division/Consumers/understandingCoverage/Guides/documents/HOABillRights.pdf> (last visited Jan. 27, 2020).

<sup>13</sup> Section 627.70131, F.S.

<sup>14</sup> Section 627.7142, F.S. These consumer rights are partially based on the insurer's duties as outlined in s. 627.70131, F.S.

The Bill of Rights also includes consumer advice for best practices after a loss has been incurred.

**Section 20** updates the Bill of Rights to better reflect the insurer's duties outlined in s. 627.70131, F.S. The Bill of Rights must now include notice that the consumer has the right to:

- Be notified of the name and contact information of any subsequent company adjuster assigned to his or her claim;<sup>15</sup> and
- Receive interest payments, which begin accruing when a consumer files a claim, at the time of payment of the full settlement amount or undisputed claim portion. A consumer is also due interest payments if the insurer fails to deny the claim within 90 calendar days after a claim is made.<sup>16</sup>

This section also clarifies that references to days are *calendar* days.

**Section 15** amends s. 627.421, F.S., to require insurers to deliver a copy of the Bill of Rights to all of their homeowners' insurance policyholders by either mail or e-mail between March 3 and April 2 of each year. This notice must also include a statement of the policyholder's hurricane coverage, including the applicable hurricane deductible, the coverages, and any exclusions.

### **Insurance Adjusters**

A public adjuster is hired and paid by the policyholder to act on his or her behalf in a claim the files against an insurance company. Public adjusters can represent a policyholder in any type of insurance claim, not just property insurance claims.<sup>17</sup>

### ***Adjusting Firms***

Current law authorizes, but does not require, licensure of adjusting firms.<sup>18</sup> According to a representative of the DFS, there are currently no licensed adjusting firms. An adjusting firm license must be renewed every three years and requires a \$60 application fee.<sup>19</sup> An adjusting firm license application must include:<sup>20</sup>

- The name and address of each of the firm's majority owners, partners, officers, and directors;
- The firm's name and principal business address; and
- Any branch office locations and the names under which they will operate.

Each adjusting firm location must have a designated primary adjuster who acts as a supervising manager and is accountable for misconduct that occurs at the firm location.<sup>21</sup>

Chapter 626 provides grounds for mandatory and discretionary denial, suspension, or revocation of an adjusting firm license.<sup>22</sup>

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<sup>15</sup> This duty is created by section 18 of this bill, which amends s. 627.70131, F.S. Section 18 of this bill also requires the initial adjuster to give the consumer his or her name, license number, and contact information.

<sup>16</sup> See s. 627.70131(5)(a), F.S.

<sup>17</sup> Section 626.854(1), F.S.

<sup>18</sup> Section 626.8696, F.S.

<sup>19</sup> Section 624.501(20), F.S.

<sup>20</sup> Section 626.8696, F.S.

<sup>21</sup> Section 626.8695, F.S.

<sup>22</sup> Section 626.8697, F.S.



**Section 3** amends s. 626.112, F.S., to require all adjusting firms to obtain a license from the DFS to transact adjusting in the state. However, an individual who owns and operates an adjusting firm, has a Florida adjuster license, and does not employ, appoint, or otherwise use the services of any other licensee, is not required to obtain an adjusting firm license. The adjusting firm licensure requirements instituted by this section are consistent with the requirements applicable to insurance agencies.

This section further specifies that a branch location is not required to be licensed provided that it:

- Operates under the same name and federal tax identification number of the licensed firm;
- Has a licensed primary adjuster who has been designated with the DFS; and
- Submits its address and telephone number to the DFS within 30 days after beginning to transact insurance.

This section also imposes a \$10,000 administrative penalty on adjusting firms that fail to be licensed as required by this section.

### ***Public Adjuster Contracts***

Current law and administrative rules provide numerous restrictions and parameters on activities of public adjusters, especially relating to solicitation of contracts and inducement to contract.<sup>23, 24</sup> As an additional consumer protection, Florida law grants a policyholder a short timeframe during which he or she may cancel a contract with an adjuster without cause, penalty, or obligation. This cooling-off period permits the policy holder to cancel the contract within 3 business days of execution of the contract with an adjuster, or when the insured or claimant notifies the insurer of the claim, whichever is later. However, the cooling-off period is extended to 5 business days from the date the contract was executed, if it was entered into during a state of emergency or during the 1-year period after the date of loss.

The adjuster must disclose in all of his or her contracts the consumer's right to cancel the contract, and the methods by which the consumer may send a cancellation.

**Section 10** amends s. 626.854, F.S., to increase the duration of the cooling-off period during which a consumer may cancel his or her contract with an adjuster. Generally, the bill increases the cooling-off period from 3 business days to 7 calendar days. However, for contracts signed during a state of emergency or during the 1-year period after the date of loss, the bill increases the cooling-off period to 30 calendar days.

### ***Misleading Insurance Agency Names***

The DFS may withhold permission to operate under an agency name if the name is too similar to another already in use by a different agency; the name may mislead the public; or the name states or implies that the agency is an entity other than an insurance agency, such as an insurer, state or federal agency, or charitable organization.<sup>25</sup>

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<sup>23</sup> Section 626.854, F.S. Laws enacted in 2008 (ch. 2008-220, Laws of Fla.), in 2009 (ch. 2009-87, Laws of Fla.), 2011 (ch. 2011-39, Laws of Fla.), and 2017 (ch. 2017-147, Laws of Fla.), provided significant changes relating to public adjusters.

<sup>24</sup> Rule 69B-220.201(4) and (5), F.A.C.

<sup>25</sup> Section 626.602(1)-(3), F.S.

The Social Security Act prohibits any person from using the terms “Medicare” or “Medicaid” in an advertisement or other communication in a manner which the person knows, or should know, would convey the false impression that the communication is approved by the Centers for Medicare & Medicaid Services.<sup>26</sup>

There are currently 85 insurance agencies licensed in Florida whose agency names contain the words “Medicare,” or “Medicaid.”<sup>27</sup>

**Section 4** amends s. 626.602, F.S., to permit the DFS to disapprove an insurance agency’s proposed use of a name that includes the words “Medicare” or “Medicaid.” Insurance agencies that currently operate under such a name may continue to use the names, but if the license expires or is suspended or revoked, the agency may not be relicensed under that name.<sup>28</sup>

### **Administrative Penalties and Grounds to Refuse a License**

The Health Insurance Portability and Accountability Act of 1996 (HIPPA) is a federal law that protects individual’s health information from certain disclosures when it is held by health care providers and health insurance companies.<sup>29</sup> Additionally, s. 456.057, F.S., provides that patient records, when held by a healthcare professional, must not be disclosed without the consent of the patient or his or her legal representative. Neither HIPPA nor the state provision apply to insurance licensees.

The Florida Telemarketer Act, ss. 501.601-501.626, F.S., prohibits commercial telephone solicitations before 8 a.m. or after 9 p.m. However, insurers and their subsidiaries and affiliates are exempt from this law.<sup>30</sup> Similarly, the Federal Trade Commission’s Telemarketing Sales Rule prohibits telemarketing calls before 8 a.m., or after 9 p.m.<sup>31</sup>

Currently, Florida law prohibits public adjusters from soliciting an insured before 8 a.m. and after 8 p.m. on Monday through Saturday, and completely prohibits any solicitations on Sunday.<sup>32</sup>

**Section 5** amends s. 626.621, F.S., to add two bases for which the DFS may suspend or revoke the license of an insurance agent, adjuster, customer representative, service representative, or managing general agent, or refuse to issue a license to an applicant:

- Making a consumer’s or customer’s personal financial or medical information available or accessible to the public; and

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<sup>26</sup> 42 U.S. Code s.1320b-10(a)(1). Upheld by *United Seniors Ass’n Inc. v. SSA*, 423 F. 3d 397, 399 (4<sup>th</sup> Cir. 2005).

<sup>27</sup> Department of Financial Services, *Licensee Search*, <https://licenseesearch.fldfs.com/> (enter “Medicare” or “Medicaid” in “Agency/Firm Name” field, then click “search”) (last visited Jan. 27, 2020).

<sup>28</sup> Insurance agency licenses are indefinite. Section 626.382, F.S.

<sup>29</sup> U.S. Department of Health and Human Services, *Your Health Information Privacy Rights*, available at [https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/consumers/consumer\\_rights.pdf](https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/consumers/consumer_rights.pdf) (last visited Jan. 27, 2020).

<sup>30</sup> Section 501.604(7), F.S.

<sup>31</sup> Federal Trade Commission, *The Telemarketing Sales Rule*, <https://www.consumer.ftc.gov/articles/0198-telemarketing-sales-rule> (last visited Jan. 27, 2020).

<sup>32</sup> Section 626.854(5), F.S.

- Initiating in-person or telephone solicitation with a prospective customer after 9 p.m. or before 8 a.m., unless the customer requests otherwise.

### **License Suspension for Title Agents and Title Agencies**

**Section 9** amends s. 626.8443, F.S., to increase a title agent or title agency's permitted suspension period from 1 year to 2 years. This conforms the suspension period to those applicable to insurance agents,<sup>33</sup> and bail bond agents.<sup>34</sup>

A suspended licensee may not engage in the transaction of business that requires a license. After the duration of the suspension, an individual or entity with a suspended license may request to have the license reinstated by the Department, rather than undergo the licensing process in the same manner as a first-time applicant, as is required after a license revocation.<sup>35</sup>

### **Unfair Insurance Trade Practices**

The Unfair Insurance Trade Practices Act<sup>36</sup> prohibits unfair methods of competition and unfair or deceptive acts in the business of insurance,<sup>37</sup> including:

- Misrepresenting the benefits, advantages, or terms of any insurance policy;
- Inducing the lapse or exchange of any insurance policy, generally so the agent can earn a commission on a replacement policy; and
- Providing more insurance coverage than a consumer requests or consents to, while also failing to inform the consumer that the additional coverage was optional ("sliding").<sup>38</sup>

A person who commits acts prohibited by the Unfair Insurance Trade Practices Act is generally subject to a fine of up to \$20,000 for nonwillful violations, and up to \$200,000 total for willful violations.<sup>39</sup> However, specific violations are subject to greater administrative penalties and are also punishable as criminal misdemeanors.<sup>40</sup>

Additionally, a person who willfully submits fraudulent signatures on an application or policy-related document commits a third-degree felony, which is also punishable by the assessment of administrative fines of no more than \$75,000 per violation.<sup>41</sup>

**Section 12** amends s. 626.9541, F.S., to expand the definition of sliding, a practice that violates the Unfair Insurance Trade Practices, to include:

- Initiating, effectuating, binding, or otherwise issuing an insurance policy without the prior informed consent of the person who owns the property that will be insured; and

<sup>33</sup> Section 626.641, F.S. *See also*, Rule 69B-231, Laws of Fla.

<sup>34</sup> Section 648.45, F.S. *See also*, Rule 69B-241, Laws of Fla.

<sup>35</sup> Section 626.641(2), F.S.

<sup>36</sup> Chapter 626, F.S., part IX, ss. 626.951-626.99, F.S.

<sup>37</sup> Section 626.9541, F.S.

<sup>38</sup> Section 626.9541(1)(z), F.S. *See also*, *Beckett v. Department of Financial Services*, 982 So. 2d 94 (Fla. 1<sup>st</sup> DCA).

<sup>39</sup> Each count of a nonwillful violation is limited to a fine of no more than \$5,000, and each count of a willful violation is limited to a fine of no more than \$20,000. Section 626.9521(2), F.S.

<sup>40</sup> *See, e.g.*, Section 626.9521(3)(a), F.S., which makes the offenses of twisting and churning, which must involve fraudulent conduct, punishable as a first degree misdemeanor.

<sup>41</sup> Section 626.9521(3)(b), F.S.

- Mailing, transmitting, or otherwise submitting an invoice for premium payment to a mortgagee or escrow agent in order to institute an insurance policy without the prior informed consent of the owner of the property that will be insured.

These new violations will be punishable as administrative violations under the general provisions of the Unfair Insurance Trade Practices Act. However, the underlying acts that give rise to those administrative violations may also give rise to charges under s. 626.9541(1)(ee), F.S., which prohibits the willful submission of fraudulent signatures on an application or policy-related document, and is punishable as a third-degree felony pursuant to s. 626.9521, F.S.

### **Criminal Penalties for Aiding and Abetting Unlicensed Insurance Activity**

**Section 3** adds a criminal penalty, applicable to any person who helps an unlicensed person transact insurance or engage in insurance activities in Florida. These violations are punishable as third-degree felonies.<sup>42</sup>

**Section 22** amends s. 648.30, F.S., to extend the third-degree felony penalty for unlicensed bail bond activity to those who are licensed under ch. 648, F.S., and who knowingly aid and abet an unlicensed person commit unlicensed bail bond activity,<sup>43</sup> in violation of s. 648.30, F.S.

### **Industrial Life Insurance**

Industrial life insurance is a form of life insurance in which the premiums are payable on a monthly or weekly basis. These policies usually have a face amount of less than \$5,000.<sup>44</sup> Only 38 of the 398 active life insurers maintain existing industrial life insurance policies, and no new industrial life insurance policies have been written in the last year.<sup>45</sup>

**Sections 6-8 and 17** end the sale of industrial life insurance in Florida by prohibiting life insurers from writing a new policy of industrial life insurance beginning July 1, 2020, and otherwise removing language that allows insurance companies to transact industrial life insurance policies. However, these sections do permit the continued collection of premiums on, and servicing of such policies that were written before July 1, 2020.

### **Surplus Lines Export Eligibility**

Surplus lines insurance refers to a category of insurance for which the admitted market is unable or unwilling to provide coverage.<sup>46</sup> There are three basic categories of surplus lines risks:

<sup>42</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

<sup>43</sup> Unlicensed bail bond activity violative of s. 648.30, F.S., generally consists of representing oneself as a Florida bail bond agent or attempting to detain or arrest an individual on a bond, without proper licensure.

<sup>44</sup> Section 627.502, F.S. *See also*, Department of Financial Services, *Life Insurance Overview: Types of Policies*, <https://www.myfloridacfo.com/Division/Consumers/UnderstandingCoverage/LifeInsuranceOverview.htm> (last visited Jan. 27, 2020).

<sup>45</sup> Florida Department of Financial Services, *SB 1492 Agency Analysis*, 3 (Jan. 15, 2020), (on file with the Senate Committee on Commerce and Tourism).

<sup>46</sup> The admitted market is comprised of insurance companies licensed to transact insurance in Florida. The administration of surplus lines insurance business is managed by the Florida Surplus Lines Service Office. Section 626.921, F.S. *See also*,

- Specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
- Niche risks for which admitted carriers do not have a filed policy form or rate; and
- Capacity risks that are risks where an insured needs higher coverage limits than those that are available in the admitted market.

Surplus lines insurers are not “authorized” insurers as defined in the Florida Insurance Code,<sup>47</sup> which means they do not obtain a certificate of authority from the Office of Insurance Regulation (OIR) to transact insurance in Florida.<sup>48</sup> Rather, surplus lines insurers are “unauthorized” insurers,<sup>49</sup> but may transact surplus lines insurance if they are made eligible by the OIR.

An insurance agent<sup>50</sup> may “export,” or place a policy with an unauthorized insurer under the Surplus Lines Law, with the consent of the insurance applicant. Before an insurance agent can place insurance in the surplus lines market, the insurance agent must make a diligent effort to procure the desired coverage from admitted insurers.<sup>51</sup> A “diligent effort” requires a search for coverage that is ultimately denied by at least three authorized insurers in the admitted market. Additionally, the insurance agent must document the following before exporting the policy to the surplus lines market:<sup>52</sup>

- The premium rate for policies written by a surplus lines insurer cannot be less than the premium rate used by a majority of authorized insurers for the same coverage on similar risks;
- The policy exported cannot provide coverage or rates that are more favorable than those that are used by the majority of authorized insurers actually writing similar coverages on similar risks;
- The deductibles must be the same as those used by one or more authorized insurers, unless the coverage is for fire or windstorm; and
- For personal residential property risks,<sup>53</sup> the policyholder must be advised in writing that coverage may be available and less expensive from Citizens Property Insurance Corporation (Citizens).

Certain types of insurance, deemed “commercial risks,” including medical malpractice, travel, general liability, errors and omissions, and excess or umbrella insurance coverage, are exempt from the above diligent effort requirement. An insured for these commercial risks must sign a disclosure that provides, in substantially the following form:

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Florida Surplus Lines Service Office, *What is Surplus Lines Insurance?*, <https://www.fslso.com/AboutGroup/about/surplus-lines-insurance> (last visited Jan. 27, 2020).

<sup>47</sup> Section 626.914(2), F.S.

<sup>48</sup> Section 624.09(1), F.S.

<sup>49</sup> Section 624.09(2), F.S.

<sup>50</sup> Typically, the applicant’s usual insurance agent works with the surplus lines agent to arrange the placement, rather than the applicant working directly with the surplus lines agent. A surplus lines agent requires separate licensure than a traditional insurance agent, and is permitted to secure insurance coverages with unauthorized insurers whereas traditional insurance agents are not. *See s. 626.914(1)*, F.S.

<sup>51</sup> Section 626.916(1)(a), F.S.

<sup>52</sup> Section 626.916(1), F.S.

<sup>53</sup> Personal residential policies include homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners, and similar policies.

You are agreeing to place coverage in the surplus lines market. Superior coverage may be available in the admitted market and at a lesser cost. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer.<sup>54</sup>

**Section 11** amends s. 626.916, F.S., to extend the disclosure requirement found in s. 626.916(3)(b)3., F.S., to all insurance policies that are exported into the surplus lines market, rather than just commercial risks.

Additionally, the bill clarifies that the insureds who seek to export the commercial risks listed in s. 626.916(3)(b), F.S., must have signed the disclosure *prior to* the policy's export.

### **Forum Selection Clauses Prohibition**

A forum selection clause is a contractual provision in which the parties agree upon the venue for possible future litigation between them.<sup>55</sup> Generally, ch. 47, F.S., provides that civil actions must be brought in the Florida county where the defendant resides, where the cause accrued, or where the property in question is located.<sup>56</sup> If the defendant is an out-of-state (foreign) corporation, venue resides where the corporation has a representative, the action accrued, or where the property is located.<sup>57</sup> However, “a mandatory forum selection clause must be enforced unless it is shown to be unreasonable or unjust.”<sup>58</sup> In 2014, the Legislature codified case law on the matter, holding that a court could refuse to enforce a forum selection clause if it contravenes public policy, or is unjust and unreasonable.<sup>59</sup>

Several states, including Florida, have attempted to limit forum selection clauses in specific instances. Florida voids as contrary to public policy any contracts that require litigation against Florida contractors and related professions to be filed in non-Florida jurisdictions.<sup>60</sup>

**Section 19** creates s. 627.7031, F.S., which prohibits property insurers from including any clause in their property insurance policies sold to Florida consumers after July 1, 2020, that requires an insured to pursue litigation, arbitration, or mediation outside of Florida. This prohibition also applies to surplus lines insurers and any policies exported to a surplus lines insurer pursuant to ss. 626.913-937, F.S.

### **Florida Insurance Guaranty Association**

The Florida Insurance Guaranty Association (FIGA) is a not-for-profit corporation created by statute that steps into the shoes of insolvent insurers to timely pay certain property and casualty

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<sup>54</sup> Section 626.916(3)(b), F.S.

<sup>55</sup> Black's Law Dictionary (11<sup>th</sup> ed. 2019).

<sup>56</sup> Section 47.011, F.S.

<sup>57</sup> Section 47.051, F.S.

<sup>58</sup> *Illinois Union Ins. Co. v. Co-Free, Inc.*, 128 So.3d 820, 821 (Fla. 1<sup>st</sup> DCA 2014) (citing *Land O'Sun Mgmt. Corp. v. Commerce and Indus. Ins. Co.*, 961 So. 2d 1078, 1080 (Fla 1<sup>st</sup> DCA 2007)). Internal citations omitted.

<sup>59</sup> Section 61.0401, F.S. See also, *Manrique v. Fabbri*, 493 So. 2d 437 (Fla. 1986) and *Atl. Marine Const. Co. v. U.S. Dist. Court for W. Dist. Of Texas*, 571 U.S. 49, 134 S. Ct. 568 (2013).

<sup>60</sup> Section 47.025, F.S.

claims<sup>61</sup> that would otherwise be left unpaid.<sup>62</sup> FIGA does not offer a replacement policy, and coverage offered by FIGA is generally limited to a \$300,000 payment. A consumer may receive additional FIGA coverage of up to \$200,000 for damages to their home's structure or the contents thereof.<sup>63</sup> Condominium and homeowner's association claims have a coverage cap of \$100,000 multiplied by the number of units in the association.<sup>64</sup> All claims filed with FIGA are subject to a \$100 deductible in addition to any deductible identified in the consumer's policy.<sup>65</sup>

**Section 21** amends s. 631.57, F.S., to remove the consumer's obligation to pay a \$100 deductible to FIGA in order to receive payment on their claim through FIGA. The consumer will still be obligated to pay their original insurer's deductible, however.

### **Division of Unclaimed Property**

The DFS administers the Florida Disposition of Unclaimed Property Act. Unclaimed property is a financial asset that is unclaimed or abandoned by its owner.<sup>66</sup> Unclaimed property may include savings and checking accounts, securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes.<sup>67</sup> The DFS Division of Unclaimed Property is responsible for receiving property, attempting to locate its rightful owners, returning the property or proceeds to them, and managing the Unclaimed Property Trust Fund.<sup>68</sup> There is no statute of limitations and individuals may claim their property at any time and at no cost.<sup>69</sup>

Florida law allows Florida-licensed private investigators, certified public accountants, and attorneys to serve as claimant's representatives who solicit unclaimed property owners or their heirs to help them recover their property for a fee.<sup>70</sup> There are currently over 350 claimant's representatives registered with the Department.<sup>71</sup> The claimant's representatives may not charge a fee in excess of 20 percent of the account's value, up to \$1,000 maximum per account, unless the claimant's representative discloses that the property is held by the Division of Unclaimed

<sup>61</sup> A "covered claim" is an unpaid claim, including one of unearned premiums, which arises out of, and is within the coverage, and not in excess of, the applicable limits of an insurance policy." Section 631.54, F.S.

<sup>62</sup> See generally, Part II, ch. 631, F.S., "Florida Insurance Guaranty Association Act." See also, Florida Insurance Guaranty Association, *Home*, <https://figafacts.com/> (last visited Jan. 27, 2020).

<sup>63</sup> Section 631.57(2), F.S.

<sup>64</sup> Section 631.57(3), F.S.

<sup>65</sup> Section 631.57(2), F.S., see also, Florida Insurance Guaranty Association, *Frequently Asked Questions: Are There Limits on the Amount that FIGA Will Pay?*, <https://figafacts.com/frequently-asked-questions/> (last visited Jan. 27, 2020).

<sup>66</sup> Florida Department of Financial Services, *Florida Treasure Hunt: Why Should I Search for Unclaimed Property?*, <https://www.fltreasurehunt.gov/UP-Web/sitePages/About.jsp> (last visited Jan. 27, 2020).

<sup>67</sup> Sections 717.104-717.116, F.S. See also, Department of Financial Services, *Florida Unclaimed Property*, <https://www.myfloridacfo.com/Division/UnclaimedProperty/> (last visited Jan. 27, 2020).

<sup>68</sup> Department of Financial Services, *Department of Financial Services Long Range Program Plan: Fiscal Years 2020-21 through 2024-25*, 14 (Sept. 30, 2019), available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=19566&DocType=PDF> (last visited Jan. 27, 2020).

<sup>69</sup> Section 717.124, F.S., provides the methods by which a person may claim his or her interest from the Division of Unclaimed Property. See also, Florida Department of Financial Services, *Florida Treasure Hunt: Search for and Claim Unclaimed Property*, <https://www.fltreasurehunt.gov/UP-Web/sitePages/FAQs.jsp> (last visited Jan. 27, 2020).

<sup>70</sup> Florida Department of Financial Services, *Florida Treasure Hunt: Have You Been Contacted About Unclaimed Property?*, <https://fltreasurehunt.gov/Contacted-by-Unclaimed-Property.jsp> (last visited Jan. 27, 2020).

<sup>71</sup> Florida Department of Financial Services, SB 1492 Agency Analysis at 4 (Jan. 21, 2020) (on file with the Committee on Commerce and Tourism).

Property, and gives the Division's contact information, along with other pertinent information about the property.<sup>72</sup>

Alternatively, a Florida-licensed private investigator, certified public accountant, or attorney may offer to purchase the unclaimed property and pay the seller an agreed upon amount upfront.<sup>73</sup> In this case, the purchaser must pay the agreed upon percentage or amount within 30 days of the contract's execution by the seller, and must provide proof of that payment to the DFS with the claim.<sup>74</sup> The disclosure and contract requirements are substantially similar to the claimant's representative process, except that the seller's identity must be verified by submission of a copy of a valid driver's license, photo I.D., or notarized sworn statement which affirms the seller's identity, full name, and address. Submission of a social security number or taxpayer identification number are only required if that information is available.

Before a claimant's representative or unclaimed property purchaser may execute a power of attorney or purchase agreement, he or she must disclose the following in a separate document to the property owner, and obtain the owner's signed acknowledgement thereof:

- That the property is held by the Division of Unclaimed Property (and the mailing and internet address of the Division);
- Who remitted the property to the Division, and when that last point of contact occurred; and
- The category the property falls under (e.g., cash account, life insurance or annuity contract asset, utility deposit, wages, or contents of safe-deposit boxes).

The power of attorney or purchase agreement must include the:

- Value of the unclaimed property (or approximate value);
- Unclaimed property account number;
- Percentage value of the unclaimed property to be paid to the claimant, if applicable;
- Percentage value of the compensation to be made to the claimant's representative;
- Number of shares of stock, if applicable;
- Claimant's taxpayer identification number or social security number, address, and telephone number;
- Name and address to whom payment shall be made, if different than the claimant's name and address; and
- Claimant's representative's contact information, including his or her:
  - Professional license number,
  - Firm or employer's name, address, and telephone number; and
  - Name, address, and telephone number.

Additionally, the power of attorney or purchase agreement must be a separate document from the disclosure.

**Section 27** substantially amends s. 717.315, F.S., to replace the power of attorney and acquisition of unclaimed property forms used by claimant's representatives with the "Florida Uniform Unclaimed Property Recovery Agreement" (uniform recovery agreement) and the

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<sup>72</sup> Section 717.135(2), F.S.

<sup>73</sup> Section 717.1351, F.S.

<sup>74</sup> Section 717.1351(4), F.S.



“Florida Uniform Property Purchase Agreement” (uniform purchase agreement), respectively (uniform agreements, jointly). The bill prohibits a claimant’s representative from engaging with a claimant or seller to file a claim with the DFS by any means other than the uniform agreement forms and declares any agreement not authorized by s. 717.135, F.S., null and void.

The uniform agreements require substantially the same information as the power of attorney and disclosure or purchase agreement and disclosure, but combines the forms, and otherwise add the following information requirements:

- A statement of the total dollar amount that will be paid to the claimant’s representative, based on the fee or deduction percentage quoted;
- The total dollar amount the claimant will receive, after the above fees or deductions have been subtracted; and
- The claimant’s representative’s e-mail address.

The bill explicitly states that the uniform agreements may not contain language that either makes the contract irrevocable, or creates an assignment of unclaimed property held by the DFS. As an additional consumer protection, the bill clarifies that fees and costs may only be owed or paid pursuant to the uniform agreements and upon approval of the claim filed thereby (thus limiting the overall fees to 20 percent).

The bill allows the DFS to pay out the value of any account that was not claimed at the time that it approved another of the consumer’s claim, if no subsequent claim was filed.

Lastly, the bill directs the DFS to adopt rules to amend its forms to reflect the uniform agreements required disclosures.

**Section 28** repeals s. 717.1351, F.S., regarding acquisition of unclaimed property. This process is replaced by the newly created Florida Uniform Property Purchase Agreement, which is created by section 27 of this bill.

**Sections 23-26** make conforming changes to ss. 717.124, 717.12404, 717.1315, and 717.1322, F.S., respectively, to reflect the adoption of the uniform agreements.

### **Miscellaneous**

**Section 3** deletes unnecessary language from s. 626.112(7), F.S.

**Sections 14 and 15** update cross-references in ss. 626.9957 and 627.062, F.S., respectively.

**Section 29** provides that the bill takes effect upon becoming law.

## **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

The bill requires adjusting firms to become licensed, which subjects them to a \$60 application fee. To the extent the bill imposes a fee on adjusting firms while addressing other subjects, the bill may be unconstitutional as a violation the single-subject requirement for the imposition, authorization, or raising of a state tax or fee under article VII, section 19 of the Florida Constitution. Under that section, a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”<sup>75</sup>

## E. Other Constitutional Issues:

Section 5 may benefit from further definition of its terms. Agencies generally have wide discretion in interpreting statutes they administer, but “this discretion is somewhat more limited where the statute being interpreted authorizes sanctions or penalties against a person’s professional license.”<sup>76</sup> Statutes that provide for the revocation or suspension of a license to practice are deemed penal in nature and must be strictly construed, with any ambiguity interpreted in favor of the licensee.<sup>77</sup> However, if it is found that the law fails to give a person of ordinary intelligence fair notice of what constitutes forbidden conduct, it may be determined to be void for vagueness.<sup>78</sup>

The DFS’ restriction on engagement with a claimant or seller of unclaimed property may implicate an issue regarding restrictions of commercial speech. The Constitution accords a lesser protection to commercial speech than to other constitutionally protected expression.<sup>79</sup> In fact, the government may ban forms of commercial communication that are more likely to deceive the public than to inform it, but if commercial communication is not misleading or related to unlawful activity, the government’s power to restrict such communication must be supported by a substantial interest, and the limit must be in proportion to that interest.<sup>80</sup> This is generally expressed as a two-part test asking: (1) does

<sup>75</sup> FLA. CONST. art. VII, s. 19(d)(1)

<sup>76</sup> *Beckett v. Department of Financial Services*, 982 So.2d 94, 100 (Fla. 1<sup>st</sup> DCA 2008) (quoting *Elmariah v. Department of Professional Regulation, Board of Medicine*, 574 So.2d 164, 165 (Fla. 1<sup>st</sup> DCA 1990)).

<sup>77</sup> *Tuberville v. Department of Financial Services*, 248 So.3d 194, 196 (Fla 1<sup>st</sup> DCA 2018).

<sup>78</sup> *Accelerated Benefits Corp v. Department of Insurance*, 813 So.2d 117 (Fla 1<sup>st</sup> DCA 2002) (internal citations omitted).

<sup>79</sup> U.S. CONST., amends. I, XIV. *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557, 564 (1980).

<sup>80</sup> *Id.*

the restriction directly advance the state interest involved, and (2) could the governmental interest be served as well by a more limited restriction?

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Credit Bureaus will no longer be permitted to charge a fee to re-issue a PIN to consumers.

Consumers who seek to have their claims covered by FIGA will no longer be required to pay the \$100 deductible to FIGA.

Certain property adjusting businesses will be required to become licensed by the DFS and pay related application fees; those who fail to submit an application for licensure will be subject to administrative penalties.

Consumers may benefit from the extended cooling-off period, which allows them to void a contract for public adjusting services without penalty.

Certain licensees may be subject to administrative or criminal penalties as a result of the additional penalties created by this bill.

Insurers will be prohibited from selling industrial life insurance policies, although this should have a de minimis impact, as few currently offer this type of policy.

Insurers and certain agents may be required to update forms or mailers to reflect the new surplus lines export disclosure, the hurricane disclosure, the updated homeowner claims bill of rights, and the prohibition of forum selection clauses.

The inclusion of all required information in one uniform agreement may equip an unclaimed property claimant with more information prior to entering into an agreement. This may protect the consumer from entering into predatory or unfair contracts to retrieve their unclaimed property.

**C. Government Sector Impact:**

The DFS will be required to update certain forms and brochures to reflect the amended version of the Homeowner Claims Bill of Rights.

The DFS will likely see an increase in adjusting firm applications as a result of this bill; this will result in an increased licensing workload.

Section 27 requires the DFS to promulgate rules that adopt the uniform agreements relating to unclaimed property.

## **VI. Technical Deficiencies:**

Line 120 uses the term “consumer,” however, this is not a defined term in s. 501.0051, F.S. The KIDS Act defines the terms “protected consumer” to mean a person younger than 16 years of age, and the term “representative” to mean the parent or legal guardian of a protected consumer. An amendment to s. 501.005(13)(b), F.S., would be required to effect a prohibition on fees charged by credit bureaus for the replacement of a consumer’s PIN, which is required to remove a credit freeze.

Several cross-references may need to be updated to reflect the newly required adjusting agency license, e.g., ss. 626.015 and 626.022, F.S.

Section 3 of the bill, at line 154, requires entities to comply with s. 626.8696, F.S., to act as an adjusting firm. Section 626.8696, F.S., outlines the requirements for submitting an application for an adjusting firm license, but does not give licensing requirements. This may be interpreted as requiring adjusting firms only to submit an application (not wait for approval, or even meet approval from the DFS) to comply with s. 626.112, F.S., as amended by the bill. Similarly, line 174 within section 3 of the bill merely requires an adjusting firm to file an application for licensure to avoid a penalty assessed by the DFS.

As written, the bill appears to allow all consumers who have a contract with a public adjuster to cancel the contract during a state of emergency declared by the governor. See lines 264-271. Consideration of an amendment to paragraph proposed s. 626.8443(6), F.S., may be needed to clarify what contracts are voidable by the consumer.

Section 18 and section 20 both generally update references of “days” to “calendar days” or “business days;” however, both sections also leave at least one reference to only “days.” This inconsistency may cause confusion about whether a “day” is a calendar or business day.

Line 959, within section 27 of the bill, requires a claimant’s representative to report the “total percentage of all authorized fees and costs to be paid to the claimant’s representative...” This language may be interpreted as permitting a claimant’s representative to be paid only a portion of the total authorized fees and costs, rather than a percentage of the value of the unclaimed property in question.

## **VII. Related Issues:**

None.

## **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 501.0051, 624.307, 626.112, 626.602, 626.621, 626.782, 626.783, 626.8443, 626.854, 626.916, 626.9541, 626.9741, 626.9957, 627.062, 627.421, 627.502, 627.70131, 627.7142, 631.57, 648.30, 717.124, 717.12404, 717.1315, 717.1322, and 717.135.

This bill creates section 627.7031 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 626.796 and 717.1351.

## **IX. Additional Information:**

### **A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

### **B. Amendments:**

#### **Barcode 957714 by Banking and Insurance on February 4, 2020:**

This is a delete-all amendment that retains the provisions of the underlying bill, but with the following changes:

- Clarifies that insurers are not required to provide documents to DFS consumer services that are subject to attorney-client or work-product privilege.
- Provides a 21 day right of rescission for public adjuster contracts during a state of emergency or during the 1-year period after the date of loss. Current law provides a rescission period of 5 business days. The bill provides a 30 day right of rescission.
- Revises the notice created by the bill that must be provided prior to the placement of coverage with a surplus lines insurer.
- Provides that the bill's prohibition of invoicing a mortgagee or escrow agent for the purpose of making an insurance policy without the policyholder's consent does not apply to renewing insurance or issuing force-placed collateral protection insurance.
- Requires property insurers to email an outline of hurricane coverage prior to hurricane season. The bill requires insurers to also provide the Homeowner Claim Bill of Rights, and do so either by mail or email.
- Requires notice to the policyholder within 14 days after a change in adjuster. The bill requires notice within 7 days.
- Deletes a provision requiring the insurer to provide the policyholder an unedited copy of the adjuster's report.
- Specifies that the bill's application of s. 627.70131, F.S., to surplus lines property insurers applies to residential policies with a policy limit less than \$700,000. Section 627.70131, F.S., requires property insurers to promptly adjust property insurance claims and promptly respond to communications.
- Specifies that the bill's prohibition on foreign venue clauses applies to personal residential property insurance.
- Makes additional technical and clarifying changes. (WITH AMENDMENT TITLE)



957714

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/04/2020	.	
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The Committee on Banking and Insurance (Wright) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (b) of subsection (9) of section  
501.0051, Florida Statutes, is amended to read:

501.0051 Protected consumer report security freeze.—

(9)

(b) A consumer reporting agency may not charge to a  
~~reasonable fee, not to exceed \$10, if the representative fails~~



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~~to retain the original unique personal identifier provided by the consumer reporting agency and the agency must~~ reissue the unique personal identifier or provide a new unique personal identifier to the consumer ~~representative~~.

Section 2. Paragraph (b) of subsection (10) of section 624.307, Florida Statutes, is amended to read:

624.307 General powers; duties.—

(10)

(b) Any entity ~~person~~ licensed or issued a certificate of authority by the department or the office shall respond, in writing, to the division within 20 days after receipt of a written request for documents and information from the division concerning a consumer complaint. The response must address the issues and allegations raised in the complaint and include any requested documents concerning the consumer complaint not subject to attorney-client or work-product privilege. The division may impose an administrative penalty for failure to comply with this paragraph of up to \$2,500 per violation upon any entity licensed by the department or the office ~~and \$250 for the first violation, \$500 for the second violation, and up to \$1,000 for the third or subsequent violation upon any individual licensed by the department or the office.~~

Section 3. Present subsection (9) of section 626.112, Florida Statutes, is redesignated as subsection (10), a new subsection (9) is added to that section, and paragraph (d) of subsection (7) and present subsection (9) of that section are amended, to read:

626.112 License and appointment required; agents, customer representatives, adjusters, insurance agencies, service



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representatives, managing general agents, insurance adjusting firms.—

(7)

~~(d) Effective October 1, 2015, the department must automatically convert the registration of an approved registered insurance agency to an insurance agency license.~~

(9) (a) An individual, firm, partnership, corporation, association, or other entity may not act in its own name or under a trade name, directly or indirectly, as an adjusting firm unless it complies with s. 626.8696 with respect to possessing an adjusting firm license for each place of business at which it engages in an activity that may be performed only by a licensed insurance adjuster. However, an adjusting firm that is owned and operated by a single licensed adjuster conducting business in his or her individual name and not employing or otherwise using the services of or appointing other licensees is exempt from the adjusting firm licensing requirements of this subsection.

(b) A branch place of business that is established by a licensed adjusting firm is considered a branch firm and is not required to be licensed if:

1. It transacts business under the same name and federal tax identification number as the licensed adjusting firm;

2. It has designated with the department a primary adjuster operating the location as required by s. 626.8695; and

3. The address and telephone number of the branch location have been submitted to the department for inclusion in the licensing record of the licensed adjusting firm within 30 days after insurance transactions begin at the branch location.

(c) If an adjusting firm is required to be licensed but





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fails to file an application for licensure in accordance with this section, the department shall impose on the firm an administrative penalty of up to \$10,000.

~~(10)~~~~(9)~~ Any person who knowingly transacts insurance or otherwise engages in insurance activities in this state without a license in violation of this section or who knowingly aids or abets an unlicensed person in transacting insurance or otherwise engaging in insurance activities in this state without a license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Subsection (4) is added to section 626.602, Florida Statutes, to read:

626.602 Insurance agency names; disapproval.—The department may disapprove the use of any true or fictitious name, other than the bona fide natural name of an individual, by any insurance agency on any of the following grounds:

(4) The name contains the word "Medicare" or "Medicaid." An insurance agency whose name contains the word "Medicare" or "Medicaid" but which is licensed as of July 1, 2020, may continue to use that name as long as the agency's license is valid. If the agency's license expires or is suspended or revoked, the agency may not be relicensed using that name.

Section 5. Subsections (16) and (17) are added to section 626.621, Florida Statutes, to read:

626.621 Grounds for discretionary refusal, suspension, or revocation of agent's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.—The department may, in its discretion, deny an application for, suspend, revoke, or refuse to renew or continue



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the license or appointment of any applicant, agent, adjuster, customer representative, service representative, or managing general agent, and it may suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.611:

(16) Taking an action that allows the personal financial or medical information of a consumer or customer to be made available or accessible to the general public, regardless of the format in which the record is stored.

(17) Initiating in-person or telephone solicitation after 9 p.m. or before 8 a.m. local time of the prospective customer unless requested by the prospective customer.

Section 6. Section 626.782, Florida Statutes, is amended to read:

626.782 "Industrial class insurer" defined.—An "industrial class insurer" is an insurer collecting premiums on policies of ~~writing~~ industrial life insurance, as defined in s. 627.502, written before July 1, 2020, and as to such insurance, operates under a system of collecting a debit by its agent.

Section 7. Section 626.783, Florida Statutes, is amended to read:

626.783 "Ordinary-combination class insurer" defined.—An "ordinary-combination class insurer" is an insurer writing ~~both~~ ordinary class insurance and collecting premiums on existing industrial life ~~class~~ insurance under s. 626.782.

Section 8. Section 626.796, Florida Statutes, is repealed.



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Section 9. Subsection (1) of section 626.8443, Florida Statutes, is amended to read:

626.8443 Duration of suspension or revocation.—

(1) The department shall, in its order suspending a title insurance agent's or agency's license or appointment or in its order suspending the eligibility of a person to hold or apply for such license or appointment, specify the period during which the suspension is to be in effect, but such period shall not exceed 2 years ~~1 year~~. The license, ~~or~~ appointment, or eligibility shall remain suspended during the period so specified, subject, however, to any rescission or modification of the order by the department, or modification or reversal thereof by the court, prior to expiration of the suspension period. A license, appointment, or eligibility that ~~which~~ has been suspended may not be reinstated except upon request for such reinstatement, but the department shall not grant such reinstatement if it finds that the circumstance or circumstances for which the license, appointment, and eligibility was suspended still exist or are likely to recur.

Section 10. Subsection (6) of section 626.854, Florida Statutes, is amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(6) Except during a state of emergency declared by the Governor and except during the 1-year period after the date of loss, an insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within



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156 7 calendar ~~3-business~~ days after the date on which the contract  
157 is executed or within 7 calendar ~~3-business~~ days after the date  
158 on which the insured or claimant has notified the insurer of the  
159 claim, whichever is later. During a state of emergency declared  
160 by the Governor or during the 1-year period after the date of  
161 loss, an insured or claimant may cancel a public adjuster's  
162 contract to adjust a claim without penalty or obligation within  
163 21 calendar days after the date on which the contract is  
164 executed or within 21 calendar days after the date on which the  
165 insured or claimant has notified the insurer of the claim,  
166 whichever is later. The public adjuster's contract must disclose  
167 to the insured or claimant his or her right to cancel the  
168 contract and advise the insured or claimant that notice of  
169 cancellation must be submitted in writing and sent by certified  
170 mail, return receipt requested, or other form of mailing that  
171 provides proof thereof, to the public adjuster at the address  
172 specified in the contract; ~~provided, during any state of~~  
173 ~~emergency as declared by the Governor and for 1 year after the~~  
174 ~~date of loss, the insured or claimant has 5 business days after~~  
175 ~~the date on which the contract is executed to cancel a public~~  
176 ~~adjuster's contract.~~

177 Section 11. Effective January 1, 2021, subsection (3) of  
178 section 626.916, Florida Statutes, is amended, and paragraph (f)  
179 is added to subsection (1) of that section, to read:

180 626.916 Eligibility for export.—

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

183 (f) The insured has signed or otherwise provided documented  
184 acknowledgement of a disclosure in substantially the following



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form: "You are agreeing to place coverage in the surplus lines market. Coverage may be available in the admitted market. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer."

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

(b) Paragraphs (1)(a)-(d) do not apply to classes of insurance which are subject to s. 627.062(3)(d)1. These classes may be exportable under the following conditions:

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

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

3. The insured has complied with ~~must sign a disclosure paragraph (1)(f) that substantially provides the following: "You are agreeing to place coverage in the surplus lines market. Superior coverage may be available in the admitted market and at a lesser cost. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer."~~ If the disclosure ~~notice~~ is signed by the insured, the insured is presumed to have been informed and to know that other coverage may be available, and, with respect to the diligent-effort requirement under subsection (1), there is no liability on the part of, and no cause of action arises against, the retail agent presenting the form.

Section 12. Paragraph (z) of subsection (1) of section



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626.9541, Florida Statutes, is amended to read:

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

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

(z) *Sliding*.—Sliding is the act or practice of any of the following:

1. Representing to the applicant that a specific ancillary coverage or product is required by law in conjunction with the purchase of insurance when such coverage or product is not required.~~†~~

2. Representing to the applicant that a specific ancillary coverage or product is included in the policy applied for without an additional charge when such charge is required.~~† or~~

3. Charging an applicant for a specific ancillary coverage or product, in addition to the cost of the insurance coverage applied for, without the informed consent of the applicant.

4. Initiating, effectuating, binding, or otherwise issuing a policy of insurance without the prior informed consent of the owner of the property to be insured.

5. Mailing, transmitting, or otherwise submitting by any means an invoice for premium payment to a mortgagee or escrow agent, for the purpose of effectuating an insurance policy, without the prior informed consent of the owner of the property to be insured. However, this subparagraph does not apply in cases where the mortgagee or escrow is renewing insurance or issuing collateral protection insurance, as defined in s. 624.6085, pursuant to the mortgage or other pertinent loan



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documents or communications regarding the property.

Section 13. Effective January 1, 2021, subsection (3) of section 626.9741, Florida Statutes, is amended to read:

626.9741 Use of credit reports and credit scores by insurers.—

(3) An insurer must inform an applicant or insured, in the same medium as the application is taken, that a credit report or score is being requested for underwriting or rating purposes.

The notification to the consumer must include the following language: "The Department of Financial Services offers free financial literacy programs to assist you with insurance-related questions, including how credit works and how credit scores are calculated. To learn more, call 1-877-693-5236 or visit

www.MyFloridaCFO.com." An insurer that makes an adverse decision based, in whole or in part, upon a credit report must provide at no charge, a copy of the credit report to the applicant or insured or provide the applicant or insured with the name, address, and telephone number of the consumer reporting agency from which the insured or applicant may obtain the credit report. The insurer must provide notification to the consumer explaining the reasons for the adverse decision. The reasons must be provided in sufficiently clear and specific language so that a person can identify the basis for the insurer's adverse decision. Such notification shall include a description of the four primary reasons, or such fewer number as existed, which were the primary influences of the adverse decision. The use of generalized terms such as "poor credit history," "poor credit rating," or "poor insurance score" does not meet the explanation requirements of this subsection. A credit score may not be used



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in underwriting or rating insurance unless the scoring process produces information in sufficient detail to permit compliance with the requirements of this subsection. It shall not be deemed an adverse decision if, due to the insured's credit report or credit score, the insured continues to receive a less favorable rate or placement in a less favorable tier or company at the time of renewal except for renewals or reunderwriting required by this section.

Section 14. Subsection (1) of section 626.9957, Florida Statutes, is amended to read:

626.9957 Conduct prohibited; denial, revocation, or suspension of registration.—

(1) As provided in s. 626.112, only a person licensed as an insurance agent or customer representative may engage in the solicitation of insurance. A person who engages in the solicitation of insurance as described in s. 626.112(1) without such license is subject to the penalties provided under s. 626.112(10) ~~s. 626.112(9)~~.

Section 15. Subsection (10) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(10) Any interest paid pursuant to s. 627.70131(7) ~~s. 627.70131(5)~~ may not be included in the insurer's rate base and may not be used to justify a rate or rate change.

Section 16. Effective January 1, 2021, subsection (6) is added to section 627.421, Florida Statutes, to read:

627.421 Delivery of policy.—

(6) For personal lines residential property insurance policies, the insurer shall, between March 1 and June 1 of each





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year, inclusive, deliver an outline of the hurricane coverage as specified in s. 627.4143(3), along with a current policy declarations page. This requirement shall apply only for those insureds who have provided the insurer with a valid e-mail address. This information shall be delivered directly to the policyholder via email or by an e-mail notice of information being posted to a secure web-based policy information page.

Section 17. Section 627.502, Florida Statutes, is amended to read:

627.502 "Industrial life insurance" defined; reporting; prohibition on new policies after a certain date.—

(1) For the purposes of this code, "industrial life insurance" is that form of life insurance written under policies under which premiums are payable monthly or more often, bearing the words "industrial policy" or "weekly premium policy" or words of similar import imprinted upon the policies as part of the descriptive matter, and issued by an insurer that ~~which~~, as to such industrial life insurance, is operating under a system of collecting a debit by its agent.

(2) Every life insurer servicing existing ~~transacting~~ industrial life insurance shall report to the office all annual statement data regarding the exhibit of life insurance, including relevant information for industrial life insurance.

(3) Beginning July 1, 2020, a life insurer may not write a new policy of industrial life insurance.

Section 18. Effective January 1, 2021, section 627.70131, Florida Statutes, is amended to read:

627.70131 Insurer's duty to acknowledge communications regarding claims; investigation.—



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(1)(a) Upon an insurer's receiving a communication with respect to a claim, the insurer shall, within 14 calendar days, review and acknowledge receipt of such communication unless payment is made within that period of time or unless the failure to acknowledge is caused by factors beyond the control of the insurer which reasonably prevent such acknowledgment. If the acknowledgment is not in writing, a notification indicating acknowledgment shall be made in the insurer's claim file and dated. A communication made to or by a representative ~~an agent~~ of an insurer with respect to a claim shall constitute communication to or by the insurer.

(b) As used in this subsection, the term "representative" ~~"agent"~~ means any person to whom an insurer has granted authority or responsibility to receive or make such communications with respect to claims on behalf of the insurer.

(c) This subsection shall not apply to claimants represented by counsel beyond those communications necessary to provide forms and instructions.

(2) Such acknowledgment shall be responsive to the communication. If the communication constitutes a notification of a claim, unless the acknowledgment reasonably advises the claimant that the claim appears not to be covered by the insurer, the acknowledgment shall provide necessary claim forms, and instructions, including an appropriate telephone number.

(3)(a) Unless otherwise provided by the policy of insurance or by law, within 10 business ~~working~~ days after an insurer receives proof of loss statements, the insurer shall begin such investigation as is reasonably necessary unless the failure to begin such investigation is caused by factors beyond the control



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of the insurer which reasonably prevent the commencement of such investigation.

(b) If such investigation involves a physical inspection of the property, the licensed adjuster assigned by the insurer must provide the policyholder with his or her name, license number, and contact information.

(c) If an insurer assigns the claim to a different licensed adjuster from the adjuster who performed the physical inspection, the insurer must, within 14 days after changing the licensed insurance adjuster assigned to a claim, provide the name, license number, and contact information of the new adjuster to the policyholder. The notification may be made electronically or via mail. If the notification is a physical letter, it must be postmarked within 14 days after the change in adjuster. The policyholder must be provided notice of any subsequent change to the assigned adjuster as set forth by this paragraph.

(4) An insurer shall establish a process by which an agent of record for an insurance policy receives the same notice as the policyholder as provided in paragraphs (3)(b) and (3)(c) in order to assist the agent of record in answering the policyholder's questions regarding claims. As used in this subsection, the term "agent of record" means the agent named on the declarations page of the insurance policy or, if there is no agent of record, another designated point of contact.

(5) For purposes of this section, the term "insurer" means any residential property insurer.

(6)(a) When providing a preliminary or partial estimate of damage regarding a claim, an insurer shall include with the



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estimate the following statement printed in at least 12-point bold, uppercase type: THIS ESTIMATE REPRESENTS OUR CURRENT EVALUATION OF THE COVERED DAMAGES TO YOUR INSURED PROPERTY AND MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

(b) When providing a payment on a claim which is not the full and final payment for the claim, an insurer shall include with the payment the following statement printed in at least 12-point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

~~(7)-(5)~~(a) Within 90 calendar days after an insurer receives notice of an initial, reopened, or supplemental property insurance claim from a policyholder, the insurer shall pay or deny such claim or a portion of the claim unless the failure to pay is caused by factors beyond the control of the insurer which reasonably prevent such payment. Any payment of an initial or supplemental claim or portion of such claim made 90 calendar days after the insurer receives notice of the claim, or made more than 15 days after there are no longer factors beyond the control of the insurer which reasonably prevented such payment, whichever is later, bears interest at the rate set forth in s. 55.03. Interest begins to accrue from the date the insurer receives notice of the claim. The provisions of this subsection may not be waived, voided, or nullified by the terms of the insurance policy. If there is a right to prejudgment interest,



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the insured shall select whether to receive prejudgment interest or interest under this subsection. Interest is payable when the claim or portion of the claim is paid. Failure to comply with this subsection constitutes a violation of this code. However, failure to comply with this subsection does not form the sole basis for a private cause of action.

(b) Notwithstanding subsection (5) ~~(4)~~, for purposes of this subsection, the term "claim" means any of the following:

1. A claim under an insurance policy providing residential coverage as defined in s. 627.4025(1);

2. A claim for structural or contents coverage under a commercial property insurance policy if the insured structure is 10,000 square feet or less; or

3. A claim for contents coverage under a commercial tenant policy if the insured premises is 10,000 square feet or less.

(c) This subsection shall not apply to claims under an insurance policy covering nonresidential commercial structures or contents in more than one state.

(8) This section also applies to surplus lines insurers and surplus lines insurance authorized under ss. 626.913-626.937 providing residential coverage, where coverage on the primary insured structure is less than \$700,000.

Section 19. Section 627.7031, Florida Statutes, is created to read:

627.7031 Foreign venue clauses prohibited.—After July 1, 2020, a personal residential property insurance policy sold in this state, insuring only real property located in this state, may not require an insured to pursue dispute resolution through litigation, arbitration, or mediation outside this state. This



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section also applies to surplus lines insurers and surplus lines insurance authorized under ss. 626.913-626.937.

Section 20. Effective January 1, 2021, section 627.7142, Florida Statutes, is amended to read:

627.7142 Homeowner Claims Bill of Rights.—An insurer issuing a personal lines residential property insurance policy in this state must provide a Homeowner Claims Bill of Rights to a policyholder within 14 days after receiving an initial communication with respect to a claim, ~~unless the claim follows an event that is the subject of a declaration of a state of emergency by the Governor.~~ The purpose of the bill of rights is to summarize, in simple, nontechnical terms, existing Florida law regarding the rights of a personal lines residential property insurance policyholder who files a claim of loss. The Homeowner Claims Bill of Rights is specific to the claims process and does not represent all of a policyholder's rights under Florida law regarding the insurance policy. The Homeowner Claims Bill of Rights does not create a civil cause of action by any individual policyholder or class of policyholders against an insurer or insurers. The failure of an insurer to properly deliver the Homeowner Claims Bill of Rights is subject to administrative enforcement by the office but is not admissible as evidence in a civil action against an insurer. The Homeowner Claims Bill of Rights does not enlarge, modify, or contravene statutory requirements, including, but not limited to, ss. 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner



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Claims Bill of Rights must state:

HOMEOWNER CLAIMS

BILL OF RIGHTS

This Bill of Rights is specific to the claims process and does not represent all of your rights under Florida law regarding your policy. There are also exceptions to the stated timelines when conditions are beyond your insurance company's control. This document does not create a civil cause of action by an individual policyholder, or a class of policyholders, against an insurer or insurers and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy.

YOU HAVE THE RIGHT TO:

1. Receive from your insurance company an acknowledgment of your reported claim within 14 calendar days after the time you communicated the claim.

2. Upon written request, receive from your insurance company within 30 days after you have submitted a complete proof-of-loss statement to your insurance company, confirmation that your claim is covered in full, partially covered, or denied, or receive a written statement that your claim is being investigated.

3. Within 14 calendar days, receive notification



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from your insurance company if there has been a change in the company adjuster who is assigned to your claim. The notification must include the assigned adjuster's contact information.

4. Within 90 calendar days, subject to any dual interest noted in the policy, receive full settlement payment for your claim or payment of the undisputed portion of your claim, or your insurance company's denial of your claim.

5. Receive payment of interest, as provided in s. 627.7031, from your insurance company, which begins accruing from the date your claim is filed if your insurance company does not pay full settlement of your initial, reopened, or supplemental claim or the undisputed portion of your claim or does not deny your claim within 90 calendar days after your claim is filed. The interest, if applicable, must be paid when your claim or undisputed portion of your claim is paid.

~~6.4.~~ Free mediation of your disputed claim by the Florida Department of Financial Services, Division of Consumer Services, under most circumstances and subject to certain restrictions.

~~7.5.~~ Neutral evaluation of your disputed claim, if your claim is for damage caused by a sinkhole and is covered by your policy.

~~8.6.~~ Contact the Florida Department of Financial Services, Division of Consumer Services' toll-free helpline for assistance with any insurance claim or





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questions pertaining to the handling of your claim.  
You can reach the Helpline by phone at...(toll-free  
phone number)...., or you can seek assistance online at  
the Florida Department of Financial Services, Division  
of Consumer Services' website at...(website  
address)....

YOU ARE ADVISED TO:

1. Contact your insurance company before entering  
into any contract for repairs to confirm any managed  
repair policy provisions or optional preferred  
vendors.

2. Make and document emergency repairs that are  
necessary to prevent further damage. Keep the damaged  
property, if feasible, keep all receipts, and take  
photographs or video of damage before and after any  
repairs to provide to your insurer.

3. Carefully read any contract that requires you  
to pay out-of-pocket expenses or a fee that is based  
on a percentage of the insurance proceeds that you  
will receive for repairing or replacing your property.

4. Confirm that the contractor you choose is  
licensed to do business in Florida. You can verify a  
contractor's license and check to see if there are any  
complaints against him or her by calling the Florida  
Department of Business and Professional Regulation.  
You should also ask the contractor for references from  
previous work.

5. Require all contractors to provide proof of



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insurance before beginning repairs.

6. Take precautions if the damage requires you to leave your home, including securing your property and turning off your gas, water, and electricity, and contacting your insurance company and provide a phone number where you can be reached.

Section 21. Paragraph (a) of subsection (1) and subsection (6) of section 631.57, Florida Statutes, are amended to read:

631.57 Powers and duties of the association.—

(1) The association shall:

(a)1. Be obligated to the extent of the covered claims existing:

a. Prior to adjudication of insolvency and arising within 30 days after the determination of insolvency;

b. Before the policy expiration date if less than 30 days after the determination; or

c. Before the insured replaces the policy or causes its cancellation, if she or he does so within 30 days of the determination.

2. The obligation under subparagraph 1. includes ~~only~~ the amount of each covered claim which is ~~in excess of \$100 and is~~ less than \$300,000, except that policies providing coverage for homeowner's insurance shall provide for an additional \$200,000 for the portion of a covered claim which relates only to the damage to the structure and contents.

3.a. Notwithstanding subparagraph 2., the obligation under subparagraph 1. for policies covering condominium associations or homeowners' associations, which associations have a responsibility to provide insurance coverage on residential



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units within the association, shall include that amount of each covered property insurance claim which is less than \$100,000 multiplied by the number of condominium units or other residential units; however, as to homeowners' associations, this sub-subparagraph applies only to claims for damage or loss to residential units and structures attached to residential units.

b. Notwithstanding sub-subparagraph a., the association has no obligation to pay covered claims that are to be paid from the proceeds of bonds issued under s. 631.695. However, the association shall assign and pledge the first available moneys from all or part of the assessments to be made under paragraph (3)(a) to or on behalf of the issuer of such bonds for the benefit of the holders of such bonds. The association shall administer any such covered claims and present valid covered claims for payment in accordance with the provisions of the assistance program in connection with which such bonds have been issued.

4. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises.

(6) The association may extend the time limits specified in paragraph (1)(a) by up to an additional 60 days ~~or waive the applicability of the \$100 deductible specified in paragraph (1)(a)~~ if the board determines that either or both such actions are necessary to facilitate the bulk assumption of obligations.

Section 22. Section 648.30, Florida Statutes, is amended to read:

648.30 Licensure and appointment required; prohibited acts;



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penalties.—

(1) A person may not act in the capacity of a bail bond agent or temporary bail bond agent or perform any of the functions, duties, or powers prescribed for bail bond agents or temporary bail bond agents under this chapter unless that person is qualified, licensed, and appointed as provided in this chapter.

(2) A person may not represent himself or herself to be a bail enforcement agent, bounty hunter, or other similar title in this state.

(3) A person, other than a certified law enforcement officer, may not apprehend, detain, or arrest a principal on a bond, wherever issued, unless that person is qualified, licensed, and appointed as provided in this chapter or licensed as a bail bond agent or bail bond enforcement agent, or holds an equivalent license by the state where the bond was written.

(4) Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Any licensee under this chapter who knowingly aids or abets an unlicensed person in violating this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 23. Paragraphs (b) and (c) of subsection (4) and subsections (1) and (10) of section 717.124, Florida Statutes, are amended to read:

717.124 Unclaimed property claims.—

(1) Any person, excluding another state, claiming an interest in any property paid or delivered to the department



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under this chapter may file with the department a claim on a form prescribed by the department and verified by the claimant or the claimant's representative. The claimant's representative must be an attorney licensed to practice law in this state, a licensed Florida-certified public accountant, or a private investigator licensed under chapter 493. The claimant's representative must be registered with the department under this chapter. The claimant, or the claimant's representative, shall provide the department with a legible copy of a valid driver license of the claimant at the time the original claim form is filed. If the claimant has not been issued a valid driver license at the time the original claim form is filed, the department shall be provided with a legible copy of a photographic identification of the claimant issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. In lieu of photographic identification, a notarized sworn statement by the claimant may be provided which affirms the claimant's identity and states the claimant's full name and address. The claimant must produce to the notary photographic identification of the claimant issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. The notary shall indicate the notary's full address on the notarized sworn statement. Any claim filed without the required identification or the sworn statement with the original claim form and the original Florida Uniform Unclaimed Property Recovery Agreement or Florida Uniform



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Property Purchase Agreement ~~power of attorney or purchase~~  
~~agreement~~, if applicable, is void.

(a) Within 90 days after receipt of a claim, the department may return any claim that provides for the receipt of fees and costs greater than that permitted under this chapter or that contains any apparent errors or omissions. The department may also request that the claimant or the claimant's representative provide additional information. The department shall retain a copy or electronic image of the claim.

(b) A claimant or the claimant's representative shall be deemed to have withdrawn a claim if no response to the department's request for additional information is received by the department within 60 days after the notification of any apparent errors or omissions.

(c) Within 90 days after receipt of the claim, or the response of the claimant or the claimant's representative to the department's request for additional information, whichever is later, the department shall determine each claim. Such determination shall contain a notice of rights provided by ss. 120.569 and 120.57. The 90-day period shall be extended by 60 days if the department has good cause to need additional time or if the unclaimed property:

1. Is owned by a person who has been a debtor in bankruptcy;

2. Was reported with an address outside of the United States;

3. Is being claimed by a person outside of the United States; or

4. Contains documents filed in support of the claim that



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are not in the English language and have not been accompanied by an English language translation.

(d) The department shall deny any claim under which the claimant's representative has refused to authorize the department to reduce the fees and costs to the maximum permitted under this chapter.

(4)

(b) If an owner authorizes an attorney licensed to practice law in this state, Florida-certified public accountant, or private investigator licensed under chapter 493, and registered with the department under this chapter, to claim the unclaimed property on the owner's behalf, the department is authorized to make distribution of the property or money in accordance with the Florida Uniform Unclaimed Property Recovery Agreement or Florida Uniform Property Purchase Agreement under s. 717.135 ~~such power of attorney~~. The original Florida Uniform Unclaimed Property Recovery Agreement or Florida Uniform Property Purchase Agreement ~~power of attorney~~ must be executed by the claimant or seller ~~owner~~ and must be filed with the department.

(c)1. Payments of approved claims for unclaimed cash accounts shall be made to the owner after deducting any fees and costs authorized pursuant to a Florida Uniform Unclaimed Property Recovery Agreement ~~written power of attorney~~. The contents of a safe-deposit box shall be delivered directly to the claimant ~~notwithstanding any power of attorney or agreement to the contrary~~.

2. Payments of fees and costs authorized pursuant to a Florida Uniform Unclaimed Property Recovery Agreement ~~written power of attorney~~ for approved claims must ~~shall~~ be made or



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issued to the law firm of the designated attorney licensed to practice law in this state, the public accountancy firm of the licensed Florida-certified public accountant, or the designated employing private investigative agency licensed by this state. Such payments shall be made by electronic funds transfer and may be made on such periodic schedule as the department may define by rule, provided the payment intervals do not exceed 31 days. Payment made to an attorney licensed in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, operating individually or as a sole practitioner, shall be to the attorney, certified public accountant, or private investigator.

(10) Notwithstanding any other provision of this chapter, the department may develop a process by which a registered claimant's representative or a buyer of unclaimed property may electronically submit to the department an electronic image of a completed claim and claims-related documents pursuant to this chapter, including a Florida Uniform Unclaimed Property Recovery Agreement or Florida Uniform Property Purchase Agreement ~~a limited power of attorney or purchase agreement~~ that has been manually signed and dated by a claimant or seller pursuant to s. 717.135 ~~or s. 717.1351~~, after the claimant's representative or the buyer of unclaimed property receives the original documents provided by the claimant or the seller for any claim. Each claim filed by a registered claimant's representative or a buyer of unclaimed property must include a statement by the claimant's representative or the buyer of unclaimed property attesting that all documents are true copies of the original documents and that all original documents are physically in the possession of the





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claimant's representative or the buyer of unclaimed property. All original documents must be kept in the original form, by claim number, under the secure control of the claimant's representative or the buyer of unclaimed property and must be available for inspection by the department in accordance with s. 717.1315. The department may adopt rules to implement this subsection.

Section 24. Subsection (2) of section 717.12404, Florida Statutes, is amended to read:

717.12404 Claims on behalf of a business entity or trust.—

(2) Claims on behalf of a dissolved corporation, a business entity other than an active corporation, or a trust must include a legible copy of a valid driver license of the person acting on behalf of the dissolved corporation, business entity other than an active corporation, or trust. If the person has not been issued a valid driver license, the department shall be provided with a legible copy of a photographic identification of the person issued by the United States, a foreign nation, or a political subdivision or agency thereof. In lieu of photographic identification, a notarized sworn statement by the person may be provided which affirms the person's identity and states the person's full name and address. The person must produce his or her photographic identification issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. The notary shall indicate the notary's full address on the notarized sworn statement. Any claim filed without the required identification or the sworn statement with the original claim form and the original Florida



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Uniform Unclaimed Property Recovery Agreement or Florida Uniform Property Purchase Agreement ~~power of attorney~~, if applicable, is void.

Section 25. Subsection (1) of section 717.1315, Florida Statutes, is amended to read:

717.1315 Retention of records by claimant's representatives and buyers of unclaimed property.—

(1) Every claimant's representative and buyer of unclaimed property shall keep and use in his or her business such books, accounts, and records of the business conducted under this chapter to enable the department to determine whether such person is complying with this chapter and the rules adopted by the department under this chapter. Every claimant's representative and buyer of unclaimed property shall preserve such books, accounts, and records, including every Florida Uniform Unclaimed Property Recovery Agreement or Florida Uniform Property Purchase Agreement ~~power of attorney or agreement~~ between the owner and such claimant's representative or buyer, for at least 3 years after the date of the initial ~~power of attorney or agreement~~.

Section 26. Paragraph (j) of subsection (1) of section 717.1322, Florida Statutes, is amended to read:

717.1322 Administrative and civil enforcement.—

(1) The following acts are violations of this chapter and constitute grounds for an administrative enforcement action by the department in accordance with the requirements of chapter 120 and for civil enforcement by the department in a court of competent jurisdiction:

(j) Requesting or receiving compensation for notifying a



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person of his or her unclaimed property or assisting another person in filing a claim for unclaimed property, unless the person is an attorney licensed to practice law in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, or entering into, or making a solicitation to enter into, an agreement ~~a power of attorney~~ to file a claim for unclaimed property owned by another, or a contract or agreement to purchase unclaimed property, unless such person is registered with the department pursuant to this chapter and an attorney licensed to practice law in this state in the regular practice of her or his profession, a Florida-certified public accountant who is acting within the scope of the practice of public accounting as defined in chapter 473, or a private investigator licensed under chapter 493. This subsection does not apply to a person who has been granted a durable power of attorney to convey and receive all of the real and personal property of the owner, is the court-appointed guardian of the owner, has been employed as an attorney or qualified representative to contest the department's denial of a claim, or has been employed as an attorney to probate the estate of the owner or an heir or legatee of the owner.

Section 27. Section 717.135, Florida Statutes, is amended to read:

(Substantial rewording of section. See  
s. 717.135, F.S., for present text.)  
717.135 Recovery agreements and purchase agreements for  
claims filed by claimant's representative; fees and costs.—  
(1) In order to protect the interests of owners of  
unclaimed property, the department shall adopt by rule a form



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entitled "Florida Uniform Unclaimed Property Recovery Agreement"  
and a form entitled "Florida Uniform Property Purchase  
Agreement."

(2) The Florida Uniform Unclaimed Property Recovery  
Agreement form and the Florida Uniform Property Purchase  
Agreement form must include and disclose:

(a) The total dollar amount of unclaimed property accounts  
claimed or sold.

(b) Either the total percentage of all authorized fees and  
costs to be paid to the claimant's representative or the  
percentage of the value of the property to be paid as net gain  
to the purchasing registered claimant's representative.

(c) Either the total dollar amount to be deducted and  
received from the claimant as fees and costs by the claimant's  
representative or the total net dollar amount to be received by  
the purchasing registered claimant's representative.

(d) The net dollar amount to be received by the claimant or  
seller.

(e) For each account claimed, the unclaimed property  
account number and name of the apparent owner, as listed on the  
department's database.

(f) For the Florida Uniform Property Purchase Agreement, a  
statement that the purchase price will be remitted to the seller  
within 30 days after the execution of the form by the seller.

(g) The name, address, e-mail address, phone number, and  
license number of the registered claimant's representative.

(h) The manual signature of the claimant or seller and the  
date signed.

(i) The social security number or taxpayer identification



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number of the claimant or seller, if available. A number is available if one has been issued to the claimant or seller.

(j) A limit of total fees and costs, or the total discount amount in the case of a purchase agreement, to no more than 20 percent of the claimed amount.

(3) For a Florida Uniform Property Purchase Agreement form, proof that the seller has received payment must be filed with the department along with the claim. If proof of payment is not provided, the claim is void.

(4) A registered claimant's representative shall use the Florida Uniform Unclaimed Property Recovery Agreement form or the Florida Uniform Property Purchase Agreement form as the exclusive means of engaging with a claimant or seller to file a claim with the department.

(5) Fees and costs may be owed or paid to a registered claimant's representative only pursuant to the forms authorized by this section and upon approval of the claim filed thereby.

(6) A claimant's representative may not use or distribute any other agreement of any type with respect to the claimant or seller which relates to unclaimed property accounts held by the department or the Chief Financial Officer other than the agreements authorized by this section. Any agreement that is not authorized by this section is null and void.

(7) The forms under subsection (1):

(a) May not contain language that makes the agreement irrevocable; and

(b) May not contain language that creates an assignment of any unclaimed property held by the department.

(8) This section does not supersede the conflicting claims



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provisions of s. 717.1241.

(9) At the time a claim is approved, the department may pay any additional account that is owned by the claimant but has not been claimed at the time of approval, provided that no subsequent claim has been filed and is pending for the claimant at the time of approval.

Section 28. Section 717.1351, Florida Statutes, is repealed.

Section 29. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

===== T I T L E   A M E N D M E N T =====  
And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to consumer protection; amending s.  
501.0051, F.S.; prohibiting consumer reporting  
agencies from charging to reissue or provide a new  
unique personal identifier to a consumer for the  
removal of a security freeze; amending s. 624.307,  
F.S.; revising a requirement for entities licensed or  
authorized by the Department of Financial Services or  
the Office of Insurance Regulation to respond to the  
department's Division of Consumer Services regarding  
consumer complaints; revising administrative penalties  
the division may impose for failure to comply;  
amending s. 626.112, F.S.; prohibiting unlicensed  
activity by an adjusting firm; providing an exemption;



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providing an exemption from licensure for branch firms that meet certain criteria; providing an administrative penalty for failing to apply for certain licensure; providing a criminal penalty for aiding or abetting unlicensed activity; deleting an obsolete provision; amending s. 626.602, F.S.; authorizing the department to disapprove the use of insurance agency names containing the words "Medicare" or "Medicaid"; providing an exception for certain insurance agencies; amending s. 626.621, F.S.; adding grounds on which the department may take certain actions against a license, appointment, or application of certain insurance representatives; amending ss. 626.782 and 626.783, F.S.; revising the definitions of the terms "industrial class insurer" and "ordinary-combination class insurer," respectively, to conform to changes made by the act; repealing s. 626.796, F.S., relating to the representation of multiple insurers in the same industrial debit territory; amending s. 626.8443, F.S.; increasing the maximum period of suspension of a title insurance agent's or agency's license; amending s. 626.854, F.S.; revising the timeframes in which an insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation; amending s. 626.916, F.S.; revising the classes of insurance subject to a disclosure requirement before being eligible for export under the Surplus Lines Law; amending s. 626.9541, F.S.; adding certain acts or practices to



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the definition of sliding; amending s. 626.9741, F.S.;  
requiring an insurer to include certain additional  
information when providing an applicant or insured  
with certain credit report or score information;  
amending ss. 626.9957 and 627.062, F.S.; conforming  
cross-references; amending s. 627.421, F.S.; requiring  
personal lines residential property insurers to  
annually deliver a certain notification to certain  
policyholders within a specified timeframe; amending  
s. 627.502, F.S.; prohibiting life insurers from  
writing new policies of industrial life insurance  
beginning on a certain date; amending s. 627.70131,  
F.S.; providing that communication made to or by an  
insurer's representative, rather than to or by an  
insurer's agent, constitutes communication to or by  
the insurer; requiring an insurer-assigned licensed  
adjuster to provide the policyholder with certain  
information in certain investigations; specifying  
requirements for insurers in notifying policyholders  
for certain changes in assigned adjusters; requiring  
an insurer to establish a process to provide the agent  
of record access to claim status information for a  
certain purpose; defining the term "agent of record";  
requiring insurers to include specified notices when  
providing preliminary or partial damage estimates or  
claim payments; specifying the timeframe in which an  
insurer must pay or deny property insurance claims  
under certain circumstances; providing applicability;  
conforming provisions to changes made by the act;





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997 creating s. 627.7031, F.S.; prohibiting foreign venue  
998 clauses in property insurance policies; providing  
999 applicability; amending s. 627.7142, F.S.; revising  
1000 information contained in the Homeowner Claims Bill of  
1001 Rights; conforming provisions to changes made by the  
1002 act; amending s. 631.57, F.S.; deleting a deductible  
1003 on the Florida Insurance Guaranty Association,  
1004 Incorporated's obligation as to certain covered  
1005 claims; amending s. 648.30, F.S.; prohibiting the  
1006 aiding or abetting of unlicensed activity of a bail  
1007 bond agent or temporary bail bond agent; amending ss.  
1008 717.124, 717.12404, 717.1315, and 717.1322, F.S.;  
1009 conforming provisions to changes made by the act;  
1010 amending s. 717.135, F.S.; replacing provisions  
1011 relating to powers of attorney to recover unclaimed  
1012 property with provisions relating to uniform forms for  
1013 unclaimed property recovery agreements and purchase  
1014 agreements; requiring the department to adopt the  
1015 uniform forms by rule; specifying required information  
1016 and disclosures in the forms; requiring that, for the  
1017 purchase agreement form, proof the seller received  
1018 payment be filed with the department along with the  
1019 claim; requiring registered claimant's representatives  
1020 to use the forms as the exclusive means of engaging  
1021 with a claimant or seller to file claims and  
1022 prohibiting them from using or distributing other  
1023 agreements; specifying a limitation on fees and costs  
1024 owed or paid; prohibiting certain language in the  
1025 forms; authorizing the department to pay additional



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1026 accounts owned by the claimant under certain  
1027 circumstances; providing construction; repealing s.  
1028 717.1351, F.S., relating to the acquisition of  
1029 unclaimed property; providing effective dates.



338934

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/04/2020	.	
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	.	
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The Committee on Banking and Insurance (Rouson) recommended the following:

**Senate Amendment to Amendment (957714) (with title amendment)**

Delete lines 146 - 176.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 960 - 963

and insert:

agency's license; amending s. 626.916,



269288

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/04/2020	.	
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	.	
	.	

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The Committee on Banking and Insurance (Rouson) recommended the following:

**Senate Amendment to Amendment (957714)**

Delete lines 436 - 438  
and insert:  
surplus lines insurance authorized under ss. 626.913-626.937.



278986

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/04/2020	.	
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	.	
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The Committee on Banking and Insurance (Rouson) recommended the following:

**Senate Amendment to Amendment (957714)**

Delete lines 442 - 443  
and insert:  
2020, a property insurance policy sold in this state



241560

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
02/04/2020	.	
	.	
	.	
	.	

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The Committee on Banking and Insurance (Rouson) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 260 - 281

and insert:

contract to adjust a claim without penalty ~~or obligation~~ within  
5 calendar 3-business days after the date on which the contract  
is executed or within 5 calendar 3-business days after the date  
on which the insured or claimant has notified the insurer of the  
claim, whichever is later. During a state of emergency declared  
by the Governor or during the 1-year period after the date of



241560

loss, an insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within 10 calendar days after the date on which the contract is executed or within 10 calendar days after the date on which the insured or claimant has notified the insurer of the claim, whichever is later. The public adjuster's contract must disclose to the insured or claimant his or her right to cancel the contract and advise the insured or claimant that notice of cancellation must be submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, to the public adjuster at the address specified in the contract; ~~provided, during any state of emergency as declared by the Governor and for 1 year after the date of loss, the insured or claimant has 5 business days after the date on which the contract is executed to cancel a public adjuster's contract.~~ An insurer, insurance representative, or insurance agent may not advise against the employment of a public adjuster or encourage the insured to rescind an executed public adjuster agreement.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete line 39

and insert:

without penalty; deleting a provision that insureds or claimants may cancel a public adjuster's contract without obligation under certain circumstances; prohibiting certain actions by an insurer, insurance representative, or insurance agent; amending s.



241560

40

626.916,





814670

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
02/04/2020	.	
	.	
	.	
	.	

---

The Committee on Banking and Insurance (Rouson) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 260 - 281

and insert:

contract to adjust a claim without penalty ~~or obligation~~ within  
5 calendar 3-business days after the date on which the contract  
is executed or within 5 calendar 3-business days after the date  
on which the insured or claimant has notified the insurer of the  
claim, whichever is later. During a state of emergency declared  
by the Governor or during the 1-year period after the date of



814670

11 loss, an insured or a claimant may cancel a public adjuster's  
12 contract to adjust a claim without penalty or obligation within  
13 14 calendar days after the date on which the contract is  
14 executed or within 14 calendar days after the date on which the  
15 insured or claimant has notified the insurer of the claim,  
16 whichever is later. The named insured is responsible for the  
17 payment for tangible work products completed directly relating  
18 to the adjustment of the loss and performed before the insured  
19 rescinded the agreement. The public adjuster's contract must  
20 disclose to the insured or claimant his or her right to cancel  
21 the contract and advise the insured or claimant that notice of  
22 cancellation must be submitted in writing and sent by certified  
23 mail, return receipt requested, or other form of mailing that  
24 provides proof thereof, to the public adjuster at the address  
25 specified in the contract; ~~provided, during any state of~~  
26 ~~emergency as declared by the Governor and for 1 year after the~~  
27 ~~date of loss, the insured or claimant has 5 business days after~~  
28 ~~the date on which the contract is executed to cancel a public~~  
29 ~~adjuster's contract.~~ An insurer, insurance representative, or  
30 insurance agent may not advise against the employment of a  
31 public adjuster or encourage the insured to rescind an executed  
32 public adjuster agreement.

33  
34 ===== T I T L E   A M E N D M E N T =====

35 And the title is amended as follows:

36       Delete line 39

37 and insert:

38       without penalty; deleting a provision that insureds or  
39       claimants may cancel a public adjuster's contract



814670

40       without obligation under certain circumstances;  
41       providing that named insureds are responsible for  
42       certain payments; prohibiting certain actions by an  
43       insurer, insurance representative, or insurance agent;  
44       amending s. 626.916,

By Senator Wright

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20201492\_\_

1 A bill to be entitled  
 2 An act relating to consumer protection; amending s.  
 3 501.0051, F.S.; prohibiting consumer reporting  
 4 agencies from charging to reissue or provide a new  
 5 unique personal identifier to a consumer for the  
 6 removal of a security freeze; amending s. 624.307,  
 7 F.S.; revising a requirement for entities licensed or  
 8 authorized by the Department of Financial Services or  
 9 the Office of Insurance Regulation to respond to the  
 10 department's Division of Consumer Services regarding  
 11 consumer complaints; revising administrative penalties  
 12 the division may impose for failure to comply;  
 13 amending s. 626.112, F.S.; prohibiting unlicensed  
 14 activity by an adjusting firm; providing an exemption;  
 15 providing an exemption from licensure for branch firms  
 16 that meet certain criteria; providing an  
 17 administrative penalty for failing to apply for  
 18 certain licensure; providing a criminal penalty for  
 19 aiding or abetting unlicensed activity; deleting an  
 20 obsolete provision; amending s. 626.602, F.S.;  
 21 authorizing the department to disapprove the use of  
 22 insurance agency names containing the words "Medicare"  
 23 or "Medicaid"; providing an exception for certain  
 24 insurance agencies; amending s. 626.621, F.S.; adding  
 25 grounds on which the department may take certain  
 26 actions against a license, appointment, or application  
 27 of certain insurance representatives; amending ss.  
 28 626.782 and 626.783, F.S.; revising the definitions of  
 29 the terms "industrial class insurer" and "ordinary-

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

14-00928B-20

20201492\_\_

30 combination class insurer," respectively, to conform  
 31 to changes made by the act; repealing s. 626.796,  
 32 F.S., relating to the representation of multiple  
 33 insurers in the same industrial debit territory;  
 34 amending s. 626.8443, F.S.; increasing the maximum  
 35 period of suspension of a title insurance agent's or  
 36 agency's license; amending s. 626.854, F.S.; revising  
 37 the timeframes in which an insured or claimant may  
 38 cancel a public adjuster's contract to adjust a claim  
 39 without penalty or obligation; amending s. 626.916,  
 40 F.S.; revising the classes of insurance subject to a  
 41 disclosure requirement before being eligible for  
 42 export under the Surplus Lines Law; amending s.  
 43 626.9541, F.S.; adding certain acts or practices to  
 44 the definition of sliding; amending s. 626.9741, F.S.;  
 45 requiring an insurer to include certain additional  
 46 information when providing an applicant or insured  
 47 with certain credit report or score information;  
 48 amending ss. 626.9957 and 627.062, F.S.; conforming  
 49 cross-references; amending s. 627.421, F.S.; requiring  
 50 personal lines residential property insurers to  
 51 annually deliver a certain notification to  
 52 policyholders within a specified timeframe; amending  
 53 s. 627.502, F.S.; prohibiting life insurers from  
 54 writing new policies of industrial life insurance  
 55 beginning on a certain date; amending s. 627.70131,  
 56 F.S.; providing that communication made to or by an  
 57 insurer's representative, rather than to or by an  
 58 insurer's agent, constitutes communication to or by

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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59 the insurer; requiring an insurer-assigned licensed  
 60 adjuster to provide the policyholder with certain  
 61 information in certain investigations; requiring that  
 62 certain adjuster reports be provided to policyholders  
 63 within a certain timeframe; specifying requirements  
 64 for insurers in notifying policyholders for certain  
 65 changes in assigned adjusters; requiring an insurer to  
 66 establish a process to provide the agent of record  
 67 access to claim status information for a certain  
 68 purpose; defining the term "agent of record";  
 69 requiring insurers to include specified notices when  
 70 providing preliminary or partial damage estimates or  
 71 claim payments; specifying the timeframe in which an  
 72 insurer must pay or deny property insurance claims  
 73 under certain circumstances; providing applicability;  
 74 conforming provisions to changes made by the act;  
 75 creating s. 627.7031, F.S.; prohibiting foreign venue  
 76 clauses in property insurance policies; providing  
 77 applicability; amending s. 627.7142, F.S.; revising  
 78 information contained in the Homeowner Claims Bill of  
 79 Rights; conforming provisions to changes made by the  
 80 act; amending s. 631.57, F.S.; deleting a deductible  
 81 on the Florida Insurance Guaranty Association,  
 82 Incorporated's obligation as to certain covered  
 83 claims; amending s. 648.30, F.S.; prohibiting the  
 84 aiding or abetting of unlicensed activity of a bail  
 85 bond agent or temporary bail bond agent; amending ss.  
 86 717.124, 717.12404, 717.1315, and 717.1322, F.S.;  
 87 conforming provisions to changes made by the act;

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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88 amending s. 717.135, F.S.; replacing provisions  
 89 relating to powers of attorney to recover unclaimed  
 90 property with provisions relating to uniform forms for  
 91 unclaimed property recovery agreements and purchase  
 92 agreements; requiring the department to adopt the  
 93 uniform forms by rule; specifying required information  
 94 and disclosures in the forms; requiring that, for the  
 95 purchase agreement form, proof the seller received  
 96 payment be filed with the department along with the  
 97 claim; requiring registered claimant's representatives  
 98 to use the forms as the exclusive means of engaging  
 99 with a claimant or seller to file claims and  
 100 prohibiting them from using or distributing other  
 101 agreements; specifying a limitation on fees and costs  
 102 owed or paid; prohibiting certain language in the  
 103 forms; authorizing the department to pay additional  
 104 accounts owned by the claimant under certain  
 105 circumstances; providing construction; repealing s.  
 106 717.1351, F.S., relating to the acquisition of  
 107 unclaimed property; providing an effective date.

108  
 109 Be It Enacted by the Legislature of the State of Florida:

110  
 111 Section 1. Paragraph (b) of subsection (9) of section  
 112 501.0051, Florida Statutes, is amended to read:

113 501.0051 Protected consumer report security freeze.—

114 (9)

115 (b) A consumer reporting agency may not charge to a  
 116 ~~reasonable fee, not to exceed \$10, if the representative fails~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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117 ~~to retain the original unique personal identifier provided by~~  
 118 ~~the consumer reporting agency and the agency must reissue the~~  
 119 ~~unique personal identifier or provide a new unique personal~~  
 120 ~~identifier to the consumer representative.~~

121 Section 2. Paragraph (b) of subsection (10) of section  
 122 624.307, Florida Statutes, is amended to read:

123 624.307 General powers; duties.—

124 (10)

125 (b) Any entity person licensed or issued a certificate of  
 126 authority by the department or the office shall respond, in  
 127 writing, to the division within 20 days after receipt of a  
 128 written request for documents and information from the division  
 129 concerning a consumer complaint. The response must address the  
 130 issues and allegations raised in the complaint and include any  
 131 requested documents. The division may impose an administrative  
 132 penalty for failure to comply with this paragraph of up to  
 133 \$2,500 per violation upon any entity licensed by the department  
 134 or the office ~~and \$250 for the first violation, \$500 for the~~  
 135 ~~second violation, and up to \$1,000 for the third or subsequent~~  
 136 ~~violation upon any individual licensed by the department or the~~  
 137 ~~office.~~

138 Section 3. Present subsection (9) of section 626.112,  
 139 Florida Statutes, is redesignated as subsection (10), a new  
 140 subsection (9) is added to that section, and paragraph (d) of  
 141 subsection (7) and present subsection (9) of that section are  
 142 amended, to read:

143 626.112 License and appointment required; agents, customer  
 144 representatives, adjusters, insurance agencies, service  
 145 representatives, managing general agents, insurance adjusting

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146 firms.—

147 (7)

148 ~~(d) Effective October 1, 2015, the department must~~  
 149 ~~automatically convert the registration of an approved registered~~  
 150 ~~insurance agency to an insurance agency license.~~

151 (9) (a) An individual, firm, partnership, corporation,  
 152 association, or other entity may not act in its own name or  
 153 under a trade name, directly or indirectly, as an adjusting firm  
 154 unless it complies with s. 626.8696 with respect to possessing  
 155 an adjusting firm license for each place of business at which it  
 156 engages in an activity that may be performed only by a licensed  
 157 insurance adjuster. However, an adjusting firm that is owned and  
 158 operated by a single licensed adjuster conducting business in  
 159 his or her individual name and not employing or otherwise using  
 160 the services of or appointing other licensees is exempt from the  
 161 adjusting firm licensing requirements of this subsection.

162 (b) A branch place of business that is established by a  
 163 licensed adjusting firm is considered a branch firm and is not  
 164 required to be licensed if:

165 1. It transacts business under the same name and federal  
 166 tax identification number as the licensed adjusting firm;

167 2. It has designated with the department a primary adjuster  
 168 operating the location as required by s. 626.8695; and

169 3. The address and telephone number of the branch location  
 170 have been submitted to the department for inclusion in the  
 171 licensing record of the licensed adjusting firm within 30 days  
 172 after insurance transactions begin at the branch location.

173 (c) If an adjusting firm is required to be licensed, but  
 174 fails to file an application for licensure in accordance with

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175 this section, the department shall impose on the firm an  
 176 administrative penalty of up to \$10,000.

177 ~~(10)(9)~~ Any person who knowingly transacts insurance or  
 178 otherwise engages in insurance activities in this state without  
 179 a license in violation of this section or who knowingly aids or  
 180 abets an unlicensed person in transacting insurance or otherwise  
 181 engaging in insurance activities in this state without a license  
 182 commits a felony of the third degree, punishable as provided in  
 183 s. 775.082, s. 775.083, or s. 775.084.

184 Section 4. Subsection (4) is added to section 626.602,  
 185 Florida Statutes, to read:

186 626.602 Insurance agency names; disapproval.—The department  
 187 may disapprove the use of any true or fictitious name, other  
 188 than the bona fide natural name of an individual, by any  
 189 insurance agency on any of the following grounds:

190 (4) The name contains the word "Medicare" or "Medicaid." An  
 191 insurance agency whose name contains the word "Medicare" or  
 192 "Medicaid" but which is licensed as of July 1, 2020, may  
 193 continue to use that name as long as the agency's license is  
 194 valid. If the agency's license expires or is suspended or  
 195 revoked, the agency may not be relicensed using that name.

196 Section 5. Subsections (16) and (17) are added to section  
 197 626.621, Florida Statutes, to read:

198 626.621 Grounds for discretionary refusal, suspension, or  
 199 revocation of agent's, adjuster's, customer representative's,  
 200 service representative's, or managing general agent's license or  
 201 appointment.—The department may, in its discretion, deny an  
 202 application for, suspend, revoke, or refuse to renew or continue  
 203 the license or appointment of any applicant, agent, adjuster,

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204 customer representative, service representative, or managing  
 205 general agent, and it may suspend or revoke the eligibility to  
 206 hold a license or appointment of any such person, if it finds  
 207 that as to the applicant, licensee, or appointee any one or more  
 208 of the following applicable grounds exist under circumstances  
 209 for which such denial, suspension, revocation, or refusal is not  
 210 mandatory under s. 626.611:

211 (16) Allowing the personal financial or medical information  
 212 of a consumer or customer to be made available or accessible to  
 213 the general public, regardless of the format in which the record  
 214 is stored.

215 (17) Initiating in-person or telephone solicitation after 9  
 216 p.m. or before 8 a.m. local time of the prospective customer  
 217 unless requested by the prospective customer.

218 Section 6. Section 626.782, Florida Statutes, is amended to  
 219 read:

220 626.782 "Industrial class insurer" defined.—An "industrial  
 221 class insurer" is an insurer collecting premiums on policies of  
 222 writing industrial life insurance, as defined in s. 627.502,  
 223 written before July 1, 2020, and as to such insurance, operates  
 224 under a system of collecting a debit by its agent.

225 Section 7. Section 626.783, Florida Statutes, is amended to  
 226 read:

227 626.783 "Ordinary-combination class insurer" defined.—An  
 228 "ordinary-combination class insurer" is an insurer writing ~~both~~  
 229 ordinary class insurance and collecting premiums on existing  
 230 industrial life class insurance under s. 626.782.

231 Section 8. Section 626.796, Florida Statutes, is repealed.

232 Section 9. Subsection (1) of section 626.8443, Florida

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Statutes, is amended to read:

626.8443 Duration of suspension or revocation.—

(1) The department shall, in its order suspending a title insurance agent's or agency's license or appointment or in its order suspending the eligibility of a person to hold or apply for such license or appointment, specify the period during which the suspension is to be in effect, but such period shall not exceed 2 years ~~1-year~~. The license, ~~or~~ appointment, or eligibility shall remain suspended during the period so specified, subject, however, to any rescission or modification of the order by the department, or modification or reversal thereof by the court, prior to expiration of the suspension period. A license, appointment, or eligibility that ~~which~~ has been suspended may not be reinstated except upon request for such reinstatement, but the department shall not grant such reinstatement if it finds that the circumstance or circumstances for which the license, appointment, and eligibility was suspended still exist or are likely to recur.

Section 10. Subsection (6) of section 626.854, Florida Statutes, is amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(6) Except during a state of emergency declared by the Governor and except during the 1-year period after the date of loss, an insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within 7 calendar ~~3-business~~ days after the date on which the contract

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is executed or within 7 calendar ~~3-business~~ days after the date on which the insured or claimant has notified the insurer of the claim, whichever is later. During a state of emergency declared by the Governor or during the 1-year period after the date of loss, an insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within 30 calendar days after the date on which the contract is executed or within 30 calendar days after the date on which the insured or claimant has notified the insurer of the claim, whichever is later. The public adjuster's contract must disclose to the insured or claimant his or her right to cancel the contract and advise the insured or claimant that notice of cancellation must be submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, to the public adjuster at the address specified in the contract; ~~provided, during any state of emergency as declared by the Governor and for 1 year after the date of loss, the insured or claimant has 5 business days after the date on which the contract is executed to cancel a public adjuster's contract.~~

Section 11. Subsection (3) of section 626.916, Florida Statutes, is amended, and paragraph (f) is added to subsection (1) of that section, to read:

626.916 Eligibility for export.—

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

(f) The insured has signed a disclosure in substantially the following form: "You are agreeing to place coverage in the surplus lines market. Superior coverage may be available in the



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admitted market and at a lesser cost. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer."

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

(b) Paragraphs (1) (a)-(d) do not apply to classes of insurance which are subject to s. 627.062(3) (d) 1. These classes may be exportable under the following conditions:

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

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

3. The insured has signed ~~must sign~~ a disclosure as required under paragraph (1) (f) that substantially provides the following: "You are agreeing to place coverage in the surplus lines market. Superior coverage may be available in the admitted market and at a lesser cost. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer." If the disclosure ~~notice~~ is signed by the insured, the insured is presumed to have been informed and to know that other coverage may be available, and, with respect to the diligent-effort requirement under subsection (1), there is no liability on the part of, and no cause of action arises against, the retail agent presenting the form.

Section 12. Paragraph (z) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or

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deceptive acts or practices defined.—

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

(z) *Sliding*.—Sliding is the act or practice of any of the following:

1. Representing to the applicant that a specific ancillary coverage or product is required by law in conjunction with the purchase of insurance when such coverage or product is not required. ~~+~~

2. Representing to the applicant that a specific ancillary coverage or product is included in the policy applied for without an additional charge when such charge is required. ~~+~~ ~~or~~

3. Charging an applicant for a specific ancillary coverage or product, in addition to the cost of the insurance coverage applied for, without the informed consent of the applicant.

4. Initiating, effectuating, binding, or otherwise issuing a policy of insurance without the prior informed consent of the owner of the property to be insured.

5. Mailing, transmitting, or otherwise submitting by any means an invoice for premium payment to a mortgagee or escrow agent, for the purpose of effectuating an insurance policy, without the prior informed consent of the owner of the property to be insured.

Section 13. Subsection (3) of section 626.9741, Florida Statutes, is amended to read:

626.9741 Use of credit reports and credit scores by insurers.—

(3) An insurer must inform an applicant or insured, in the

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349 same medium as the application is taken, that a credit report or  
 350 score is being requested for underwriting or rating purposes.  
 351 The notification to the consumer must include the following  
 352 language: "The Department of Financial Services offers free  
 353 financial literacy programs to assist you in understanding how  
 354 credit scores are calculated, what factors are considered, and  
 355 how credit works. The Department's toll-free Insurance Consumer  
 356 Helpline is available to assist you with insurance-related  
 357 questions and inquiries. To learn more about the free financial  
 358 literacy programs or for help with insurance, call 1-877-693-  
 359 5236 or visit www.MyFloridaCFO.com." An insurer that makes an  
 360 adverse decision based, in whole or in part, upon a credit  
 361 report must provide at no charge, a copy of the credit report to  
 362 the applicant or insured or provide the applicant or insured  
 363 with the name, address, and telephone number of the consumer  
 364 reporting agency from which the insured or applicant may obtain  
 365 the credit report. The insurer must provide notification to the  
 366 consumer explaining the reasons for the adverse decision. The  
 367 reasons must be provided in sufficiently clear and specific  
 368 language so that a person can identify the basis for the  
 369 insurer's adverse decision. Such notification shall include a  
 370 description of the four primary reasons, or such fewer number as  
 371 existed, which were the primary influences of the adverse  
 372 decision. The use of generalized terms such as "poor credit  
 373 history," "poor credit rating," or "poor insurance score" does  
 374 not meet the explanation requirements of this subsection. A  
 375 credit score may not be used in underwriting or rating insurance  
 376 unless the scoring process produces information in sufficient  
 377 detail to permit compliance with the requirements of this

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378 subsection. It shall not be deemed an adverse decision if, due  
 379 to the insured's credit report or credit score, the insured  
 380 continues to receive a less favorable rate or placement in a  
 381 less favorable tier or company at the time of renewal except for  
 382 renewals or reunderwriting required by this section.  
 383 Section 14. Subsection (1) of section 626.9957, Florida  
 384 Statutes, is amended to read:  
 385 626.9957 Conduct prohibited; denial, revocation, or  
 386 suspension of registration.—  
 387 (1) As provided in s. 626.112, only a person licensed as an  
 388 insurance agent or customer representative may engage in the  
 389 solicitation of insurance. A person who engages in the  
 390 solicitation of insurance as described in s. 626.112(1) without  
 391 such license is subject to the penalties provided under s.  
 392 626.112(10) ~~s. 626.112(9)~~.  
 393 Section 15. Subsection (10) of section 627.062, Florida  
 394 Statutes, is amended to read:  
 395 627.062 Rate standards.—  
 396 (10) Any interest paid pursuant to s. 627.70131(7) ~~s.~~  
 397 ~~627.70131(5)~~ may not be included in the insurer's rate base and  
 398 may not be used to justify a rate or rate change.  
 399 Section 16. Subsection (6) is added to section 627.421,  
 400 Florida Statutes, to read:  
 401 627.421 Delivery of policy.—  
 402 (6) For personal lines residential property insurance  
 403 policies, the insurer shall, between March 3 and April 2 of each  
 404 year, inclusive, deliver a notification to all policyholders via  
 405 mail or e-mail which includes the Homeowner Claims Bill of  
 406 Rights and outlines the hurricane coverage included in the

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policy, including the hurricane deductible and the coverages and exclusions.

Section 17. Section 627.502, Florida Statutes, is amended to read:

627.502 "Industrial life insurance" defined; reporting; prohibition on new policies after a certain date.—

(1) For the purposes of this code, "industrial life insurance" is that form of life insurance written under policies under which premiums are payable monthly or more often, bearing the words "industrial policy" or "weekly premium policy" or words of similar import imprinted upon the policies as part of the descriptive matter, and issued by an insurer that ~~which~~, as to such industrial life insurance, is operating under a system of collecting a debit by its agent.

(2) Every life insurer servicing existing transacting industrial life insurance shall report to the office all annual statement data regarding the exhibit of life insurance, including relevant information for industrial life insurance.

(3) Beginning July 1, 2020, a life insurer may not write a new policy of industrial life insurance.

Section 18. Section 627.70131, Florida Statutes, is amended to read:

627.70131 Insurer's duty to acknowledge communications regarding claims; investigation.—

(1) (a) Upon an insurer's receiving a communication with respect to a claim, the insurer shall, within 14 calendar days, review and acknowledge receipt of such communication unless payment is made within that period of time or unless the failure to acknowledge is caused by factors beyond the control of the

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insurer which reasonably prevent such acknowledgment. If the acknowledgment is not in writing, a notification indicating acknowledgment shall be made in the insurer's claim file and dated. A communication made to or by a representative ~~an agent~~ of an insurer with respect to a claim shall constitute communication to or by the insurer.

(b) As used in this subsection, the term "representative" ~~"agent"~~ means any person to whom an insurer has granted authority or responsibility to receive or make such communications with respect to claims on behalf of the insurer.

(c) This subsection shall not apply to claimants represented by counsel beyond those communications necessary to provide forms and instructions.

(2) Such acknowledgment shall be responsive to the communication. If the communication constitutes a notification of a claim, unless the acknowledgment reasonably advises the claimant that the claim appears not to be covered by the insurer, the acknowledgment shall provide necessary claim forms, and instructions, including an appropriate telephone number.

(3) (a) Unless otherwise provided by the policy of insurance or by law, within 10 business ~~working~~ days after an insurer receives proof of loss statements, the insurer shall begin such investigation as is reasonably necessary unless the failure to begin such investigation is caused by factors beyond the control of the insurer which reasonably prevent the commencement of such investigation.

(b) If such investigation involves a physical inspection of the property, the licensed adjuster assigned by the insurer must provide the policyholder with his or her name, license number,

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and contact information.

(c) An unedited copy of any report received by the insurer, which was produced by the licensed adjuster based upon the physical inspection of the property, must be provided to the policyholder electronically or as a physical copy within 7 days after receipt by the insurer.

(d) If an insurer assigns the claim to a different licensed adjuster after receipt of a report from the adjuster who performed the physical inspection, the insurer must, within 7 days after changing the licensed insurance adjuster assigned to a claim, provide the name, license number, and contact information of the new adjuster to the policyholder. The notification may be sent electronically or via mail. If the notification is a physical letter, it must be postmarked within 7 days after the change in adjuster. Any subsequent change to the assigned adjuster must be handled in accordance with this paragraph.

(4) An insurer shall establish a process by which the agent of record for an insurance policy is provided access to information provided to the policyholder under subsection (3) in order to assist the agent of record in answering the policyholder's questions regarding claims. As used in this subsection, the term "agent of record" means the agent named on the declarations page of the insurance policy.

(5) For purposes of this section, the term "insurer" means any residential property insurer.

(6) (a) When providing a preliminary or partial estimate of damage regarding a claim, an insurer shall include with the estimate the following statement printed in at least 12-point

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bold, uppercase type: THIS ESTIMATE REPRESENTS OUR CURRENT EVALUATION OF THE LOSS TO YOUR INSURED PROPERTY AND MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

(b) When providing a preliminary or partial payment on a claim, an insurer shall include with the payment the following statement printed in at least 12-point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

(7) ~~(5)~~ (a) Within 90 calendar days after an insurer receives notice of an initial, reopened, or supplemental property insurance claim from a policyholder, the insurer shall pay or deny such claim or a portion of the claim unless the failure to pay is caused by factors beyond the control of the insurer which reasonably prevent such payment. Any payment of an initial or supplemental claim or portion of such claim made 90 calendar days after the insurer receives notice of the claim, or made more than 15 days after there are no longer factors beyond the control of the insurer which reasonably prevented such payment, whichever is later, bears interest at the rate set forth in s. 55.03. Interest begins to accrue from the date the insurer receives notice of the claim. The provisions of this subsection may not be waived, voided, or nullified by the terms of the insurance policy. If there is a right to prejudgment interest, the insured shall select whether to receive prejudgment interest or interest under this subsection. Interest is payable when the

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claim or portion of the claim is paid. Failure to comply with this subsection constitutes a violation of this code. However, failure to comply with this subsection does not form the sole basis for a private cause of action.

(b) Notwithstanding subsection (5) ~~(4)~~, for purposes of this subsection, the term "claim" means any of the following:

1. A claim under an insurance policy providing residential coverage as defined in s. 627.4025(1);

2. A claim for structural or contents coverage under a commercial property insurance policy if the insured structure is 10,000 square feet or less; or

3. A claim for contents coverage under a commercial tenant policy if the insured premises is 10,000 square feet or less.

(c) This subsection shall not apply to claims under an insurance policy covering nonresidential commercial structures or contents in more than one state.

(8) This section applies to surplus lines insurers and surplus lines insurance authorized under ss. 626.913-626.937.

Section 19. Section 627.7031, Florida Statutes, is created to read:

627.7031 Foreign venue clauses prohibited.—A property insurance policy sold in this state after July 1, 2020, may not require an insured to pursue dispute resolution through litigation, arbitration, or mediation outside this state. This section applies to surplus lines insurers and surplus lines insurance authorized under ss. 626.913-626.937.

Section 20. Section 627.7142, Florida Statutes, is amended to read:

627.7142 Homeowner Claims Bill of Rights.—An insurer

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issuing a personal lines residential property insurance policy in this state must provide a Homeowner Claims Bill of Rights to a policyholder within 14 days after receiving an initial communication with respect to a claim, unless the claim follows an event that is the subject of a declaration of a state of emergency by the Governor. The purpose of the bill of rights is to summarize, in simple, nontechnical terms, existing Florida law regarding the rights of a personal lines residential property insurance policyholder who files a claim of loss. The Homeowner Claims Bill of Rights is specific to the claims process and does not represent all of a policyholder's rights under Florida law regarding the insurance policy. The Homeowner Claims Bill of Rights does not create a civil cause of action by any individual policyholder or class of policyholders against an insurer or insurers. The failure of an insurer to properly deliver the Homeowner Claims Bill of Rights is subject to administrative enforcement by the office but is not admissible as evidence in a civil action against an insurer. The Homeowner Claims Bill of Rights does not enlarge, modify, or contravene statutory requirements, including, but not limited to, ss. 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner Claims Bill of Rights must state:

#### HOMEOWNER CLAIMS

#### BILL OF RIGHTS

This Bill of Rights is specific to the claims process

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581 and does not represent all of your rights under  
 582 Florida law regarding your policy. There are also  
 583 exceptions to the stated timelines when conditions are  
 584 beyond your insurance company's control. This document  
 585 does not create a civil cause of action by an  
 586 individual policyholder, or a class of policyholders,  
 587 against an insurer or insurers and does not prohibit  
 588 an insurer from exercising its right to repair damaged  
 589 property in compliance with the terms of an applicable  
 590 policy.

592 YOU HAVE THE RIGHT TO:

593 1. Receive from your insurance company an  
 594 acknowledgment of your reported claim within 14  
 595 calendar days after the time you communicated the  
 596 claim.

597 2. Upon written request, receive from your  
 598 insurance company within 30 days after you have  
 599 submitted a complete proof-of-loss statement to your  
 600 insurance company, confirmation that your claim is  
 601 covered in full, partially covered, or denied, or  
 602 receive a written statement that your claim is being  
 603 investigated.

604 3. Within 7 calendar days, receive notification  
 605 from your insurance company if there has been a change  
 606 in the company adjuster who is assigned to your claim.  
 607 The notification must include the assigned adjuster's  
 608 contact information.

609 4. Within 90 calendar days, subject to any dual

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610 interest noted in the policy, receive full settlement  
 611 payment for your claim or payment of the undisputed  
 612 portion of your claim, or your insurance company's  
 613 denial of your claim.

614 5. Receive payment of interest from your  
 615 insurance company, which begins accruing from the date  
 616 your claim is filed if your insurance company does not  
 617 pay full settlement of your claim or the undisputed  
 618 portion of your claim or does not deny your claim  
 619 within 90 calendar days after your claim is filed. The  
 620 interest must be paid when your claim or undisputed  
 621 portion of your claim is paid.

622 6.4- Free mediation of your disputed claim by the  
 623 Florida Department of Financial Services, Division of  
 624 Consumer Services, under most circumstances and  
 625 subject to certain restrictions.

626 7.5- Neutral evaluation of your disputed claim,  
 627 if your claim is for damage caused by a sinkhole and  
 628 is covered by your policy.

629 8.6- Contact the Florida Department of Financial  
 630 Services, Division of Consumer Services' toll-free  
 631 helpline for assistance with any insurance claim or  
 632 questions pertaining to the handling of your claim.  
 633 You can reach the Helpline by phone at...(toll-free  
 634 phone number)..., or you can seek assistance online at  
 635 the Florida Department of Financial Services, Division  
 636 of Consumer Services' website at...(website  
 637 address)....

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639 YOU ARE ADVISED TO:

640 1. Contact your insurance company before entering  
641 into any contract for repairs to confirm any managed  
642 repair policy provisions or optional preferred  
643 vendors.

644 2. Make and document emergency repairs that are  
645 necessary to prevent further damage. Keep the damaged  
646 property, if feasible, keep all receipts, and take  
647 photographs or video of damage before and after any  
648 repairs.

649 3. Carefully read any contract that requires you  
650 to pay out-of-pocket expenses or a fee that is based  
651 on a percentage of the insurance proceeds that you  
652 will receive for repairing or replacing your property.

653 4. Confirm that the contractor you choose is  
654 licensed to do business in Florida. You can verify a  
655 contractor's license and check to see if there are any  
656 complaints against him or her by calling the Florida  
657 Department of Business and Professional Regulation.  
658 You should also ask the contractor for references from  
659 previous work.

660 5. Require all contractors to provide proof of  
661 insurance before beginning repairs.

662 6. Take precautions if the damage requires you to  
663 leave your home, including securing your property and  
664 turning off your gas, water, and electricity, and  
665 contacting your insurance company and provide a phone  
666 number where you can be reached.  
667 Section 21. Paragraph (a) of subsection (1) and subsection

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668 (6) of section 631.57, Florida Statutes, are amended to read:

669 631.57 Powers and duties of the association.—

670 (1) The association shall:

671 (a)1. Be obligated to the extent of the covered claims  
672 existing:

673 a. Prior to adjudication of insolvency and arising within  
674 30 days after the determination of insolvency;

675 b. Before the policy expiration date if less than 30 days  
676 after the determination; or

677 c. Before the insured replaces the policy or causes its  
678 cancellation, if she or he does so within 30 days of the  
679 determination.

680 2. The obligation under subparagraph 1. includes ~~only~~ the  
681 amount of each covered claim which is ~~in excess of \$100 and is~~  
682 less than \$300,000, except that policies providing coverage for  
683 homeowner's insurance shall provide for an additional \$200,000  
684 for the portion of a covered claim which relates only to the  
685 damage to the structure and contents.

686 3.a. Notwithstanding subparagraph 2., the obligation under  
687 subparagraph 1. for policies covering condominium associations  
688 or homeowners' associations, which associations have a  
689 responsibility to provide insurance coverage on residential  
690 units within the association, shall include that amount of each  
691 covered property insurance claim which is less than \$100,000  
692 multiplied by the number of condominium units or other  
693 residential units; however, as to homeowners' associations, this  
694 sub-subparagraph applies only to claims for damage or loss to  
695 residential units and structures attached to residential units.

696 b. Notwithstanding sub-subparagraph a., the association has

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no obligation to pay covered claims that are to be paid from the proceeds of bonds issued under s. 631.695. However, the association shall assign and pledge the first available moneys from all or part of the assessments to be made under paragraph (3)(a) to or on behalf of the issuer of such bonds for the benefit of the holders of such bonds. The association shall administer any such covered claims and present valid covered claims for payment in accordance with the provisions of the assistance program in connection with which such bonds have been issued.

4. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises.

(6) The association may extend the time limits specified in paragraph (1)(a) by up to an additional 60 days ~~or waive the applicability of the \$100 deductible specified in paragraph (1)(a)~~ if the board determines that either or both such actions are necessary to facilitate the bulk assumption of obligations.

Section 22. Section 648.30, Florida Statutes, is amended to read:

648.30 Licensure and appointment required; prohibited acts; penalties.—

(1) A person may not act in the capacity of a bail bond agent or temporary bail bond agent or perform any of the functions, duties, or powers prescribed for bail bond agents or temporary bail bond agents under this chapter unless that person is qualified, licensed, and appointed as provided in this chapter.

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(2) A person may not represent himself or herself to be a bail enforcement agent, bounty hunter, or other similar title in this state.

(3) A person, other than a certified law enforcement officer, may not apprehend, detain, or arrest a principal on a bond, wherever issued, unless that person is qualified, licensed, and appointed as provided in this chapter or licensed as a bail bond agent or bail bond enforcement agent, or holds an equivalent license by the state where the bond was written.

(4) Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Any licensee under this chapter who knowingly aids or abets an unlicensed person in violating this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 23. Paragraphs (b) and (c) of subsection (4) and subsections (1) and (10) of section 717.124, Florida Statutes, are amended to read:

717.124 Unclaimed property claims.—

(1) Any person, excluding another state, claiming an interest in any property paid or delivered to the department under this chapter may file with the department a claim on a form prescribed by the department and verified by the claimant or the claimant's representative. The claimant's representative must be an attorney licensed to practice law in this state, a licensed Florida-certified public accountant, or a private investigator licensed under chapter 493. The claimant's representative must be registered with the department under this



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chapter. The claimant, or the claimant's representative, shall provide the department with a legible copy of a valid driver license of the claimant at the time the original claim form is filed. If the claimant has not been issued a valid driver license at the time the original claim form is filed, the department shall be provided with a legible copy of a photographic identification of the claimant issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. In lieu of photographic identification, a notarized sworn statement by the claimant may be provided which affirms the claimant's identity and states the claimant's full name and address. The claimant must produce to the notary photographic identification of the claimant issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. The notary shall indicate the notary's full address on the notarized sworn statement. Any claim filed without the required identification or the sworn statement with the original claim form and the original Florida Uniform Unclaimed Property Recovery Agreement or Florida Uniform Property Purchase Agreement ~~power of attorney or purchase agreement~~, if applicable, is void.

(a) Within 90 days after receipt of a claim, the department may return any claim that provides for the receipt of fees and costs greater than that permitted under this chapter or that contains any apparent errors or omissions. The department may also request that the claimant or the claimant's representative

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provide additional information. The department shall retain a copy or electronic image of the claim.

(b) A claimant or the claimant's representative shall be deemed to have withdrawn a claim if no response to the department's request for additional information is received by the department within 60 days after the notification of any apparent errors or omissions.

(c) Within 90 days after receipt of the claim, or the response of the claimant or the claimant's representative to the department's request for additional information, whichever is later, the department shall determine each claim. Such determination shall contain a notice of rights provided by ss. 120.569 and 120.57. The 90-day period shall be extended by 60 days if the department has good cause to need additional time or if the unclaimed property:

1. Is owned by a person who has been a debtor in bankruptcy;

2. Was reported with an address outside of the United States;

3. Is being claimed by a person outside of the United States; or

4. Contains documents filed in support of the claim that are not in the English language and have not been accompanied by an English language translation.

(d) The department shall deny any claim under which the claimant's representative has refused to authorize the department to reduce the fees and costs to the maximum permitted under this chapter.

(4)

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813 (b) If an owner authorizes an attorney licensed to practice  
 814 law in this state, Florida-certified public accountant, or  
 815 private investigator licensed under chapter 493, and registered  
 816 with the department under this chapter, to claim the unclaimed  
 817 property on the owner's behalf, the department is authorized to  
 818 make distribution of the property or money in accordance with  
 819 the Florida Uniform Unclaimed Property Recovery Agreement or  
 820 Florida Uniform Property Purchase Agreement under s. 717.135  
 821 ~~such power of attorney~~. The original Florida Uniform Unclaimed  
 822 Property Recovery Agreement or Florida Uniform Property Purchase  
 823 Agreement ~~power of attorney~~ must be executed by the claimant or  
 824 seller owner and must be filed with the department.

825 (c)1. Payments of approved claims for unclaimed cash  
 826 accounts shall be made to the owner after deducting any fees and  
 827 costs authorized pursuant to a Florida Uniform Unclaimed  
 828 Property Recovery Agreement ~~written power of attorney~~. The  
 829 contents of a safe-deposit box shall be delivered directly to  
 830 the claimant ~~notwithstanding any power of attorney or agreement~~  
 831 ~~to the contrary~~.

832 2. Payments of fees and costs authorized pursuant to a  
 833 Florida Uniform Unclaimed Property Recovery Agreement ~~written~~  
 834 ~~power of attorney~~ for approved claims must ~~shall~~ be made or  
 835 issued to the law firm of the designated attorney licensed to  
 836 practice law in this state, the public accountancy firm of the  
 837 licensed Florida-certified public accountant, or the designated  
 838 employing private investigative agency licensed by this state.  
 839 Such payments shall be made by electronic funds transfer and may  
 840 be made on such periodic schedule as the department may define  
 841 by rule, provided the payment intervals do not exceed 31 days.

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842 Payment made to an attorney licensed in this state, a Florida-  
 843 certified public accountant, or a private investigator licensed  
 844 under chapter 493, operating individually or as a sole  
 845 practitioner, shall be to the attorney, certified public  
 846 accountant, or private investigator.

847 (10) Notwithstanding any other provision of this chapter,  
 848 the department may develop a process by which a registered  
 849 claimant's representative or a buyer of unclaimed property may  
 850 electronically submit to the department an electronic image of a  
 851 completed claim and claims-related documents pursuant to this  
 852 chapter, including a Florida Uniform Unclaimed Property Recovery  
 853 Agreement or Florida Uniform Property Purchase Agreement ~~a~~  
 854 ~~limited power of attorney or purchase agreement~~ that has been  
 855 manually signed and dated by a claimant or seller pursuant to s.  
 856 717.135 ~~or s. 717.1351~~, after the claimant's representative or  
 857 the buyer of unclaimed property receives the original documents  
 858 provided by the claimant or the seller for any claim. Each claim  
 859 filed by a registered claimant's representative or a buyer of  
 860 unclaimed property must include a statement by the claimant's  
 861 representative or the buyer of unclaimed property attesting that  
 862 all documents are true copies of the original documents and that  
 863 all original documents are physically in the possession of the  
 864 claimant's representative or the buyer of unclaimed property.  
 865 All original documents must be kept in the original form, by  
 866 claim number, under the secure control of the claimant's  
 867 representative or the buyer of unclaimed property and must be  
 868 available for inspection by the department in accordance with s.  
 869 717.1315. The department may adopt rules to implement this  
 870 subsection.

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871 Section 24. Subsection (2) of section 717.12404, Florida  
872 Statutes, is amended to read:

873 717.12404 Claims on behalf of a business entity or trust.—

874 (2) Claims on behalf of a dissolved corporation, a business  
875 entity other than an active corporation, or a trust must include  
876 a legible copy of a valid driver license of the person acting on  
877 behalf of the dissolved corporation, business entity other than  
878 an active corporation, or trust. If the person has not been  
879 issued a valid driver license, the department shall be provided  
880 with a legible copy of a photographic identification of the  
881 person issued by the United States, a foreign nation, or a  
882 political subdivision or agency thereof. In lieu of photographic  
883 identification, a notarized sworn statement by the person may be  
884 provided which affirms the person's identity and states the  
885 person's full name and address. The person must produce his or  
886 her photographic identification issued by the United States, a  
887 state or territory of the United States, a foreign nation, or a  
888 political subdivision or agency thereof or other evidence deemed  
889 acceptable by the department by rule. The notary shall indicate  
890 the notary's full address on the notarized sworn statement. Any  
891 claim filed without the required identification or the sworn  
892 statement with the original claim form and the original Florida  
893 Uniform Unclaimed Property Recovery Agreement or Florida Uniform  
894 Property Purchase Agreement ~~power of attorney~~, if applicable, is  
895 void.

896 Section 25. Subsection (1) of section 717.1315, Florida  
897 Statutes, is amended to read:

898 717.1315 Retention of records by claimant's representatives  
899 and buyers of unclaimed property.—

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900 (1) Every claimant's representative and buyer of unclaimed  
901 property shall keep and use in his or her business such books,  
902 accounts, and records of the business conducted under this  
903 chapter to enable the department to determine whether such  
904 person is complying with this chapter and the rules adopted by  
905 the department under this chapter. Every claimant's  
906 representative and buyer of unclaimed property shall preserve  
907 such books, accounts, and records, including every Florida  
908 Uniform Unclaimed Property Recovery Agreement or Florida Uniform  
909 Property Purchase Agreement ~~power of attorney or agreement~~  
910 between the owner and such claimant's representative or buyer,  
911 for at least 3 years after the date of the initial ~~power of~~  
912 ~~attorney or~~ agreement.

913 Section 26. Paragraph (j) of subsection (1) of section  
914 717.1322, Florida Statutes, is amended to read:

915 717.1322 Administrative and civil enforcement.—

916 (1) The following acts are violations of this chapter and  
917 constitute grounds for an administrative enforcement action by  
918 the department in accordance with the requirements of chapter  
919 120 and for civil enforcement by the department in a court of  
920 competent jurisdiction:

921 (j) Requesting or receiving compensation for notifying a  
922 person of his or her unclaimed property or assisting another  
923 person in filing a claim for unclaimed property, unless the  
924 person is an attorney licensed to practice law in this state, a  
925 Florida-certified public accountant, or a private investigator  
926 licensed under chapter 493, or entering into, or making a  
927 solicitation to enter into, an agreement ~~a power of attorney~~ to  
928 file a claim for unclaimed property owned by another, or a

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contract or agreement to purchase unclaimed property, unless such person is registered with the department pursuant to this chapter and an attorney licensed to practice law in this state in the regular practice of her or his profession, a Florida-certified public accountant who is acting within the scope of the practice of public accounting as defined in chapter 473, or a private investigator licensed under chapter 493. This subsection does not apply to a person who has been granted a durable power of attorney to convey and receive all of the real and personal property of the owner, is the court-appointed guardian of the owner, has been employed as an attorney or qualified representative to contest the department's denial of a claim, or has been employed as an attorney to probate the estate of the owner or an heir or legatee of the owner.

Section 27. Section 717.135, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 717.135, F.S., for present text.)

717.135 Recovery agreements and purchase agreements for claims filed by claimant's representative; fees and costs.—

(1) In order to protect the interests of owners of unclaimed property, the department shall adopt by rule a form entitled "Florida Uniform Unclaimed Property Recovery Agreement" and a form entitled "Florida Uniform Property Purchase Agreement."

(2) The Florida Uniform Unclaimed Property Recovery Agreement form and the Florida Uniform Property Purchase Agreement form must include and disclose:

(a) The total dollar amount of unclaimed property accounts

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claimed or sold.

(b) Either the total percentage of all authorized fees and costs to be paid to the claimant's representative or the percentage of the value of the property to be paid as net gain to the purchasing registered claimant's representative.

(c) Either the total dollar amount to be deducted and received from the claimant as fees and costs by the claimant's representative or the total net dollar amount to be received by the purchasing registered claimant's representative.

(d) The net dollar amount to be received by the claimant or seller.

(e) For each account claimed, the unclaimed property account number and name of the apparent owner, as listed on the department's database.

(f) For the Florida Uniform Property Purchase Agreement, a statement that the purchase price will be remitted to the seller within 30 days after the execution of the form by the seller.

(g) The name, address, e-mail address, phone number, and license number of the registered claimant's representative.

(h) The manual signature of the claimant or seller and the date signed.

(i) The social security number or taxpayer identification number of the claimant or seller, if available. A number is available if one has been issued to the claimant or seller.

(j) A limit of total fees and costs, or the total discount amount in the case of a purchase agreement, to no more than 20 percent of the claimed amount.

(3) For a Florida Uniform Property Purchase Agreement form, proof that the seller has received payment must be filed with

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987 the department along with the claim. If proof of payment is not  
 988 provided, the claim is void.

989 (4) A registered claimant's representative shall use the  
 990 Florida Uniform Unclaimed Property Recovery Agreement form or  
 991 the Florida Uniform Property Purchase Agreement form as the  
 992 exclusive means of engaging with a claimant or seller to file a  
 993 claim with the department.

994 (5) Fees and costs may be owed or paid to a registered  
 995 claimant's representative only pursuant to the forms authorized  
 996 by this section and upon approval of the claim filed thereby.

997 (6) A claimant's representative may not use or distribute  
 998 any other agreement of any type with respect to the claimant or  
 999 seller which relates to unclaimed property accounts held by the  
 1000 department or the Chief Financial Officer other than the  
 1001 agreements authorized by this section. Any agreement that is not  
 1002 authorized by this section is null and void.

1003 (7) The forms under subsection (1):  
 1004 (a) May not contain language that makes the agreement  
 1005 irrevocable; and

1006 (b) May not contain language that creates an assignment of  
 1007 any unclaimed property held by the department.

1008 (8) This section does not supersede the conflicting claims  
 1009 provisions of s. 717.1241.

1010 (9) At the time a claim is approved, the department may pay  
 1011 any additional account that is owned by the claimant but has not  
 1012 been claimed at the time of approval, provided that no  
 1013 subsequent claim has been filed and is pending for the claimant  
 1014 at the time of approval.

1015 Section 28. Section 717.1351, Florida Statutes, is

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1016 repealed.

1017 Section 29. This act shall take effect upon becoming a law.



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/04/2020	.	
	.	
	.	
	.	

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The Committee on Banking and Insurance (Wright) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (b) of subsection (9) of section  
501.0051, Florida Statutes, is amended to read:

501.0051 Protected consumer report security freeze.—

(9)

(b) A consumer reporting agency may not charge to a  
~~reasonable fee, not to exceed \$10, if the representative fails~~



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~~to retain the original unique personal identifier provided by the consumer reporting agency and the agency must~~ reissue the unique personal identifier or provide a new unique personal identifier to the consumer ~~representative~~.

Section 2. Paragraph (b) of subsection (10) of section 624.307, Florida Statutes, is amended to read:

624.307 General powers; duties.—

(10)

(b) Any entity ~~person~~ licensed or issued a certificate of authority by the department or the office shall respond, in writing, to the division within 20 days after receipt of a written request for documents and information from the division concerning a consumer complaint. The response must address the issues and allegations raised in the complaint and include any requested documents concerning the consumer complaint not subject to attorney-client or work-product privilege. The division may impose an administrative penalty for failure to comply with this paragraph of up to \$2,500 per violation upon any entity licensed by the department or the office ~~and \$250 for the first violation, \$500 for the second violation, and up to \$1,000 for the third or subsequent violation upon any individual licensed by the department or the office.~~

Section 3. Present subsection (9) of section 626.112, Florida Statutes, is redesignated as subsection (10), a new subsection (9) is added to that section, and paragraph (d) of subsection (7) and present subsection (9) of that section are amended, to read:

626.112 License and appointment required; agents, customer representatives, adjusters, insurance agencies, service



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representatives, managing general agents, insurance adjusting firms.—

(7)

~~(d) Effective October 1, 2015, the department must automatically convert the registration of an approved registered insurance agency to an insurance agency license.~~

(9) (a) An individual, firm, partnership, corporation, association, or other entity may not act in its own name or under a trade name, directly or indirectly, as an adjusting firm unless it complies with s. 626.8696 with respect to possessing an adjusting firm license for each place of business at which it engages in an activity that may be performed only by a licensed insurance adjuster. However, an adjusting firm that is owned and operated by a single licensed adjuster conducting business in his or her individual name and not employing or otherwise using the services of or appointing other licensees is exempt from the adjusting firm licensing requirements of this subsection.

(b) A branch place of business that is established by a licensed adjusting firm is considered a branch firm and is not required to be licensed if:

1. It transacts business under the same name and federal tax identification number as the licensed adjusting firm;

2. It has designated with the department a primary adjuster operating the location as required by s. 626.8695; and

3. The address and telephone number of the branch location have been submitted to the department for inclusion in the licensing record of the licensed adjusting firm within 30 days after insurance transactions begin at the branch location.

(c) If an adjusting firm is required to be licensed but





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fails to file an application for licensure in accordance with this section, the department shall impose on the firm an administrative penalty of up to \$10,000.

~~(10)~~~~(9)~~ Any person who knowingly transacts insurance or otherwise engages in insurance activities in this state without a license in violation of this section or who knowingly aids or abets an unlicensed person in transacting insurance or otherwise engaging in insurance activities in this state without a license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Subsection (4) is added to section 626.602, Florida Statutes, to read:

626.602 Insurance agency names; disapproval.—The department may disapprove the use of any true or fictitious name, other than the bona fide natural name of an individual, by any insurance agency on any of the following grounds:

(4) The name contains the word "Medicare" or "Medicaid." An insurance agency whose name contains the word "Medicare" or "Medicaid" but which is licensed as of July 1, 2020, may continue to use that name as long as the agency's license is valid. If the agency's license expires or is suspended or revoked, the agency may not be relicensed using that name.

Section 5. Subsections (16) and (17) are added to section 626.621, Florida Statutes, to read:

626.621 Grounds for discretionary refusal, suspension, or revocation of agent's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.—The department may, in its discretion, deny an application for, suspend, revoke, or refuse to renew or continue



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the license or appointment of any applicant, agent, adjuster, customer representative, service representative, or managing general agent, and it may suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.611:

(16) Taking an action that allows the personal financial or medical information of a consumer or customer to be made available or accessible to the general public, regardless of the format in which the record is stored.

(17) Initiating in-person or telephone solicitation after 9 p.m. or before 8 a.m. local time of the prospective customer unless requested by the prospective customer.

Section 6. Section 626.782, Florida Statutes, is amended to read:

626.782 "Industrial class insurer" defined.—An "industrial class insurer" is an insurer collecting premiums on policies of ~~writing~~ industrial life insurance, as defined in s. 627.502, written before July 1, 2020, and as to such insurance, operates under a system of collecting a debit by its agent.

Section 7. Section 626.783, Florida Statutes, is amended to read:

626.783 "Ordinary-combination class insurer" defined.—An "ordinary-combination class insurer" is an insurer writing ~~both~~ ordinary class insurance and collecting premiums on existing industrial life ~~class~~ insurance under s. 626.782.

Section 8. Section 626.796, Florida Statutes, is repealed.



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Section 9. Subsection (1) of section 626.8443, Florida Statutes, is amended to read:

626.8443 Duration of suspension or revocation.—

(1) The department shall, in its order suspending a title insurance agent's or agency's license or appointment or in its order suspending the eligibility of a person to hold or apply for such license or appointment, specify the period during which the suspension is to be in effect, but such period shall not exceed 2 years ~~1 year~~. The license, ~~or~~ appointment, or eligibility shall remain suspended during the period so specified, subject, however, to any rescission or modification of the order by the department, or modification or reversal thereof by the court, prior to expiration of the suspension period. A license, appointment, or eligibility that ~~which~~ has been suspended may not be reinstated except upon request for such reinstatement, but the department shall not grant such reinstatement if it finds that the circumstance or circumstances for which the license, appointment, and eligibility was suspended still exist or are likely to recur.

Section 10. Subsection (6) of section 626.854, Florida Statutes, is amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(6) Except during a state of emergency declared by the Governor and except during the 1-year period after the date of loss, an insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within



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156 7 calendar ~~3-business~~ days after the date on which the contract  
157 is executed or within 7 calendar ~~3-business~~ days after the date  
158 on which the insured or claimant has notified the insurer of the  
159 claim, whichever is later. During a state of emergency declared  
160 by the Governor or during the 1-year period after the date of  
161 loss, an insured or claimant may cancel a public adjuster's  
162 contract to adjust a claim without penalty or obligation within  
163 21 calendar days after the date on which the contract is  
164 executed or within 21 calendar days after the date on which the  
165 insured or claimant has notified the insurer of the claim,  
166 whichever is later. The public adjuster's contract must disclose  
167 to the insured or claimant his or her right to cancel the  
168 contract and advise the insured or claimant that notice of  
169 cancellation must be submitted in writing and sent by certified  
170 mail, return receipt requested, or other form of mailing that  
171 provides proof thereof, to the public adjuster at the address  
172 specified in the contract; ~~provided, during any state of~~  
173 ~~emergency as declared by the Governor and for 1 year after the~~  
174 ~~date of loss, the insured or claimant has 5 business days after~~  
175 ~~the date on which the contract is executed to cancel a public~~  
176 ~~adjuster's contract.~~

177 Section 11. Effective January 1, 2021, subsection (3) of  
178 section 626.916, Florida Statutes, is amended, and paragraph (f)  
179 is added to subsection (1) of that section, to read:

180 626.916 Eligibility for export.—

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

183 (f) The insured has signed or otherwise provided documented  
184 acknowledgement of a disclosure in substantially the following



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form: "You are agreeing to place coverage in the surplus lines market. Coverage may be available in the admitted market. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer."

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

(b) Paragraphs (1)(a)-(d) do not apply to classes of insurance which are subject to s. 627.062(3)(d)1. These classes may be exportable under the following conditions:

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

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

3. The insured has complied with ~~must sign a disclosure paragraph (1)(f) that substantially provides the following: "You are agreeing to place coverage in the surplus lines market. Superior coverage may be available in the admitted market and at a lesser cost. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer."~~ If the disclosure ~~notice~~ is signed by the insured, the insured is presumed to have been informed and to know that other coverage may be available, and, with respect to the diligent-effort requirement under subsection (1), there is no liability on the part of, and no cause of action arises against, the retail agent presenting the form.

Section 12. Paragraph (z) of subsection (1) of section



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626.9541, Florida Statutes, is amended to read:

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

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

(z) *Sliding*.—Sliding is the act or practice of any of the following:

1. Representing to the applicant that a specific ancillary coverage or product is required by law in conjunction with the purchase of insurance when such coverage or product is not required.~~†~~

2. Representing to the applicant that a specific ancillary coverage or product is included in the policy applied for without an additional charge when such charge is required.~~† or~~

3. Charging an applicant for a specific ancillary coverage or product, in addition to the cost of the insurance coverage applied for, without the informed consent of the applicant.

4. Initiating, effectuating, binding, or otherwise issuing a policy of insurance without the prior informed consent of the owner of the property to be insured.

5. Mailing, transmitting, or otherwise submitting by any means an invoice for premium payment to a mortgagee or escrow agent, for the purpose of effectuating an insurance policy, without the prior informed consent of the owner of the property to be insured. However, this subparagraph does not apply in cases where the mortgagee or escrow is renewing insurance or issuing collateral protection insurance, as defined in s. 624.6085, pursuant to the mortgage or other pertinent loan



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documents or communications regarding the property.

Section 13. Effective January 1, 2021, subsection (3) of section 626.9741, Florida Statutes, is amended to read:

626.9741 Use of credit reports and credit scores by insurers.—

(3) An insurer must inform an applicant or insured, in the same medium as the application is taken, that a credit report or score is being requested for underwriting or rating purposes.

The notification to the consumer must include the following language: "The Department of Financial Services offers free financial literacy programs to assist you with insurance-related questions, including how credit works and how credit scores are calculated. To learn more, call 1-877-693-5236 or visit

www.MyFloridaCFO.com." An insurer that makes an adverse decision based, in whole or in part, upon a credit report must provide at no charge, a copy of the credit report to the applicant or insured or provide the applicant or insured with the name, address, and telephone number of the consumer reporting agency from which the insured or applicant may obtain the credit report. The insurer must provide notification to the consumer explaining the reasons for the adverse decision. The reasons must be provided in sufficiently clear and specific language so that a person can identify the basis for the insurer's adverse decision. Such notification shall include a description of the four primary reasons, or such fewer number as existed, which were the primary influences of the adverse decision. The use of generalized terms such as "poor credit history," "poor credit rating," or "poor insurance score" does not meet the explanation requirements of this subsection. A credit score may not be used



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in underwriting or rating insurance unless the scoring process produces information in sufficient detail to permit compliance with the requirements of this subsection. It shall not be deemed an adverse decision if, due to the insured's credit report or credit score, the insured continues to receive a less favorable rate or placement in a less favorable tier or company at the time of renewal except for renewals or reunderwriting required by this section.

Section 14. Subsection (1) of section 626.9957, Florida Statutes, is amended to read:

626.9957 Conduct prohibited; denial, revocation, or suspension of registration.—

(1) As provided in s. 626.112, only a person licensed as an insurance agent or customer representative may engage in the solicitation of insurance. A person who engages in the solicitation of insurance as described in s. 626.112(1) without such license is subject to the penalties provided under s. 626.112(10) ~~s. 626.112(9)~~.

Section 15. Subsection (10) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(10) Any interest paid pursuant to s. 627.70131(7) ~~s. 627.70131(5)~~ may not be included in the insurer's rate base and may not be used to justify a rate or rate change.

Section 16. Effective January 1, 2021, subsection (6) is added to section 627.421, Florida Statutes, to read:

627.421 Delivery of policy.—

(6) For personal lines residential property insurance policies, the insurer shall, between March 1 and June 1 of each





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year, inclusive, deliver an outline of the hurricane coverage as specified in s. 627.4143(3), along with a current policy declarations page. This requirement shall apply only for those insureds who have provided the insurer with a valid e-mail address. This information shall be delivered directly to the policyholder via email or by an e-mail notice of information being posted to a secure web-based policy information page.

Section 17. Section 627.502, Florida Statutes, is amended to read:

627.502 "Industrial life insurance" defined; reporting; prohibition on new policies after a certain date.—

(1) For the purposes of this code, "industrial life insurance" is that form of life insurance written under policies under which premiums are payable monthly or more often, bearing the words "industrial policy" or "weekly premium policy" or words of similar import imprinted upon the policies as part of the descriptive matter, and issued by an insurer that ~~which~~, as to such industrial life insurance, is operating under a system of collecting a debit by its agent.

(2) Every life insurer servicing existing ~~transacting~~ industrial life insurance shall report to the office all annual statement data regarding the exhibit of life insurance, including relevant information for industrial life insurance.

(3) Beginning July 1, 2020, a life insurer may not write a new policy of industrial life insurance.

Section 18. Effective January 1, 2021, section 627.70131, Florida Statutes, is amended to read:

627.70131 Insurer's duty to acknowledge communications regarding claims; investigation.—



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(1)(a) Upon an insurer's receiving a communication with respect to a claim, the insurer shall, within 14 calendar days, review and acknowledge receipt of such communication unless payment is made within that period of time or unless the failure to acknowledge is caused by factors beyond the control of the insurer which reasonably prevent such acknowledgment. If the acknowledgment is not in writing, a notification indicating acknowledgment shall be made in the insurer's claim file and dated. A communication made to or by a representative ~~an agent~~ of an insurer with respect to a claim shall constitute communication to or by the insurer.

(b) As used in this subsection, the term "representative" ~~"agent"~~ means any person to whom an insurer has granted authority or responsibility to receive or make such communications with respect to claims on behalf of the insurer.

(c) This subsection shall not apply to claimants represented by counsel beyond those communications necessary to provide forms and instructions.

(2) Such acknowledgment shall be responsive to the communication. If the communication constitutes a notification of a claim, unless the acknowledgment reasonably advises the claimant that the claim appears not to be covered by the insurer, the acknowledgment shall provide necessary claim forms, and instructions, including an appropriate telephone number.

(3)(a) Unless otherwise provided by the policy of insurance or by law, within 10 business ~~working~~ days after an insurer receives proof of loss statements, the insurer shall begin such investigation as is reasonably necessary unless the failure to begin such investigation is caused by factors beyond the control



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of the insurer which reasonably prevent the commencement of such investigation.

(b) If such investigation involves a physical inspection of the property, the licensed adjuster assigned by the insurer must provide the policyholder with his or her name, license number, and contact information.

(c) If an insurer assigns the claim to a different licensed adjuster from the adjuster who performed the physical inspection, the insurer must, within 14 days after changing the licensed insurance adjuster assigned to a claim, provide the name, license number, and contact information of the new adjuster to the policyholder. The notification may be made electronically or via mail. If the notification is a physical letter, it must be postmarked within 14 days after the change in adjuster. The policyholder must be provided notice of any subsequent change to the assigned adjuster as set forth by this paragraph.

(4) An insurer shall establish a process by which an agent of record for an insurance policy receives the same notice as the policyholder as provided in paragraphs (3)(b) and (3)(c) in order to assist the agent of record in answering the policyholder's questions regarding claims. As used in this subsection, the term "agent of record" means the agent named on the declarations page of the insurance policy or, if there is no agent of record, another designated point of contact.

(5) For purposes of this section, the term "insurer" means any residential property insurer.

(6)(a) When providing a preliminary or partial estimate of damage regarding a claim, an insurer shall include with the



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estimate the following statement printed in at least 12-point bold, uppercase type: THIS ESTIMATE REPRESENTS OUR CURRENT EVALUATION OF THE COVERED DAMAGES TO YOUR INSURED PROPERTY AND MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

(b) When providing a payment on a claim which is not the full and final payment for the claim, an insurer shall include with the payment the following statement printed in at least 12-point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

(7)~~(5)~~(a) Within 90 calendar days after an insurer receives notice of an initial, reopened, or supplemental property insurance claim from a policyholder, the insurer shall pay or deny such claim or a portion of the claim unless the failure to pay is caused by factors beyond the control of the insurer which reasonably prevent such payment. Any payment of an initial or supplemental claim or portion of such claim made 90 calendar days after the insurer receives notice of the claim, or made more than 15 days after there are no longer factors beyond the control of the insurer which reasonably prevented such payment, whichever is later, bears interest at the rate set forth in s. 55.03. Interest begins to accrue from the date the insurer receives notice of the claim. The provisions of this subsection may not be waived, voided, or nullified by the terms of the insurance policy. If there is a right to prejudgment interest,



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the insured shall select whether to receive prejudgment interest or interest under this subsection. Interest is payable when the claim or portion of the claim is paid. Failure to comply with this subsection constitutes a violation of this code. However, failure to comply with this subsection does not form the sole basis for a private cause of action.

(b) Notwithstanding subsection (5) ~~(4)~~, for purposes of this subsection, the term "claim" means any of the following:

1. A claim under an insurance policy providing residential coverage as defined in s. 627.4025(1);

2. A claim for structural or contents coverage under a commercial property insurance policy if the insured structure is 10,000 square feet or less; or

3. A claim for contents coverage under a commercial tenant policy if the insured premises is 10,000 square feet or less.

(c) This subsection shall not apply to claims under an insurance policy covering nonresidential commercial structures or contents in more than one state.

(8) This section also applies to surplus lines insurers and surplus lines insurance authorized under ss. 626.913-626.937 providing residential coverage, where coverage on the primary insured structure is less than \$700,000.

Section 19. Section 627.7031, Florida Statutes, is created to read:

627.7031 Foreign venue clauses prohibited.—After July 1, 2020, a personal residential property insurance policy sold in this state, insuring only real property located in this state, may not require an insured to pursue dispute resolution through litigation, arbitration, or mediation outside this state. This



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section also applies to surplus lines insurers and surplus lines insurance authorized under ss. 626.913-626.937.

Section 20. Effective January 1, 2021, section 627.7142, Florida Statutes, is amended to read:

627.7142 Homeowner Claims Bill of Rights.—An insurer issuing a personal lines residential property insurance policy in this state must provide a Homeowner Claims Bill of Rights to a policyholder within 14 days after receiving an initial communication with respect to a claim, ~~unless the claim follows an event that is the subject of a declaration of a state of emergency by the Governor.~~ The purpose of the bill of rights is to summarize, in simple, nontechnical terms, existing Florida law regarding the rights of a personal lines residential property insurance policyholder who files a claim of loss. The Homeowner Claims Bill of Rights is specific to the claims process and does not represent all of a policyholder's rights under Florida law regarding the insurance policy. The Homeowner Claims Bill of Rights does not create a civil cause of action by any individual policyholder or class of policyholders against an insurer or insurers. The failure of an insurer to properly deliver the Homeowner Claims Bill of Rights is subject to administrative enforcement by the office but is not admissible as evidence in a civil action against an insurer. The Homeowner Claims Bill of Rights does not enlarge, modify, or contravene statutory requirements, including, but not limited to, ss. 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner



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Claims Bill of Rights must state:

HOMEOWNER CLAIMS

BILL OF RIGHTS

This Bill of Rights is specific to the claims process and does not represent all of your rights under Florida law regarding your policy. There are also exceptions to the stated timelines when conditions are beyond your insurance company's control. This document does not create a civil cause of action by an individual policyholder, or a class of policyholders, against an insurer or insurers and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy.

YOU HAVE THE RIGHT TO:

1. Receive from your insurance company an acknowledgment of your reported claim within 14 calendar days after the time you communicated the claim.

2. Upon written request, receive from your insurance company within 30 days after you have submitted a complete proof-of-loss statement to your insurance company, confirmation that your claim is covered in full, partially covered, or denied, or receive a written statement that your claim is being investigated.

3. Within 14 calendar days, receive notification



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from your insurance company if there has been a change in the company adjuster who is assigned to your claim. The notification must include the assigned adjuster's contact information.

4. Within 90 calendar days, subject to any dual interest noted in the policy, receive full settlement payment for your claim or payment of the undisputed portion of your claim, or your insurance company's denial of your claim.

5. Receive payment of interest, as provided in s. 627.7031, from your insurance company, which begins accruing from the date your claim is filed if your insurance company does not pay full settlement of your initial, reopened, or supplemental claim or the undisputed portion of your claim or does not deny your claim within 90 calendar days after your claim is filed. The interest, if applicable, must be paid when your claim or undisputed portion of your claim is paid.

~~6.4.~~ Free mediation of your disputed claim by the Florida Department of Financial Services, Division of Consumer Services, under most circumstances and subject to certain restrictions.

~~7.5.~~ Neutral evaluation of your disputed claim, if your claim is for damage caused by a sinkhole and is covered by your policy.

~~8.6.~~ Contact the Florida Department of Financial Services, Division of Consumer Services' toll-free helpline for assistance with any insurance claim or





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questions pertaining to the handling of your claim.  
You can reach the Helpline by phone at...(toll-free  
phone number)...., or you can seek assistance online at  
the Florida Department of Financial Services, Division  
of Consumer Services' website at...(website  
address)....

YOU ARE ADVISED TO:

1. Contact your insurance company before entering  
into any contract for repairs to confirm any managed  
repair policy provisions or optional preferred  
vendors.

2. Make and document emergency repairs that are  
necessary to prevent further damage. Keep the damaged  
property, if feasible, keep all receipts, and take  
photographs or video of damage before and after any  
repairs to provide to your insurer.

3. Carefully read any contract that requires you  
to pay out-of-pocket expenses or a fee that is based  
on a percentage of the insurance proceeds that you  
will receive for repairing or replacing your property.

4. Confirm that the contractor you choose is  
licensed to do business in Florida. You can verify a  
contractor's license and check to see if there are any  
complaints against him or her by calling the Florida  
Department of Business and Professional Regulation.  
You should also ask the contractor for references from  
previous work.

5. Require all contractors to provide proof of



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insurance before beginning repairs.

6. Take precautions if the damage requires you to leave your home, including securing your property and turning off your gas, water, and electricity, and contacting your insurance company and provide a phone number where you can be reached.

Section 21. Paragraph (a) of subsection (1) and subsection (6) of section 631.57, Florida Statutes, are amended to read:

631.57 Powers and duties of the association.—

(1) The association shall:

(a)1. Be obligated to the extent of the covered claims existing:

a. Prior to adjudication of insolvency and arising within 30 days after the determination of insolvency;

b. Before the policy expiration date if less than 30 days after the determination; or

c. Before the insured replaces the policy or causes its cancellation, if she or he does so within 30 days of the determination.

2. The obligation under subparagraph 1. includes ~~only~~ the amount of each covered claim which is ~~in excess of \$100 and is~~ less than \$300,000, except that policies providing coverage for homeowner's insurance shall provide for an additional \$200,000 for the portion of a covered claim which relates only to the damage to the structure and contents.

3.a. Notwithstanding subparagraph 2., the obligation under subparagraph 1. for policies covering condominium associations or homeowners' associations, which associations have a responsibility to provide insurance coverage on residential



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units within the association, shall include that amount of each covered property insurance claim which is less than \$100,000 multiplied by the number of condominium units or other residential units; however, as to homeowners' associations, this sub-subparagraph applies only to claims for damage or loss to residential units and structures attached to residential units.

b. Notwithstanding sub-subparagraph a., the association has no obligation to pay covered claims that are to be paid from the proceeds of bonds issued under s. 631.695. However, the association shall assign and pledge the first available moneys from all or part of the assessments to be made under paragraph (3)(a) to or on behalf of the issuer of such bonds for the benefit of the holders of such bonds. The association shall administer any such covered claims and present valid covered claims for payment in accordance with the provisions of the assistance program in connection with which such bonds have been issued.

4. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises.

(6) The association may extend the time limits specified in paragraph (1)(a) by up to an additional 60 days ~~or waive the applicability of the \$100 deductible specified in paragraph (1)(a)~~ if the board determines that either or both such actions are necessary to facilitate the bulk assumption of obligations.

Section 22. Section 648.30, Florida Statutes, is amended to read:

648.30 Licensure and appointment required; prohibited acts;



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penalties.—

(1) A person may not act in the capacity of a bail bond agent or temporary bail bond agent or perform any of the functions, duties, or powers prescribed for bail bond agents or temporary bail bond agents under this chapter unless that person is qualified, licensed, and appointed as provided in this chapter.

(2) A person may not represent himself or herself to be a bail enforcement agent, bounty hunter, or other similar title in this state.

(3) A person, other than a certified law enforcement officer, may not apprehend, detain, or arrest a principal on a bond, wherever issued, unless that person is qualified, licensed, and appointed as provided in this chapter or licensed as a bail bond agent or bail bond enforcement agent, or holds an equivalent license by the state where the bond was written.

(4) Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Any licensee under this chapter who knowingly aids or abets an unlicensed person in violating this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 23. Paragraphs (b) and (c) of subsection (4) and subsections (1) and (10) of section 717.124, Florida Statutes, are amended to read:

717.124 Unclaimed property claims.—

(1) Any person, excluding another state, claiming an interest in any property paid or delivered to the department



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under this chapter may file with the department a claim on a form prescribed by the department and verified by the claimant or the claimant's representative. The claimant's representative must be an attorney licensed to practice law in this state, a licensed Florida-certified public accountant, or a private investigator licensed under chapter 493. The claimant's representative must be registered with the department under this chapter. The claimant, or the claimant's representative, shall provide the department with a legible copy of a valid driver license of the claimant at the time the original claim form is filed. If the claimant has not been issued a valid driver license at the time the original claim form is filed, the department shall be provided with a legible copy of a photographic identification of the claimant issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. In lieu of photographic identification, a notarized sworn statement by the claimant may be provided which affirms the claimant's identity and states the claimant's full name and address. The claimant must produce to the notary photographic identification of the claimant issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. The notary shall indicate the notary's full address on the notarized sworn statement. Any claim filed without the required identification or the sworn statement with the original claim form and the original Florida Uniform Unclaimed Property Recovery Agreement or Florida Uniform



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Property Purchase Agreement ~~power of attorney or purchase~~  
~~agreement~~, if applicable, is void.

(a) Within 90 days after receipt of a claim, the department may return any claim that provides for the receipt of fees and costs greater than that permitted under this chapter or that contains any apparent errors or omissions. The department may also request that the claimant or the claimant's representative provide additional information. The department shall retain a copy or electronic image of the claim.

(b) A claimant or the claimant's representative shall be deemed to have withdrawn a claim if no response to the department's request for additional information is received by the department within 60 days after the notification of any apparent errors or omissions.

(c) Within 90 days after receipt of the claim, or the response of the claimant or the claimant's representative to the department's request for additional information, whichever is later, the department shall determine each claim. Such determination shall contain a notice of rights provided by ss. 120.569 and 120.57. The 90-day period shall be extended by 60 days if the department has good cause to need additional time or if the unclaimed property:

1. Is owned by a person who has been a debtor in bankruptcy;

2. Was reported with an address outside of the United States;

3. Is being claimed by a person outside of the United States; or

4. Contains documents filed in support of the claim that



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are not in the English language and have not been accompanied by an English language translation.

(d) The department shall deny any claim under which the claimant's representative has refused to authorize the department to reduce the fees and costs to the maximum permitted under this chapter.

(4)

(b) If an owner authorizes an attorney licensed to practice law in this state, Florida-certified public accountant, or private investigator licensed under chapter 493, and registered with the department under this chapter, to claim the unclaimed property on the owner's behalf, the department is authorized to make distribution of the property or money in accordance with the Florida Uniform Unclaimed Property Recovery Agreement or Florida Uniform Property Purchase Agreement under s. 717.135 ~~such power of attorney~~. The original Florida Uniform Unclaimed Property Recovery Agreement or Florida Uniform Property Purchase Agreement ~~power of attorney~~ must be executed by the claimant or seller ~~owner~~ and must be filed with the department.

(c)1. Payments of approved claims for unclaimed cash accounts shall be made to the owner after deducting any fees and costs authorized pursuant to a Florida Uniform Unclaimed Property Recovery Agreement ~~written power of attorney~~. The contents of a safe-deposit box shall be delivered directly to the claimant ~~notwithstanding any power of attorney or agreement to the contrary~~.

2. Payments of fees and costs authorized pursuant to a Florida Uniform Unclaimed Property Recovery Agreement ~~written power of attorney~~ for approved claims must ~~shall~~ be made or



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issued to the law firm of the designated attorney licensed to practice law in this state, the public accountancy firm of the licensed Florida-certified public accountant, or the designated employing private investigative agency licensed by this state. Such payments shall be made by electronic funds transfer and may be made on such periodic schedule as the department may define by rule, provided the payment intervals do not exceed 31 days. Payment made to an attorney licensed in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, operating individually or as a sole practitioner, shall be to the attorney, certified public accountant, or private investigator.

(10) Notwithstanding any other provision of this chapter, the department may develop a process by which a registered claimant's representative or a buyer of unclaimed property may electronically submit to the department an electronic image of a completed claim and claims-related documents pursuant to this chapter, including a Florida Uniform Unclaimed Property Recovery Agreement or Florida Uniform Property Purchase Agreement ~~a limited power of attorney or purchase agreement~~ that has been manually signed and dated by a claimant or seller pursuant to s. 717.135 ~~or s. 717.1351~~, after the claimant's representative or the buyer of unclaimed property receives the original documents provided by the claimant or the seller for any claim. Each claim filed by a registered claimant's representative or a buyer of unclaimed property must include a statement by the claimant's representative or the buyer of unclaimed property attesting that all documents are true copies of the original documents and that all original documents are physically in the possession of the





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claimant's representative or the buyer of unclaimed property. All original documents must be kept in the original form, by claim number, under the secure control of the claimant's representative or the buyer of unclaimed property and must be available for inspection by the department in accordance with s. 717.1315. The department may adopt rules to implement this subsection.

Section 24. Subsection (2) of section 717.12404, Florida Statutes, is amended to read:

717.12404 Claims on behalf of a business entity or trust.—

(2) Claims on behalf of a dissolved corporation, a business entity other than an active corporation, or a trust must include a legible copy of a valid driver license of the person acting on behalf of the dissolved corporation, business entity other than an active corporation, or trust. If the person has not been issued a valid driver license, the department shall be provided with a legible copy of a photographic identification of the person issued by the United States, a foreign nation, or a political subdivision or agency thereof. In lieu of photographic identification, a notarized sworn statement by the person may be provided which affirms the person's identity and states the person's full name and address. The person must produce his or her photographic identification issued by the United States, a state or territory of the United States, a foreign nation, or a political subdivision or agency thereof or other evidence deemed acceptable by the department by rule. The notary shall indicate the notary's full address on the notarized sworn statement. Any claim filed without the required identification or the sworn statement with the original claim form and the original Florida



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Uniform Unclaimed Property Recovery Agreement or Florida Uniform Property Purchase Agreement ~~power of attorney~~, if applicable, is void.

Section 25. Subsection (1) of section 717.1315, Florida Statutes, is amended to read:

717.1315 Retention of records by claimant's representatives and buyers of unclaimed property.—

(1) Every claimant's representative and buyer of unclaimed property shall keep and use in his or her business such books, accounts, and records of the business conducted under this chapter to enable the department to determine whether such person is complying with this chapter and the rules adopted by the department under this chapter. Every claimant's representative and buyer of unclaimed property shall preserve such books, accounts, and records, including every Florida Uniform Unclaimed Property Recovery Agreement or Florida Uniform Property Purchase Agreement ~~power of attorney or agreement~~ between the owner and such claimant's representative or buyer, for at least 3 years after the date of the initial ~~power of attorney or agreement~~.

Section 26. Paragraph (j) of subsection (1) of section 717.1322, Florida Statutes, is amended to read:

717.1322 Administrative and civil enforcement.—

(1) The following acts are violations of this chapter and constitute grounds for an administrative enforcement action by the department in accordance with the requirements of chapter 120 and for civil enforcement by the department in a court of competent jurisdiction:

(j) Requesting or receiving compensation for notifying a



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person of his or her unclaimed property or assisting another person in filing a claim for unclaimed property, unless the person is an attorney licensed to practice law in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, or entering into, or making a solicitation to enter into, an agreement ~~a power of attorney~~ to file a claim for unclaimed property owned by another, or a contract or agreement to purchase unclaimed property, unless such person is registered with the department pursuant to this chapter and an attorney licensed to practice law in this state in the regular practice of her or his profession, a Florida-certified public accountant who is acting within the scope of the practice of public accounting as defined in chapter 473, or a private investigator licensed under chapter 493. This subsection does not apply to a person who has been granted a durable power of attorney to convey and receive all of the real and personal property of the owner, is the court-appointed guardian of the owner, has been employed as an attorney or qualified representative to contest the department's denial of a claim, or has been employed as an attorney to probate the estate of the owner or an heir or legatee of the owner.

Section 27. Section 717.135, Florida Statutes, is amended to read:

(Substantial rewording of section. See  
s. 717.135, F.S., for present text.)  
717.135 Recovery agreements and purchase agreements for  
claims filed by claimant's representative; fees and costs.—  
(1) In order to protect the interests of owners of  
unclaimed property, the department shall adopt by rule a form



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entitled "Florida Uniform Unclaimed Property Recovery Agreement"  
and a form entitled "Florida Uniform Property Purchase  
Agreement."

(2) The Florida Uniform Unclaimed Property Recovery  
Agreement form and the Florida Uniform Property Purchase  
Agreement form must include and disclose:

(a) The total dollar amount of unclaimed property accounts  
claimed or sold.

(b) Either the total percentage of all authorized fees and  
costs to be paid to the claimant's representative or the  
percentage of the value of the property to be paid as net gain  
to the purchasing registered claimant's representative.

(c) Either the total dollar amount to be deducted and  
received from the claimant as fees and costs by the claimant's  
representative or the total net dollar amount to be received by  
the purchasing registered claimant's representative.

(d) The net dollar amount to be received by the claimant or  
seller.

(e) For each account claimed, the unclaimed property  
account number and name of the apparent owner, as listed on the  
department's database.

(f) For the Florida Uniform Property Purchase Agreement, a  
statement that the purchase price will be remitted to the seller  
within 30 days after the execution of the form by the seller.

(g) The name, address, e-mail address, phone number, and  
license number of the registered claimant's representative.

(h) The manual signature of the claimant or seller and the  
date signed.

(i) The social security number or taxpayer identification



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number of the claimant or seller, if available. A number is available if one has been issued to the claimant or seller.

(j) A limit of total fees and costs, or the total discount amount in the case of a purchase agreement, to no more than 20 percent of the claimed amount.

(3) For a Florida Uniform Property Purchase Agreement form, proof that the seller has received payment must be filed with the department along with the claim. If proof of payment is not provided, the claim is void.

(4) A registered claimant's representative shall use the Florida Uniform Unclaimed Property Recovery Agreement form or the Florida Uniform Property Purchase Agreement form as the exclusive means of engaging with a claimant or seller to file a claim with the department.

(5) Fees and costs may be owed or paid to a registered claimant's representative only pursuant to the forms authorized by this section and upon approval of the claim filed thereby.

(6) A claimant's representative may not use or distribute any other agreement of any type with respect to the claimant or seller which relates to unclaimed property accounts held by the department or the Chief Financial Officer other than the agreements authorized by this section. Any agreement that is not authorized by this section is null and void.

(7) The forms under subsection (1):

(a) May not contain language that makes the agreement irrevocable; and

(b) May not contain language that creates an assignment of any unclaimed property held by the department.

(8) This section does not supersede the conflicting claims



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provisions of s. 717.1241.

(9) At the time a claim is approved, the department may pay any additional account that is owned by the claimant but has not been claimed at the time of approval, provided that no subsequent claim has been filed and is pending for the claimant at the time of approval.

Section 28. Section 717.1351, Florida Statutes, is repealed.

Section 29. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

===== T I T L E   A M E N D M E N T =====  
And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to consumer protection; amending s.  
501.0051, F.S.; prohibiting consumer reporting  
agencies from charging to reissue or provide a new  
unique personal identifier to a consumer for the  
removal of a security freeze; amending s. 624.307,  
F.S.; revising a requirement for entities licensed or  
authorized by the Department of Financial Services or  
the Office of Insurance Regulation to respond to the  
department's Division of Consumer Services regarding  
consumer complaints; revising administrative penalties  
the division may impose for failure to comply;  
amending s. 626.112, F.S.; prohibiting unlicensed  
activity by an adjusting firm; providing an exemption;



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providing an exemption from licensure for branch firms that meet certain criteria; providing an administrative penalty for failing to apply for certain licensure; providing a criminal penalty for aiding or abetting unlicensed activity; deleting an obsolete provision; amending s. 626.602, F.S.; authorizing the department to disapprove the use of insurance agency names containing the words "Medicare" or "Medicaid"; providing an exception for certain insurance agencies; amending s. 626.621, F.S.; adding grounds on which the department may take certain actions against a license, appointment, or application of certain insurance representatives; amending ss. 626.782 and 626.783, F.S.; revising the definitions of the terms "industrial class insurer" and "ordinary-combination class insurer," respectively, to conform to changes made by the act; repealing s. 626.796, F.S., relating to the representation of multiple insurers in the same industrial debit territory; amending s. 626.8443, F.S.; increasing the maximum period of suspension of a title insurance agent's or agency's license; amending s. 626.854, F.S.; revising the timeframes in which an insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation; amending s. 626.916, F.S.; revising the classes of insurance subject to a disclosure requirement before being eligible for export under the Surplus Lines Law; amending s. 626.9541, F.S.; adding certain acts or practices to



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the definition of sliding; amending s. 626.9741, F.S.;  
requiring an insurer to include certain additional  
information when providing an applicant or insured  
with certain credit report or score information;  
amending ss. 626.9957 and 627.062, F.S.; conforming  
cross-references; amending s. 627.421, F.S.; requiring  
personal lines residential property insurers to  
annually deliver a certain notification to certain  
policyholders within a specified timeframe; amending  
s. 627.502, F.S.; prohibiting life insurers from  
writing new policies of industrial life insurance  
beginning on a certain date; amending s. 627.70131,  
F.S.; providing that communication made to or by an  
insurer's representative, rather than to or by an  
insurer's agent, constitutes communication to or by  
the insurer; requiring an insurer-assigned licensed  
adjuster to provide the policyholder with certain  
information in certain investigations; specifying  
requirements for insurers in notifying policyholders  
for certain changes in assigned adjusters; requiring  
an insurer to establish a process to provide the agent  
of record access to claim status information for a  
certain purpose; defining the term "agent of record";  
requiring insurers to include specified notices when  
providing preliminary or partial damage estimates or  
claim payments; specifying the timeframe in which an  
insurer must pay or deny property insurance claims  
under certain circumstances; providing applicability;  
conforming provisions to changes made by the act;





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997 creating s. 627.7031, F.S.; prohibiting foreign venue  
998 clauses in property insurance policies; providing  
999 applicability; amending s. 627.7142, F.S.; revising  
1000 information contained in the Homeowner Claims Bill of  
1001 Rights; conforming provisions to changes made by the  
1002 act; amending s. 631.57, F.S.; deleting a deductible  
1003 on the Florida Insurance Guaranty Association,  
1004 Incorporated's obligation as to certain covered  
1005 claims; amending s. 648.30, F.S.; prohibiting the  
1006 aiding or abetting of unlicensed activity of a bail  
1007 bond agent or temporary bail bond agent; amending ss.  
1008 717.124, 717.12404, 717.1315, and 717.1322, F.S.;  
1009 conforming provisions to changes made by the act;  
1010 amending s. 717.135, F.S.; replacing provisions  
1011 relating to powers of attorney to recover unclaimed  
1012 property with provisions relating to uniform forms for  
1013 unclaimed property recovery agreements and purchase  
1014 agreements; requiring the department to adopt the  
1015 uniform forms by rule; specifying required information  
1016 and disclosures in the forms; requiring that, for the  
1017 purchase agreement form, proof the seller received  
1018 payment be filed with the department along with the  
1019 claim; requiring registered claimant's representatives  
1020 to use the forms as the exclusive means of engaging  
1021 with a claimant or seller to file claims and  
1022 prohibiting them from using or distributing other  
1023 agreements; specifying a limitation on fees and costs  
1024 owed or paid; prohibiting certain language in the  
1025 forms; authorizing the department to pay additional



957714

1026 accounts owned by the claimant under certain  
1027 circumstances; providing construction; repealing s.  
1028 717.1351, F.S., relating to the acquisition of  
1029 unclaimed property; providing effective dates.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**

Military and Veterans Affairs and Space, *Chair*  
Children, Families, and Elder Affairs  
Commerce and Tourism  
Environment and Natural Resources

**JOINT COMMITTEE:**

Joint Administrative Procedures Committee

**SENATOR TOM A. WRIGHT**

14th District

January 29, 2020

The Honorable Doug Broxson  
318, Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: Senate Bill 1492: Consumer Protection

Dear Chair Broxson:

Senate Bill 1492, relating to Consumer Protection has been referred to the Committee on Banking and Insurance. I am requesting your consideration on placing SB 1492 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Tom A. Wright".

Tom A. Wright, District 14

cc: James Knudson, Staff Director of the Committee on Banking and Insurance  
Sheri Green, Administrative Assistant of the Committee on Banking and Insurance

**REPLY TO:**

- ☐ 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- ☐ 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.4.20

Meeting Date

1492

Bill Number (if applicable)

278986

Amendment Barcode (if applicable)

Topic Surplus Lsi - venue

Name Ashley Kalifeh

Job Title lobbyist

Address 124 W. Jefferson St.  
Street

Phone 222-9075

Tallahassee FL  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Surplus Lsi Assoc

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

24.20

Meeting Date

1492

Bill Number (if applicable)

2109 288

Amendment Barcode (if applicable)

Topic surplus iris - adjusdy

Name Ashley Kalifeh

Job Title lobbyist

Address 184 W Jefferson St.

Street

Tallahassee

City

FL

State

32307

Zip

Phone 222-9075

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Surplus Iris Assoc

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20  
Meeting Date

1492  
Bill Number (if applicable)

957714

Amendment Barcode (if applicable)

Topic Consumer Protection

Name Greg Thomas

Job Title Division Director - Consumer Services & Agent and Agency Services

Address FL 11 The Capitol  
Street

Phone 850 413 2890

Tallahassee  
City

FL  
State

32399  
Zip

Email Meredith.Stanfield@myfloridachamber.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Department of Financial Services

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4

Meeting Date

1492

Bill Number (if applicable)

Topic Consumer Protection

Amendment Barcode (if applicable)

Name Meredith Stanfield

Job Title Director of Legislative & Cabinet Affairs

Address PL 11, The Capitol

Street

Phone (850) 413-2890

Tallahassee

City

FL

State

32399

Zip

Email meredith.stanfield@myfloridacfo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing CFO Jimmy Patronis

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-4-20

Meeting Date

SB 1492

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Gary Rutledge

Job Title \_\_\_\_\_

Address 641 Forest Lane

Street

Phone 850-681-6788

Tallahassee FL 32312

City

State

Zip

Email Gary@RutledgeSeniors.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Professional Claimants Representatives Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Job Title

Address

Street

City

State

Zip

Phone

Email

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-4-20

Meeting Date

1492

Bill Number (if applicable)

814670

Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Steve Geller

Job Title Attorney

Address \_\_\_\_\_

Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FAPIA

Appearing at request of Chair: ☒ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-4-20

Meeting Date



1492

Bill Number (if applicable)

241560

Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Steve Geller

Job Title Attorney

Address 110 E. Broward Blvd. Ste. 1700

Street

Ft Lauderdale FL 33301

City

State

Zip

Phone 954-315-3926

Email Steve@GellerLaw.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FARIA

Appearing at request of Chair: ☒ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/2020

Meeting Date

SB 1492

Bill Number (if applicable)

Topic CONSUMER PROTECTIONS

Amendment Barcode (if applicable)

Name TASHA CARTER

Job Title FL'S INSURANCE CONSUMER ADVOCATE

Address 200 E GAINES STREET  
Street

Phone 850-413-2868

TALLAHASSEE FL 32399  
City State Zip

Email TASHA.CARTER@myflhail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

02/04/20  
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 1492  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name JIMMY PATRICKS

Job Title CFO

Address 400 S. MONROE ST  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

# APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4

1492

Meeting Date

Bill Number (if applicable)

Topic Consumer Protection

STRIKE ALL  
Amendment Barcode (if applicable)

Name Amy Boggs

957714

Job Title \_\_\_\_\_

Address 4554 Central Ave Suite L

Phone 727-454-8833

Street

Saint Petersburg, FL 33704

City

State

Zip

Email ABOGGS@360CSLAW.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing

Fla. Justice Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-4-20

Meeting Date

1492

Bill Number (if applicable)

338934

Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Steve Geller

Job Title Attorney

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FAPIA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/3/2020  
Meeting Date

SB 1492  
Bill Number (if applicable)

957714  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Mark Delegal

Job Title Retained Counsel

Address \_\_\_\_\_

Street

Tallahassee

City

State

Zip

Phone \_\_\_\_\_

Email \_\_\_\_\_

Speaking: ☒ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing State Farm Florida Ins Company

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)



# THE FLORIDA SENATE

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*Bill Number (if applicable)*

Amendment Barcode (if applicable)

Amendment Barcode (if applicable)

Amendment Barcode (if applicable)

Phone \_\_\_\_\_

Email \_\_\_\_\_

State

Email \_\_\_\_\_

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing 1-434

Lobbyist registered with Legislature: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.4.20

Meeting Date

1292

Bill Number (if applicable)

907714

Amendment Barcode (if applicable)

Topic Surplus Inc

Name Ashley Kalituk

Job Title

Address 724 W Jefferson A.

Street

Tallahassee FL

City

State

Zip

Phone 228-9078

Email ashley.w.coffman

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Surplus Inc Assoc

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/4/20  
Meeting Date

1492  
Bill Number (if applicable)

Topic Consumer Protection Bill

957714  
Amendment Barcode (if applicable)

Name Anthony DiMarco

Job Title VP of Govt. Relations

Address 1001 Thomasville Rd

Phone \_\_\_\_\_

Street

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Bankers Assoc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Banking and Insurance

---

BILL: CS/SB 1606

INTRODUCER: Banking and Insurance Committee and Senator Perry

SUBJECT: Insurance

DATE: February 4, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Arnold	Knudson	BI	Fav/CS
2.			IS	
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1606 requires the Department of Highway Safety and Motor Vehicles to create an online verification system for motor vehicle insurance by July 1, 2023. It also creates a task force to assist, review, and report on the implementation of the system.

The bill takes effect upon a specific appropriation.

The bill takes effect July 1, 2020.

**II. Present Situation:**

**Motor Vehicle Insurance Online Verification System**

Chapter 324, F.S., is the Financial Responsibility Law of 1955.<sup>1</sup> The intent of ch. 324, F.S., is to: [R]ecognize the existing privilege to own or operate a motor vehicle when such vehicles are used with due consideration for others and their property, and to promote safety and provide financial security requirements for such owners or operators whose responsibility it is to recompense others for injury to person or property caused by the operation of a motor vehicle. Therefore, the law requires that the operator of a motor vehicle involved in a crash or convicted of certain traffic offenses is required to provide proof of financial ability to respond for

---

<sup>1</sup> Section 324.251, F.S.

damages in future accidents as a requisite to his or her future exercise of operating a motor vehicle.<sup>2</sup>

Section 316.646, F.S., requires persons required by law to maintain certain motor vehicle insurance coverage, to possess proof of insurance, and specifies when the person is required to provide proof of motor vehicle insurance. If a person is cited for violating this requirement and can provide proof of insurance that was valid at the time of the citation, the clerk of the court may dismiss the case and may assess a dismissal fee of up to \$10.<sup>3</sup>

Section 320.02, F.S., requires the registration of motor vehicles. Proof of purchase of personal injury protection<sup>4</sup> and property damage insurance must be provided in order to register a motor vehicle.<sup>5</sup> If the registrant is required to purchase bodily injury liability coverage as a result of a conviction of driving under the influence, then proof of bodily injury liability coverage is also required at that time.<sup>6</sup>

Section 324.0221, F.S., requires motor vehicle insurers to notify the Department of Highway Safety and Motor Vehicles (DHSMV) of cancellations or nonrenewals of motor vehicle insurance within 10 days after the processing or effective date of each cancellation or nonrenewal. Furthermore, the statute requires insurers to notify DHSMV within 10 days of the issuance of new insurance policies from persons not previously insured by that insurance company.<sup>7</sup> When DHSMV receives a notice of cancellation from an insurer, DHSMV's system will attempt to verify if additional insurance has been provided and if the registration for the vehicle is still valid. If no additional insurance is verified for the registered vehicle after 20 days, the system will create a financial responsibility case on the owner or registrant's driver license and registration. Five days after the case is created a letter is generated and submitted to the vehicle owner or registrant notifying him or her that replacement proof of insurance is required for the registered vehicle. If insurance information is not provided, or the owner or registrant does not cancel the registration, the owner or registrant's driver license and registration will be suspended at 12:01 a.m. on the 15<sup>th</sup> day from the date of the postmarked letter.<sup>8</sup>

Currently, there is no mechanism in place to determine in real time that a proof of insurance coverage for the required financial responsibility is valid. The current process requires insurance carriers to report insurance information so that it can be compared to DHSMV-maintained vehicle registration. Under this reporting process, any vehicle registrations that are not tied to an insurance record are considered uninsured.<sup>9</sup>

Several industry advisory and trade groups have highlighted the ineffectiveness of the current insurance data reporting process. The Insurance Industry Committee on Motor Vehicle

---

<sup>2</sup> Section 324.011, F.S.

<sup>3</sup> Section 318.18(2)(b)3, F.S.

<sup>4</sup> Personal injury protection insurance is not necessary to register a taxi, limousine, or school bus. *See* s. 627.733(1), F.S.

<sup>5</sup> Section 320.02(5)(a), F.S.

<sup>6</sup> *Id.* *See also* s. 324.023, F.S.

<sup>7</sup> Section 324.0221(1)(a), F.S.

<sup>8</sup> Section 322.251(2), F.S.

<sup>9</sup> *See* s. 324.011, F.S.

Administration (IICMVA),<sup>10</sup> the liaison between insurance industry and the motor vehicle departments of the US and Canada, recently noted:

Despite the lack of objective evidence that state reporting programs are, or can be, effective at identifying uninsured motorists, new state reporting programs continue to become law and continue to be implemented.<sup>11</sup>

The American Association of Motor Vehicle Administrators noted the absence of a meaningful correlation between insurance data reporting programs and the uninsured motorist rate:

[T]here is no correlation between compulsory insurance and the number of uninsured motor vehicles on the highway. The same absence of correlation can be said of insurance data reporting programs. Between the 1989 and 1999 IRC studies, of the 18 states with reporting programs in place for 5 years or more, 12 showed an increase in the uninsured motorists and 6 experienced improvement. These results suggest there may be other factors involved such as level of enforcement and consistency of penalties.<sup>12</sup>

A number of states have implemented online motor vehicle insurance verification programs including Alabama,<sup>13</sup> Oklahoma,<sup>14</sup> Texas,<sup>15</sup> and Tennessee.<sup>16</sup> Most of the states that have implemented online motor vehicle verification programs require that the systems generally meet standards developed by IICMVA.

States that have instituted motor vehicle insurance verification programs have reported reductions in the number of uninsured motorists. For example, Alabama's uninsured motorist rate dropped from 26 percent (2007)<sup>17</sup> to 18.4 percent (2015)<sup>18</sup> following its adoption of a motor vehicle insurance verification program. Texas's uninsured motorist rate dropped from 15 percent (2007)<sup>19</sup> to 14.1 percent (2015)<sup>20</sup> following its adoption of a motor vehicle insurance verification

---

<sup>10</sup> The Insurance Industry Committee on Motor Vehicle Administration (IICMVA) is an all-industry advisory group formed in January 1968, as the official liaison between the insurance industry and Motor Vehicle Departments in the US and Canada. <https://www.iicmva.com/> (last visited January 28, 2020).

<sup>11</sup> Insurance Industry Committee on Motor Vehicle Administration, *Making the Case for Using Web Services to Verify Evidence of Auto Liability Insurance* (November 2017), <https://www.iicmva.com/Making%20V2.1.pdf> (last visited January 29, 2020).

<sup>12</sup> American Association of Motor Vehicle Administrators Financial Responsibility and Insurance Standing Committee, *Financial Responsibility & Insurance Resource Guide* (2002), [https://www.aamva.org/uploadedFiles/MainSite/Content/DriverLicensingIdentification/Auto\\_Insurance\\_Financial\\_Responsibility/FR%20Guide.pdf](https://www.aamva.org/uploadedFiles/MainSite/Content/DriverLicensingIdentification/Auto_Insurance_Financial_Responsibility/FR%20Guide.pdf) (last visited January 29, 2020). See also Insurify Insights, *Uninsured and High-Risk: State with the Most Uninsured Motorists* (December 30, 2019), <https://insurify.com/insights/states-with-the-most-uninsured-motorists/> (last visited January 29, 2020) (noting a statistically significant inverse correlation between median household income and the state's uninsured motorist rate).

<sup>13</sup> Alabama Act 2011-688.

<sup>14</sup> Okla. Stat. tit. 47, s. 7-600.2.

<sup>15</sup> Tex. Transp. Code Ann. Ss.601.053(c) and 601.191.

<sup>16</sup> Tenn. Code Ann. Ss. 55-12-201 – 55-12-215.

<sup>17</sup> Insurance Research Council, *Economic Downturn May Push Percentage of Uninsured Motorists to All-Time High* (January 21, 2009), [https://insurance-research.org/sites/default/files/downloads/IRC\\_UM\\_012109.pdf](https://insurance-research.org/sites/default/files/downloads/IRC_UM_012109.pdf) (last visited January 29, 2020).

<sup>18</sup> Insurance Research Council, *Countrywide Rate Increases as Several States Experience Significant Decrease* (October 9, 2017), <https://insurance-research.org/sites/default/files/downloads/UMNR1005.pdf> (last visited January 29, 2020).

<sup>19</sup> See *supra* at Note 24.

<sup>20</sup> See *supra* at Note 25.

program. Online verification is not the only possible cause of reductions in the number of uninsured motorists. Oklahoma's uninsured motorist rate dropped from 24 percent (2007)<sup>21</sup> to 10.5 percent (2015)<sup>22</sup> *before* its 2018 implementation of a motor vehicle insurance verification program.

### ***IICMVA Model Legislation***

Beginning in 2005, the IICMVA developed model legislation for state adoption of a motor vehicle online insurance verification system. The final version of the Vehicle Insurance Verification Act<sup>23</sup> was published in 2017. IICMVA's model legislation provides a set of recommendations and standards for implementing real-time insurance verification. Such IICMVA standards include:

- Placing responsibility on each insurer to maintain the data necessary to verify the evidence of auto liability insurance for their own policyholders;
- Placing responsibility on each insurer to maintain a web port or service through which online evidence of insurance verification can take place by trading partners;
- Requiring valid verification required be made using unique key information to route a request to the appropriate carrier for a response;
- Protecting policyholder privacy by limiting the information exchanged to only those items needed to accurately route the request and confirm evidence of the insurance;
- Requiring the industry to set a standard format for transmitting requests; and
- Requiring confirmation of evidence of auto liability insurance, or lack thereof, is sent back to the requesting entity in real time.<sup>24</sup>

## **III. Effect of Proposed Changes:**

### **Online Verification System for Motor Vehicle Insurance**

#### ***Requirements for the Online Verification System***

**Section 4** creates s. 324.252, F.S., to require DHSMV to establish an online verification system for motor vehicle insurance. The system's goal is to identify uninsured motorists and aid DHSMV in enforcing the financial responsibility law. The online verification system must:

- Be accessible through the Internet by authorized personnel of DSHMV, the courts, law enforcement personnel, any other entities authorized by DHSMV, and insurers authorized by OIR to offer motor vehicle insurance.
- Send requests to insurers for verification of evidence of insurance for motor vehicles registered in this state via online services established by the insurers in compliance with IICMVA specifications and standards, with enhancements, additions, and modifications, as DSHMV requires. However, the enhancements, additions, and modifications may not

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<sup>21</sup> See *supra* at Note 24.

<sup>22</sup> See *supra* at Note 25.

<sup>23</sup> Insurance Industry Committee on Motor Vehicle Administration, *Vehicle Insurance Verification Act*, <https://www.iicmva.com/Model%20Law%20final%20document.doc> (last visited February 3, 2020).

<sup>24</sup> Insurance Industry Committee on Motor Vehicle Administration, *The Source for Online Verification Modeling: Executive Summary* (November 2017), <https://www.iicmva.com/OLV%20Source.pdf> (last visited February 3, 2020).

conflict with, nullify, or add requirements that are inconsistent with IICMVA specifications or standards.

- Be operational by July 1, 2023. The task force must conduct a pilot program for at least 9 months to test the system before statewide use. The system may not be used in any enforcement action until successful completion of the pilot program.
- Be available 24 hours a day, except for permitted downtime for system maintenance and other work, as needed, to verify the insurance status of any vehicle registered in this state through the insurer's National Association of Insurance Commissioners (NAIC) company code, in combination with other identifiers such as vehicle identification number, policy number, or other characteristics or markers as specified by the task force.
- Include appropriate provisions, consistent with industry standards, as specified by the task force, to secure the system's data against unauthorized access.
- Include a disaster recovery plan to ensure service continuity in the event of a disaster.
- Include information that enables DHSMV to make inquiries of evidence of insurance by using multiple data elements for greater matching accuracy, specifically the insurer's NAIC company code, in combination with other identifiers such as vehicle identification number, policy number, or other characteristics or markers as specified by the task force.
- Include a self-reporting mechanism for insurers with fewer than 2,000 vehicles insured within this state or for individual entities that are self-insured.

#### ***DHSMV Powers and Duties Related to the Online Verification System***

The section provides DHSMV the following powers and duties:

- Upon advance notice, DHSMV must allow online services established by an insurer to have reasonable downtime for system maintenance and other work, as needed. An insurer is not subject to administrative penalties or disciplinary actions when its online services are not available under such circumstances or when an outage is unplanned by the insurer and is reasonably outside its control.
- Upon recommendation of the task force, DHSMV may contract with a private vendor that has personnel with extensive operational and management experience in the development, deployment, and operation of insurance online verification systems.
- DHSMV and its private vendor, if any, must each maintain a contact person for the insurers during the establishment, implementation, and operation of the system.
- DHSMV must maintain a historical record of the system data for 6 months after the date of any verification request and response.

#### ***Insurer Obligations and Immunity From Civil Liability***

An insurance company authorized to issue insurance policies for motor vehicles registered in this state:

- Must comply with the verification requirements of motor vehicle insurance for every motor vehicle insured by that company in this state as required by DHSMV rule.
- Must maintain policyholder records in order to confirm insurance coverage for 3 years after the date of any verification request and response.
- Must cooperate with DHSMV in establishing, implementing, and maintaining the system.



- Is immune from civil liability for good faith efforts to comply with statutory requirements related to the online verification system. An online verification request or response may not be used as the basis of a civil action against an insurer.

The section's motor vehicle verification system does not apply to commercial motor vehicle coverage. Insurers providing such coverage may voluntarily participate.

### ***Motor Vehicle Insurance Online Verification Task Force***

**Section 4** creates s. 324.255, F.S., to require DHSMV to form within the department the Motor Vehicle Insurance Online Verification Task Force (task force). The task force must:

- Facilitate the implementation of the motor vehicle insurance online verification system, including recommending data and cybersecurity processes and protocols.
- Assist in the development of a detailed guide for insurers by providing data fields and other information necessary for compliance with the online verification system.
- Coordinate a pilot program and conduct the program for at least nine months to test the online verification system and identify necessary changes to be implemented before statewide use.
- Issue recommendations based on periodic reviews of the online verification system.

The task force consists of 10 voting members and one nonvoting member. DHSMV's executive director, who is a nonvoting member, serves as its chair. The 10 voting members must be appointed by July 31, 2020, as follows:

- Three appointed by DHSMV's executive director, representing the Florida Highway Patrol, the Division of Motorist Services, and the Information Systems Administration.
- One appointed by the Commissioner of Insurance, representing the Office of Insurance Regulation (OIR).
- Three appointed by the Chief Financial Officer, representing the motor vehicle insurance industry, as follows:
  - One member representing the motor vehicle insurer with the largest national market share as of December 31, 2019.
  - One member representing the motor vehicle insurer with the largest Florida market share as of December 31, 2019.
  - One member selected from a list of representatives recommended by the IICMVA.
- One appointed by the Chief Financial Officer, representing the Department of Financial Services (DFS).
- One appointed by the executive director of the Agency for State Technology, representing the agency.
- One member who must be a member of local law enforcement, appointed by the executive director of DHSMV.

By September 30 of the year the bill become effective, the task force must meet to establish procedures for conducting its business, and elect a vice chair. The task force must meet at the call of the chair, who is responsible for preparing the agenda for each meeting with the consent of the task force. A majority of the voting members of the task force constitutes a quorum, and a quorum is necessary for the purpose of voting on any action or recommendation of the task force. All meetings must be held in Tallahassee.

DSHBMV must provide the task force members with administrative and technical support. Task force members serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

By July 1 of the third year the bill become effective, the task force must complete its work and submit its final report evaluating the online verification system's effectiveness and making recommendations for system enhancements to DSHBMV, the President of the Senate, and the Speaker of the House of Representatives. Upon submission of the report, the task force expires.

***Conforming Changes Related to the Online Verification System***

**Section 1** amends s. 316.646, F.S., to direct a law enforcement officer during a traffic stop or crash investigation to verify the motor vehicle operator's proof of insurance using the online verification system created in Section 3 18 months after implementation of the system.

**Section 2** amends s. 320.02, F.S., to allow the online verification system created in Section 4 to be used in place of the current verification procedures for the proof of insurance required to register a motor vehicle.

***Effective Date***

**Section 5** provides the bill with take effect upon a specific appropriation.

**Section 6** provides an effective date of July 1, 2020.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

DHSMV estimates that it will require \$3.3 million to procure and implement a basic vendor-supplied online insurance verification system. Following implementation, there will be a recurring cost of \$2.8 million per year to support this system, with the amount increasing to \$3.4 million in out-years.<sup>25</sup>

**VI. Technical Deficiencies:**

Lines 156-160 define “commercial motor vehicle coverage” as “any coverage provided to an insured under a commercial coverage form and rated from a commercial manual approved by the Office of Insurance Regulation. Currently, commercial auto forms may be filed as information and rates and rules are filed as informational, not for approval. It may avoid confusion if this definition were amended to state “filed” instead of “approved.”

Lines 196-201 create a situation whereby a single motor vehicle insurer could have two voting members on Motor Vehicle Insurance Online Verification Task Force if the insurer had both the largest national market share and largest Florida market share.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 316.646 and 320.02.

This bill creates the following sections of the Florida Statutes: 324.252 and 324.255.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Banking and Insurance on February 4, 2020:**

- Retains the bill’s provisions requiring the Department of Highway Safety and Motor Vehicles to create a motor vehicle insurance online verification system, and requiring

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<sup>25</sup> Florida Department of Highway Safety and Motor Vehicles, *Agency Analysis of HB 895*, p. 4 (January 24, 2020).

the creation of a task force to assist, review, and report on the implementation of the system.

- Amends s. 316.646, F.S., to require law enforcement officers, during a traffic stop or crash investigation, to access the motor vehicle insurance online verification system 18 months after its implementation.
- Authorizes the Department of Highway Safety and Motor Vehicles to enter into use agreements with any public or private entity accessing the system to verify insurance coverage.
- Increases the period of time the insurers must maintain policyholder records in order to confirm coverage after the date of any verification request and response, from 6 months to 3 years.
- Increases the number of voting Motor Vehicle Insurance Online Verification Task Force members from 9 to 10; adds 1 voting member who must be a member of local law enforcement, appointed by the executive director of the Department of Highway Safety and Motor Vehicles.
- Eliminates the bill's provision requiring the Motor Vehicle Insurance Online Verification Task Force to issue a report to the Department of Highway Safety and Motor Vehicles, President of the Senate, and Speaker of the House of Representatives no later than 6 months after the conclusion of the pilot program, evaluating the system's effectiveness in identifying uninsured motorists and making recommendations for system enhancements.
- Predicates the effectiveness of the bill on a specific appropriation.
- Deletes all other sections of the bill.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2020	.	
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	.	
	.	

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The Committee on Banking and Insurance (Perry) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Present subsection (5) of section 316.646,  
Florida Statutes, is redesignated as subsection (6), and a new  
subsection (5) is added to that section, to read:

316.646 Security required; proof of security and display  
thereof.—

(5) Eighteen months after implementation of the motor



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vehicle insurance online verification system established in s. 324.252, a law enforcement officer, during a traffic stop or crash investigation, shall access information from the online verification system to establish compliance with this chapter and chapter 324.

Section 2. Paragraph (f) is added to subsection (5) of section 320.02, Florida Statutes, to read:

320.02 Registration required; application for registration; forms.—

(5)

(f) Upon implementation of the motor vehicle insurance online verification system established in s. 324.252, the online verification may be used in lieu of the verification procedures in this subsection.

Section 3. Section 324.252, Florida Statutes, is created to read:

324.252 Insurance online verification system.—The department shall establish an online verification system for motor vehicle insurance. The goal of the system is to identify uninsured motorists and aid the department in the enforcement of the financial responsibility law.

(1) The online verification system must:

(a) Be accessible through electronic means for use by any government agency, including any court or law enforcement agency, in carrying out its functions; by any private person or entity acting on behalf of a federal, state, or local agency in carrying out its functions; by any other entity authorized by the department; and by any insurer authorized by the Office of Insurance Regulation to provide motor vehicle insurance. The



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department may also establish a web portal or other mechanism that provides the general public with the ability to confirm whether a particular motor vehicle is currently insured.

(b) In real time, send requests to insurers for verification of evidence of insurance for motor vehicles registered in this state, and receive confirmation in real time from insurers via electronic means consistent with the specifications and standards of the Insurance Industry Committee on Motor Vehicle Administration (IICMVA), with enhancements, additions, and modifications as required by the department. However, the enhancements, additions, and modifications may not conflict with, nullify, or add requirements that are materially inconsistent with the specifications or standards of the IICMVA.

(c) Be operational by July 1, 2023. The Motor Vehicle Insurance Online Verification Task Force established in s. 324.255 must conduct a pilot program for at least 9 months to test the system before statewide use. The system may not be used in any enforcement action until successful completion of the pilot program.

(d) Be available 24 hours a day, except as provided in paragraph (2)(a), to verify the insurance status of any vehicle registered in this state through the insurer's National Association of Insurance Commissioners (NAIC) company code or Florida company code, in combination with other identifiers, including vehicle identification number, car make, car model, year, registered owner's name, policy number, levels or types of coverage, or other characteristics or markers as specified by the Motor Vehicle Insurance Online Verification Task Force.

(e) Include appropriate safeguards and controls to prevent



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misuse or unauthorized access.

(f) Include a disaster recovery plan to ensure service continuity in the event of a disaster.

(g) Include information that enables the department to make inquiries of evidence of insurance by using multiple data elements for greater matching accuracy, specifically the insurer's NAIC company code, in combination with other identifiers, such as vehicle identification number, policy number, or other characteristics or markers as specified by the Motor Vehicle Insurance Online Verification Task Force or the department.

(h) Include a self-reporting mechanism for insurers with fewer than 2,000 vehicles insured within this state or for individual entities that are self-insured.

(2) The department has the following powers and duties:

(a) Upon an insurer's advance notice to the department, the department shall allow online services established by the insurer to have reasonable downtime for system maintenance and other work, as needed. An insurer is not subject to administrative penalties or disciplinary actions when its online services are not available under such circumstances or when an outage is unplanned by the insurer and is reasonably outside its control.

(b) Upon recommendation of the Motor Vehicle Insurance Online Verification Task Force, the department may develop and operate its own system or competitively procure a private vendor that has personnel with extensive operational and management experience in the development, deployment, and operation of insurance online verification systems.





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98       (c) The department and its private vendor, if any, shall  
99 each maintain a contact person for the insurers during the  
100 establishment, implementation, and operation of the system.

101       (d) The department may enter into agreements governing the  
102 use of the system with any public or private entity accessing  
103 the system to verify insurance coverage.

104       (e) The department shall maintain a historical record of  
105 the system data for 6 months after the date of any verification  
106 request and response.

107       (3) An insurance company authorized to issue insurance  
108 policies for motor vehicles registered in this state:

109       (a) Shall comply with the verification requirements of  
110 motor vehicle insurance for every motor vehicle insured by that  
111 company in this state.

112       (b) Shall maintain policyholder records in order to confirm  
113 insurance coverage for 3 years after the date of any  
114 verification request and response.

115       (c) Shall cooperate with the department in establishing,  
116 implementing, and maintaining the system.

117       (d) Is immune from civil liability for good faith efforts  
118 to comply with this section. An online verification request or  
119 response may not be used as the basis of a civil action against  
120 an insurer.

121       (4) A law enforcement officer, during a traffic stop or  
122 crash investigation, shall query information from the online  
123 verification system to establish compliance with this chapter.

124       (5) This section does not apply to vehicles insured under  
125 commercial motor vehicle coverage. As used in this subsection,  
126 the term "commercial motor vehicle coverage" means any coverage



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provided to an insured under a commercial coverage form and  
rated from a commercial manual approved by the Office of  
Insurance Regulation. However, insurers of such vehicles may  
participate in the online verification system on a voluntary  
basis.

(6) The department may adopt rules to administer this  
section.

Section 4. Section 324.255, Florida Statutes, is created to  
read:

324.255 Motor Vehicle Insurance Online Verification Task  
Force.—There is created the Motor Vehicle Insurance Online  
Verification Task Force within the department.

(1) The task force shall:

(a) Facilitate the implementation of the motor vehicle  
insurance online verification system established in s. 324.252.

(b) Assist in the development of a detailed guide for  
insurers by providing data fields and other information  
necessary for compliance with the online verification system.

(c) Coordinate a pilot program and conduct the program for  
at least 9 months to test the online verification system and  
identify necessary changes to be implemented before statewide  
use.

(d) Issue recommendations based on periodic reviews of the  
online verification system.

(2) The task force shall consist of 10 voting members and 1  
nonvoting member.

(a) By July 31 of the year this section becomes effective,  
the 10 voting members shall be appointed in the following  
manner:



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1. Three representatives of the department, representing the Florida Highway Patrol, the Division of Motorist Services, and the Information Systems Administration, appointed by the executive director of the department.

2. One representative of the Office of Insurance Regulation, appointed by the Commissioner of Insurance Regulation.

3. Three representatives of the motor vehicle insurance industry, appointed by the Chief Financial Officer as follows:

a. One member must represent the motor vehicle insurer with the largest national market share as of December 31 of the year before the appointment.

b. One member must represent the motor vehicle insurer with the largest Florida market share as of December 31 of the year before the appointment.

c. One member must be selected from a list of representatives recommended by the Insurance Industry Committee on Motor Vehicle Administration.

4. One representative of the Department of Financial Services, appointed by the Chief Financial Officer.

5. One representative of the Division of State Technology, appointed by the Secretary of the Department of Management Services.

6. One member who must be a member of local law enforcement, appointed by the executive director of the department.

(b) The executive director of the department, who shall be a nonvoting member, shall serve as chair of the task force.

(3) By September 30 of the year this section becomes



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effective, the task force shall meet to establish procedures for the conduct of its business, and the voting members shall elect a vice chair at that meeting. The task force shall meet at the call of the chair, who shall prepare the agenda for each meeting with the consent of the task force. A majority of the voting members of the task force constitutes a quorum, and a quorum is necessary for the purpose of voting on any action or recommendation of the task force. All meetings shall be held in Tallahassee.

(4) The department shall provide the task force members with administrative and technical support. Task force members shall serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

(5) By July 1 of the third year after this section becomes effective, the task force shall complete its work and submit its final report evaluating the online verification system's effectiveness and making recommendations for system enhancements to the department, the President of the Senate, and the Speaker of the House of Representatives. Upon submission of the report, the task force shall expire.

Section 5. The amendments made by this act to ss. 316.646 and 320.02, Florida Statutes, and the creation of ss. 324.252 and 324.255, Florida Statutes, by this act shall take effect upon a specific appropriation.

Section 6. This act shall take effect July 1, 2020.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause



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and insert:

A bill to be entitled  
An act relating to insurance; amending s. 316.646,  
F.S.; requiring law enforcement officers, after a  
certain timeframe and under certain circumstances, to  
access information from the motor vehicle insurance  
online verification system for certain purposes;  
amending s. 320.02, F.S.; authorizing the use of the  
online verification of insurance for motor vehicle  
registration purposes; creating s. 324.252, F.S.;  
requiring the Department of Highway Safety and Motor  
Vehicles to establish an online verification system  
for motor vehicle insurance; providing system  
requirements; providing powers and duties of the  
department; providing requirements for insurers and  
law enforcement officers; providing immunity from  
civil liability to insurers for certain good faith  
efforts; providing applicability; defining the term  
"commercial motor vehicle coverage"; authorizing the  
department to adopt rules; creating s. 324.255, F.S.;  
creating the Motor Vehicle Insurance Online  
Verification Task Force within the department;  
providing duties of the task force; specifying the  
composition of the task force; providing meeting  
requirements; requiring the department to provide  
certain support to the task force; providing that task  
force members shall serve without compensation and are  
not entitled to certain reimbursement; providing the  
date by which the task force must complete its work



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243       and submit its final report to the department and the  
244       Legislature; providing for expiration of the task  
245       force; providing contingent effect; providing an  
246       effective date.

By Senator Perry

8-01591-20

20201606\_\_

1 A bill to be entitled  
 2 An act relating to insurance; amending s. 215.555,  
 3 F.S.; revising the definition of the term "covered  
 4 policy," for purposes of the Florida Hurricane  
 5 Catastrophe Fund, to revise authorized coverage  
 6 amounts under certain collateral protection insurance  
 7 policies; amending s. 316.646, F.S.; requiring law  
 8 enforcement officers to access information from the  
 9 motor vehicle insurance online verification system for  
 10 certain purposes; amending s. 320.02, F.S.;  
 11 authorizing the online verification of insurance for  
 12 motor vehicle registration purposes; creating s.  
 13 324.252, F.S.; requiring the Department of Highway  
 14 Safety and Motor Vehicles to establish an online  
 15 verification system for motor vehicle insurance;  
 16 providing system requirements; providing powers and  
 17 duties of the department; providing requirements for  
 18 insurers and law enforcement officers; providing  
 19 immunity from civil liability to insurers for certain  
 20 good faith efforts; providing applicability; defining  
 21 the term "commercial motor vehicle coverage";  
 22 authorizing the Department of Highway Safety and Motor  
 23 Vehicles to adopt rules; creating s. 324.255, F.S.;  
 24 creating the Motor Vehicle Insurance Online  
 25 Verification Task Force within the Department of  
 26 Highway Safety and Motor Vehicles; providing duties of  
 27 the task force; specifying the composition of the task  
 28 force; providing meeting requirements; requiring the  
 29 Department of Highway Safety and Motor Vehicles to

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

8-01591-20

20201606\_\_

30 provide certain support to the task force; providing  
 31 that task force members shall serve without  
 32 compensation and are not entitled to certain  
 33 reimbursement; requiring the task force to submit a  
 34 certain report to the Department of Highway Safety and  
 35 Motor Vehicles and the Legislature; providing the date  
 36 by which the task force must complete its work and  
 37 submit its final report; providing for expiration of  
 38 the task force; amending s. 494.0026, F.S.; specifying  
 39 deposit, notice, and distribution requirements for  
 40 mortgagees or assignees who receive certain insurance  
 41 proceeds; amending s. 626.321, F.S.; providing that  
 42 certain travel insurance licenses are subject to  
 43 review by the Department of Financial Services rather  
 44 than the Office of Insurance Regulation; revising  
 45 persons who may be licensed to transact in travel  
 46 insurance; specifying licensure and registration  
 47 requirements for certain persons; defining the term  
 48 "travel retailer"; specifying requirements for,  
 49 restrictions on, and authorized acts by travel  
 50 retailers and limited lines travel insurance  
 51 producers; defining the term "offer and disseminate";  
 52 authorizing certain persons to sell, solicit, and  
 53 negotiate travel insurance; amending s. 626.931, F.S.;  
 54 deleting a requirement for surplus lines agents to  
 55 file a certain affidavit with the Florida Surplus  
 56 Lines Service Office; amending s. 626.932, F.S.;  
 57 revising the time when the surplus lines tax must be  
 58 remitted; amending s. 626.935, F.S.; conforming a

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59 provision to changes made by the act; amending s.  
 60 627.7295, F.S.; decreasing the period during which a  
 61 motor vehicle insurer may not cancel a new policy or  
 62 binder for nonpayment; amending s. 627.914, F.S.;  
 63 requiring insurers or self-insurance funds that write  
 64 workers' compensation insurance and that are in  
 65 receivership to continue to report certain information  
 66 to the office; authorizing the outsourcing of  
 67 reporting under certain circumstances; requiring the  
 68 office to approve a certain reporting plan;  
 69 authorizing the office to use the information for  
 70 certain purposes; amending ss. 634.171, 634.317, and  
 71 634.419, F.S.; authorizing licensed personal lines or  
 72 general lines agents to advertise, solicit, negotiate,  
 73 or sell motor vehicle service agreements, home  
 74 warranties, and service warranties, respectively,  
 75 without a sales representative license; creating ch.  
 76 647, F.S., entitled "Travel Insurance"; creating s.  
 77 647.01, F.S.; providing legislative purpose; providing  
 78 applicability; creating s. 647.02, F.S.; defining  
 79 terms; creating s. 647.03, F.S.; defining the terms  
 80 "primary certificateholder" and "primary  
 81 policyholder"; requiring travel insurers to pay the  
 82 insurance premium tax on specified travel insurance  
 83 premiums; providing construction; specifying  
 84 requirements for travel insurers; creating s. 647.04,  
 85 F.S.; providing that a travel protection plan may be  
 86 offered for one price if its meets specified  
 87 requirements; creating s. 647.05, F.S.; specifying

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88 sales practice requirements, prohibited sales  
 89 practices, and authorized sales practices relating to  
 90 travel insurance; specifying a policyholder or  
 91 certificateholder's right to cancel a travel  
 92 protection plan for a full refund; defining the term  
 93 "delivery"; specifying unfair insurance trade  
 94 practices; providing construction; creating s. 647.06,  
 95 F.S.; specifying qualifications for travel  
 96 administrators; providing an exemption from certain  
 97 licensure; providing that insurers are responsible for  
 98 ensuring certain acts by travel administrators;  
 99 creating s. 647.07, F.S.; specifying the  
 100 classification for travel insurance for rate filing  
 101 purposes; specifying authorized forms of travel  
 102 insurance; authorizing certain eligibility and  
 103 underwriting standards for travel insurance; creating  
 104 s. 647.08, F.S.; requiring the department to adopt  
 105 rules; creating s. 655.969, F.S.; specifying  
 106 endorsement, deposit, notice, and distribution  
 107 requirements of certain insurance proceeds received by  
 108 a financial institution holding mortgage loans;  
 109 providing construction; providing an effective date.

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

112  
 113 Section 1. Paragraph (c) of subsection (2) of section  
 114 215.555, Florida Statutes, is amended to read:  
 115 215.555 Florida Hurricane Catastrophe Fund.—  
 116 (2) DEFINITIONS.—As used in this section:

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117 (c) "Covered policy" means any insurance policy covering  
 118 residential property in this state, including, but not limited  
 119 to, any homeowner, mobile home owner, farm owner, condominium  
 120 association, condominium unit owner, tenant, or apartment  
 121 building policy, or any other policy covering a residential  
 122 structure or its contents issued by any authorized insurer,  
 123 including a commercial self-insurance fund holding a certificate  
 124 of authority issued by the Office of Insurance Regulation under  
 125 s. 624.462, the Citizens Property Insurance Corporation, and any  
 126 joint underwriting association or similar entity created under  
 127 law. The term "covered policy" includes any collateral  
 128 protection insurance policy covering personal residences which  
 129 protects both the borrower's and the lender's financial  
 130 interests, in an amount at least equal to the coverage for the  
 131 dwelling in place under the lapsed homeowner's policy, or in an  
 132 amount at least equal to the coverage amount requested by the  
 133 lender if the homeowner has been notified in writing of the  
 134 coverage amount and the homeowner has not requested that the  
 135 insurer issue the policy in a different amount, if such policy  
 136 can be accurately reported as required in subsection (5).  
 137 Additionally, covered policies include policies covering the  
 138 peril of wind removed from the Florida Residential Property and  
 139 Casualty Joint Underwriting Association or from the Citizens  
 140 Property Insurance Corporation, created under s. 627.351(6), or  
 141 from the Florida Windstorm Underwriting Association, created  
 142 under s. 627.351(2), by an authorized insurer under the terms  
 143 and conditions of an executed assumption agreement between the  
 144 authorized insurer and such association or Citizens Property  
 145 Insurance Corporation. Each assumption agreement between the

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146 association and such authorized insurer or Citizens Property  
 147 Insurance Corporation must be approved by the Office of  
 148 Insurance Regulation before the effective date of the  
 149 assumption, and the Office of Insurance Regulation must provide  
 150 written notification to the board within 15 working days after  
 151 such approval. "Covered policy" does not include any policy that  
 152 excludes wind coverage or hurricane coverage or any reinsurance  
 153 agreement and does not include any policy otherwise meeting this  
 154 definition which is issued by a surplus lines insurer or a  
 155 reinsurer. All commercial residential excess policies and all  
 156 deductible buy-back policies that, based on sound actuarial  
 157 principles, require individual ratemaking shall be excluded by  
 158 rule if the actuarial soundness of the fund is not jeopardized.  
 159 For this purpose, the term "excess policy" means a policy that  
 160 provides insurance protection for large commercial property  
 161 risks and that provides a layer of coverage above a primary  
 162 layer insured by another insurer.

163 Section 2. Subsection (5) of section 316.646, Florida  
 164 Statutes, is renumbered as subsection (6), and a new subsection  
 165 (5) is added to that section, to read:

166 316.646 Security required; proof of security and display  
 167 thereof.—

168 (5) Upon implementation of the motor vehicle insurance  
 169 online verification system established in s. 324.252, a law  
 170 enforcement officer, during a traffic stop or crash  
 171 investigation, shall access information from the online  
 172 verification system to establish compliance with this chapter  
 173 and chapter 324 and to verify the current validity of the policy  
 174 described on any insurance identification card produced by the

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operator of a motor vehicle.

Section 3. Paragraph (f) is added to subsection (5) of section 320.02, Florida Statutes, to read:

320.02 Registration required; application for registration; forms.—

(5)

(f) Upon implementation of the motor vehicle insurance online verification system established in s. 324.252, the online verification may be used in lieu of the verification procedures in this subsection.

Section 4. Section 324.252, Florida Statutes, is created to read:

324.252 Insurance online verification system.—The department shall establish an online verification system for motor vehicle insurance. The goal of the system is to identify uninsured motorists and aid the department in the enforcement of the financial responsibility law.

(1) The online verification system must:

(a) Be accessible through the Internet by authorized personnel of the department, the courts, law enforcement personnel, any other entities authorized by the department, and insurers authorized by the Office of Insurance Regulation to offer motor vehicle insurance.

(b) Send requests to insurers for verification of evidence of insurance for motor vehicles registered in this state via online services established by the insurers in compliance with the specifications and standards of the Insurance Industry Committee on Motor Vehicle Administration (IICMVA), with enhancements, additions, and modifications as required by the

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department. However, the enhancements, additions, and modifications may not conflict with, nullify, or add requirements that are inconsistent with the specifications or standards of the IICMVA.

(c) Be operational by July 1, 2023. The Motor Vehicle Insurance Online Verification Task Force established in s. 324.255 must conduct a pilot program for at least 9 months to test the system before statewide use. The system may not be used in any enforcement action until successful completion of the pilot program.

(d) Be available 24 hours a day, except as provided in paragraph (2)(a), to verify the insurance status of any vehicle registered in this state through the insurer's National Association of Insurance Commissioners (NAIC) company code, in combination with other identifiers such as vehicle identification number, policy number, or other characteristics or markers as specified by the Motor Vehicle Insurance Online Verification Task Force.

(e) Include appropriate provisions, consistent with industry standards as specified by the Motor Vehicle Insurance Online Verification Task Force, to secure the system's data against unauthorized access.

(f) Include a disaster recovery plan to ensure service continuity in the event of a disaster.

(g) Include information that enables the department to make inquiries of evidence of insurance by using multiple data elements for greater matching accuracy, specifically the insurer's NAIC company code, in combination with other identifiers such as vehicle identification number, policy

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233 number, or other characteristics or markers as specified by the  
 234 Motor Vehicle Insurance Online Verification Task Force.  
 235 (h) Include a self-reporting mechanism for insurers with  
 236 fewer than 2,000 vehicles insured within this state or for  
 237 individual entities that are self-insured.  
 238 (2) The department has the following powers and duties:  
 239 (a) Upon an insurer's advance notice to the department, the  
 240 department shall allow online services established by the  
 241 insurer to have reasonable downtime for system maintenance and  
 242 other work, as needed. An insurer is not subject to  
 243 administrative penalties or disciplinary actions when its online  
 244 services are not available under such circumstances or when an  
 245 outage is unplanned by the insurer and is reasonably outside its  
 246 control.  
 247 (b) Upon recommendation of the Motor Vehicle Insurance  
 248 Online Verification Task Force, the department may contract with  
 249 a private vendor that has personnel with extensive operational  
 250 and management experience in the development, deployment, and  
 251 operation of insurance online verification systems.  
 252 (c) The department and its private vendor, if any, shall  
 253 each maintain a contact person for the insurers during the  
 254 establishment, implementation, and operation of the system.  
 255 (d) The department shall maintain a historical record of  
 256 the system data for 6 months after the date of any verification  
 257 request and response.  
 258 (3) An insurance company authorized to issue insurance  
 259 policies for motor vehicles registered in this state:  
 260 (a) Shall comply with the verification requirements of  
 261 motor vehicle insurance for every motor vehicle insured by that

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262 company in this state as required by department rule.  
 263 (b) Shall maintain policyholder records in order to confirm  
 264 insurance coverage for 6 months after the date of any  
 265 verification request and response.  
 266 (c) Shall cooperate with the department in establishing,  
 267 implementing, and maintaining the system.  
 268 (d) Is immune from civil liability for good faith efforts  
 269 to comply with this section. An online verification request or  
 270 response may not be used as the basis of a civil action against  
 271 an insurer.  
 272 (4) A law enforcement officer, during a traffic stop or  
 273 crash investigation, shall query information from the online  
 274 verification system to establish compliance with this chapter  
 275 and to verify the current validity of the policy described on  
 276 any insurance identification card produced by the operator of a  
 277 motor vehicle.  
 278 (5) This section does not apply to vehicles insured under  
 279 commercial motor vehicle coverage. As used in this subsection,  
 280 the term "commercial motor vehicle coverage" means any coverage  
 281 provided to an insured under a commercial coverage form and  
 282 rated from a commercial manual approved by the Office of  
 283 Insurance Regulation. However, insurers of such vehicles may  
 284 participate in the online verification system on a voluntary  
 285 basis.  
 286 (6) The department may adopt rules to administer this  
 287 section.  
 288 Section 5. Section 324.255, Florida Statutes, is created to  
 289 read:  
 290 324.255 Motor Vehicle Insurance Online Verification Task

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Force.—There is created the Motor Vehicle Insurance Online Verification Task Force within the department.

(1) The task force shall:

(a) Facilitate the implementation of the motor vehicle insurance online verification system established in s. 324.252, including recommending data and cybersecurity processes and protocols.

(b) Assist in the development of a detailed guide for insurers by providing data fields and other information necessary for compliance with the online verification system.

(c) Coordinate a pilot program and conduct the program for at least 9 months to test the online verification system and identify necessary changes to be implemented before statewide use.

(d) Issue recommendations based on periodic reviews of the online verification system.

(2) The task force shall consist of nine voting members and one nonvoting member.

(a) The nine voting members shall be appointed by July 31, 2020, in the following manner:

1. Three representatives of the department, representing the Florida Highway Patrol, the Division of Motorist Services, and the Information Systems Administration, appointed by the executive director of the department.

2. One representative of the Office of Insurance Regulation, appointed by the Commissioner of Insurance.

3. Three representatives of the motor vehicle insurance industry, appointed by the Chief Financial Officer as follows:

a. One member must represent the motor vehicle insurer with

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the largest national market share as of December 31, 2019.

b. One member must represent the motor vehicle insurer with the largest Florida market share as of December 31, 2019.

c. One member must be selected from a list of representatives recommended by the Insurance Industry Committee on Motor Vehicle Administration.

4. One representative of the Department of Financial Services, appointed by the Chief Financial Officer.

5. One representative of the Division of State Technology within the Department of Management Services, appointed by the Secretary of Management Services.

(b) The executive director of the department, who shall be a nonvoting member, shall serve as chair of the task force.

(3) By September 30, 2020, the task force shall meet to establish procedures for the conduct of its business, and the voting members shall elect a vice chair at that meeting. The task force shall meet at the call of the chair, who shall prepare the agenda for each meeting with the consent of the task force. A majority of the voting members of the task force constitutes a quorum, and a quorum is necessary for the purpose of voting on any action or recommendation of the task force. All meetings shall be held in Tallahassee.

(4) The department shall provide the task force members with administrative and technical support. Task force members shall serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

(5) The task force shall issue a report to the department, the President of the Senate, and the Speaker of the House of Representatives no later than 6 months after the pilot program

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concludes. The report must evaluate the online verification system's effectiveness in identifying uninsured motorists. The task force may also make recommendations for system enhancements in the report or at any time before the task force's completion of its work.

(6) By July 1, 2023, the task force shall complete its work and submit its final report evaluating the online verification system's effectiveness and making recommendations for system enhancements to the department, the President of the Senate, and the Speaker of the House of Representatives. Upon submission of the report, the task force shall expire.

Section 6. Subsection (2) of section 494.0026, Florida Statutes, is amended to read:

494.0026 Disposition of insurance proceeds.—The following provisions apply to mortgage loans held by a mortgagee or assignee that is subject to part II or part III of this chapter.

(2)(a)1. Insurance proceeds received by a mortgagee or assignee that relate to compensation for damage to property or contents insurance coverage in which the mortgagee or assignee has a security interest must be promptly deposited into a segregated account of a federally insured financial institution.

2. Pending completion of all or part of damage repairs, insurance proceeds received by a mortgagee or assignee under subparagraph 1. must be deposited into a segregated, interest-bearing account of a federally insured financial institution for the benefit of the insured. The account must bear interest no less than the insured could expect to obtain from a savings or money market account. The interest must begin to accrue on the date the mortgagee or assignee endorses the check, draft, or

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other negotiable instrument for proceeds.

(b) A mortgagee or assignee holding insurance proceeds under paragraph (a) must notify the insured of each requirement that the insured must fulfill for the mortgagee or assignee to release the proceeds. Notice required under this paragraph must be in writing and delivered by mail or electronic transmission within 10 business day after the date the mortgagee or assignee endorses the check, draft, or other negotiable instrument for proceeds.

(c) A mortgagee or assignee holding insurance proceeds under paragraph (a) must distribute all accrued interest in the account to the insured no later than upon the final disbursement of proceeds.

This section may not be construed to prevent an insurance company from paying the insured directly for additional living expenses or paying the insured directly for contents insurance coverage if the mortgagee or assignee does not have a security interest in the contents.

Section 7. Paragraph (c) of subsection (1) of section 626.321, Florida Statutes, is amended to read:

626.321 Limited licenses and registration.—

(1) The department shall issue to a qualified applicant a license as agent authorized to transact a limited class of business in any of the following categories of limited lines insurance:

(c) *Travel insurance*.—License covering only policies and certificates of travel insurance which are subject to review by the ~~department office~~. Policies and certificates of travel

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insurance may provide coverage for travel insurance, as defined  
in s. 647.02 ~~risks incidental to travel, planned travel, or~~  
~~accommodations while traveling, including, but not limited to,~~  
~~accidental death and dismemberment of a traveler; trip or event~~  
~~cancellation, interruption, or delay; loss of or damage to~~  
~~personal effects or travel documents; damages to travel~~  
~~accommodations; baggage delay; emergency medical travel or~~  
~~evacuation of a traveler; or medical, surgical, and hospital~~  
~~expenses related to an illness or emergency of a traveler. Such~~  
~~policy or certificate may be issued for terms longer than 90~~  
~~days, but, other than a policy or certificate providing coverage~~  
~~for air ambulatory services only, each policy or certificate~~  
~~must be limited to coverage for travel or use of accommodations~~  
~~of no longer than 90 days. The license may be issued only to an~~  
~~individual or business entity that has filed with the department~~  
~~an application for a license in a form and manner prescribed by~~  
~~the department.~~

1. A limited lines travel insurance producer, as defined in  
s. 647.02, shall be licensed to sell, solicit, or negotiate  
travel insurance through a licensed insurer.

2. A person may not act as a limited lines travel insurance  
producer or travel retailer unless properly licensed or  
registered, respectively. As used in this paragraph, the term  
"travel retailer" means a business entity that:

a. Makes, arranges, or offers planned travel.

b. May, under subparagraph 3., offer and disseminate travel  
insurance as a service to its customers on behalf of and under  
the direction of a limited lines travel insurance producer.

3. A travel retailer may offer and disseminate travel

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insurance under a limited lines travel insurance producer  
business entity license only if all of the following  
requirements are met:

a. The limited lines travel insurance producer or travel  
retailer provides to purchasers of travel insurance:

(I) A description of the material terms or the actual  
material terms of the insurance coverage.

(II) A description of the process for filing a claim.

(III) A description of the review or cancellation process  
for the travel insurance policy.

(IV) The identity and contact information of the insurer  
and limited lines travel insurance producer.

b. At the time of licensure, the limited lines travel  
insurance producer establishes and maintains a register, on a  
form prescribed by the department, of each travel retailer that  
offers travel insurance on behalf of the limited lines travel  
insurance producer. The limited lines travel insurance producer  
must maintain and update the register, which must include the  
travel retailer's federal tax identification number and the  
name, address, and contact information of the travel retailer  
and an officer or person who directs or controls the travel  
retailer's operations. The limited lines travel insurance  
producer shall submit the register to the department upon  
reasonable request. The limited lines travel insurance producer  
shall also certify that the travel retailer register complies  
with 18 U.S.C. s. 1033. The grounds for the suspension and  
revocation and the penalties applicable to resident insurance  
producers under this section apply to the limited lines travel  
insurance producers and travel retailers.

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c. The limited lines travel insurance producer has designated one of its employees as the designated responsible producer. The designated responsible producer, who must be a licensed insurance producer, is responsible for the compliance with the travel insurance laws and regulations applicable to the limited lines travel insurance producer and its registrants. The designated responsible producer and the president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations must comply with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer.

d. The limited lines travel insurance producer has paid all applicable licensing fees as set forth in applicable general law.

e. The limited lines travel insurance producer requires each employee and each authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which is subject, at the discretion of the department, to review and approval. The training material must, at a minimum, contain adequate instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective purchasers.

As used in this paragraph, the term "offer and disseminate" means to provide general information, including a description of the coverage and price, as well as processing the application and collecting premiums.

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4. A travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that have been approved by the travel insurer. Such materials must include information that, at a minimum:

a. Provides the identity and contact information of the insurer and the limited lines travel insurance producer.

b. Explains that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer.

c. Explains that a travel retailer is authorized to provide only general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

5. A travel retailer employee or authorized representative who is not licensed as an insurance producer may not:

a. Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

b. Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

c. Hold himself or herself or the travel retailer out as a licensed insurer, licensed producer, or insurance expert.

Notwithstanding any other provision of law, a travel retailer whose insurance-related activities, and those of its employees and authorized representatives, are limited to offering and

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523 disseminating travel insurance on behalf of and under the  
 524 direction of a limited lines travel insurance producer meeting  
 525 the conditions in this section may receive related compensation  
 526 upon registration by the limited lines travel insurance producer  
 527 as described in paragraph (2)(b).

528 6. As the insurer's designee, the limited lines travel  
 529 insurance producer is responsible for the acts of the travel  
 530 retailer and shall use reasonable means to ensure compliance by  
 531 the travel retailer with this section.

532 7. Any person licensed in a major line of authority as an  
 533 insurance producer, including a property and casualty insurance  
 534 producer who is not appointed by an insurer, may sell, solicit,  
 535 and negotiate travel insurance.

536 1. To a full-time salaried employee of a common carrier or  
 537 a full-time salaried employee or owner of a transportation  
 538 ticket agency and may authorize the sale of such ticket policies  
 539 only in connection with the sale of transportation tickets, or  
 540 to the full-time salaried employee of such an agent. Such policy  
 541 may not be for more than 48 hours or more than the duration of a  
 542 specified one-way trip or round trip.

543 2. To an entity or individual that is:

544 a. The developer of a timeshare plan that is the subject of  
 545 an approved public offering statement under chapter 721;

546 b. An exchange company operating an exchange program  
 547 approved under chapter 721;

548 c. A managing entity operating a timeshare plan approved  
 549 under chapter 721;

550 d. A seller of travel as defined in chapter 559; or

551 e. A subsidiary or affiliate of any of the entities

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552 ~~described in sub-subparagraphs a.-d.~~

553 ~~3. To a full-time salaried employee of a licensed general~~  
 554 ~~lines agent or a business entity that offers travel planning~~  
 555 ~~services if insurance sales activities authorized by the license~~  
 556 ~~are in connection with, and incidental to, travel.~~

557 ~~a. A license issued to a business entity that offers travel~~  
 558 ~~planning services must encompass each office, branch office, or~~  
 559 ~~place of business making use of the entity's business name in~~  
 560 ~~order to offer, solicit, and sell insurance pursuant to this~~  
 561 ~~paragraph.~~

562 ~~b. The application for licensure must list the name,~~  
 563 ~~address, and phone number for each office, branch office, or~~  
 564 ~~place of business that is to be covered by the license. The~~  
 565 ~~licensee shall notify the department of the name, address, and~~  
 566 ~~phone number of any new location that is to be covered by the~~  
 567 ~~license before the new office, branch office, or place of~~  
 568 ~~business engages in the sale of insurance pursuant to this~~  
 569 ~~paragraph. The licensee shall notify the department within 30~~  
 570 ~~days after the closing or terminating of an office, branch~~  
 571 ~~office, or place of business. Upon receipt of the notice, the~~  
 572 ~~department shall delete the office, branch office, or place of~~  
 573 ~~business from the license.~~

574 ~~c. A licensed and appointed entity is directly responsible~~  
 575 ~~and accountable for all acts of the licensee's employees and~~  
 576 ~~parties with whom the licensee has entered into a contractual~~  
 577 ~~agreement to offer travel insurance.~~

578  
 579 ~~A licensee shall require each individual who offers policies or~~  
 580 ~~certificates under subparagraph 2. or subparagraph 3. to receive~~



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~~initial training from a general lines agent or an insurer authorized under chapter 624 to transact insurance within this state. For an entity applying for a license as a travel insurance agent, the fingerprinting requirement of this section applies only to the president, secretary, and treasurer and to any other officer or person who directs or controls the travel insurance operations of the entity.~~

Section 8. Section 626.931, Florida Statutes, is amended to read:

626.931 Agent affidavit and Insurer reporting requirements.—

~~(1) Each surplus lines agent that has transacted business during a calendar quarter shall on or before the 45th day following the calendar quarter file with the Florida Surplus Lines Service Office an affidavit, on forms as prescribed and furnished by the Florida Surplus Lines Service Office, stating that all surplus lines insurance transacted by him or her during such calendar quarter has been submitted to the Florida Surplus Lines Service Office as required.~~

~~(2) The affidavit of the surplus lines agent shall include efforts made to place coverages with authorized insurers and the results thereof.~~

(1)(3) Each foreign insurer accepting premiums shall, on or before the end of the month following each calendar quarter, file with the Florida Surplus Lines Service Office a verified report of all surplus lines insurance transacted by such insurer for insurance risks located in this state during such calendar quarter.

(2)(4) Each alien insurer accepting premiums shall, on or

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before June 30 of each year, file with the Florida Surplus Lines Service Office a verified report of all surplus lines insurance transacted by such insurer for insurance risks located in this state during the preceding calendar year.

(3)(5) The department may waive the filing requirements described in subsections (1) ~~(3)~~ and (2) ~~(4)~~.

(4)(6) Each insurer's report and supporting information shall be in a computer-readable format as determined by the Florida Surplus Lines Service Office or shall be submitted on forms prescribed by the Florida Surplus Lines Service Office and shall show for each applicable agent:

(a) A listing of all policies, certificates, cover notes, or other forms of confirmation of insurance coverage or any substitutions thereof or endorsements thereto and the identifying number; and

(b) Any additional information required by the department or Florida Surplus Lines Service Office.

Section 9. Paragraph (a) of subsection (2) of section 626.932, Florida Statutes, is amended to read:

626.932 Surplus lines tax.—

(2) (a) The surplus lines agent shall make payable to the department the tax related to each calendar quarter's business as reported to the Florida Surplus Lines Service Office, and remit the tax to the Florida Surplus Lines Service Office at the same time as the fee payment required provided for the filing of the quarterly affidavit, under s. 626.9325 ~~s. 626.931~~. The Florida Surplus Lines Service Office shall forward to the department the taxes and any interest collected pursuant to paragraph (b), within 10 days of receipt.

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Section 10. Paragraph (d) of subsection (1) of section 626.935, Florida Statutes, is amended to read:

626.935 Suspension, revocation, or refusal of surplus lines agent's license.—

(1) The department shall deny an application for, suspend, revoke, or refuse to renew the appointment of a surplus lines agent and all other licenses and appointments held by the licensee under this code, on any of the following grounds:

~~(d) Failure to make and file his or her affidavit or reports when due as required by s. 626.931.~~

Section 11. Subsection (4) of section 627.7295, Florida Statutes, is amended to read:

627.7295 Motor vehicle insurance contracts.—

(4) The insurer may cancel the policy in accordance with this code except that, notwithstanding s. 627.728, an insurer may not cancel a new policy or binder during the first 30 ~~60~~ days immediately following the effective date of the policy or binder for nonpayment of premium unless the reason for the cancellation is the issuance of a check for the premium that is dishonored for any reason or any other type of premium payment that was subsequently determined to be rejected or invalid.

Section 12. Subsection (4) of section 627.914, Florida Statutes, is redesignated as subsection (5), a new subsection (4) is added to that section, and subsections (2) and (3) of that section are amended, to read:

627.914 Reports of information by workers' compensation insurers required.—

(2) (a) Each insurer and self-insurance fund authorized to write a policy of workers' compensation insurance shall report

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~~transmit~~ the following information annually on both Florida experience and nationwide experience separately:

- ~~1.(a)~~ Payrolls by classification.
- ~~2.(b)~~ Manual premiums by classification.
- ~~3.(c)~~ Standard premiums by classification.
- ~~4.(d)~~ Losses by classification and injury type.
- ~~5.(e)~~ Expenses.

An insurer or self-insurance fund that is placed in receivership pursuant to part I of chapter 631 must continue to report the information required under this paragraph. At the discretion of the receiver, the insurer or self-insurance fund may outsource the reporting of such information to a third-party reporting vendor. The office shall approve a modified reporting plan that is limited in terms of data elements.

(b) A report of the ~~this~~ information required under paragraph (a) shall be filed no later than July 1 of each year. All reports shall be filed in accordance with standard reporting procedures for insurers, which procedures have received approval by the office, and shall contain data for the most recent policy period available. A statistical or rating organization may be used by insurers and self-insurance funds to report the data required by this section. The statistical or rating organization shall report each data element in the aggregate only for insurers and self-insurance funds required to report under this section who elect to have the organization report on their behalf. Such insurers and self-insurance funds shall be named in the report.

(3) Individual self-insurers as defined in s. 440.02 shall

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697 report only Florida data as prescribed in subparagraphs  
 698 (2) (a) 1.-5. paragraphs (2) (a) - (e) to the office.

699 (a) The office shall publish the dates and forms necessary  
 700 to enable individual self-insurers to comply with this section.

701 (b) A statistical or rating organization may be used by  
 702 individual self-insurers for the purposes of reporting the data  
 703 required by this section and calculating experience ratings.

704 (4) The office may use the information it receives under  
 705 this section in its adoption of rates and experience ratings  
 706 modifications.

707 Section 13. Section 634.171, Florida Statutes, is amended  
 708 to read:

709 634.171 Salesperson to be licensed and appointed.-  
 710 Salespersons for motor vehicle service agreement companies and  
 711 insurers shall be licensed, appointed, renewed, continued,  
 712 reinstated, or terminated as prescribed in chapter 626 for  
 713 insurance representatives in general. However, they shall be  
 714 exempt from all other provisions of chapter 626 including  
 715 fingerprinting, photo identification, education, and examination  
 716 provisions. License, appointment, and other fees shall be those  
 717 prescribed in s. 624.501. A licensed and appointed salesperson  
 718 shall be directly responsible and accountable for all acts of  
 719 her or his employees and other representatives. Each service  
 720 agreement company or insurer shall, on forms prescribed by the  
 721 department, within 30 days after termination of the appointment,  
 722 notify the department of such termination. An ~~No~~ employee or  
 723 salesperson of a motor vehicle service agreement company or  
 724 insurer may not directly or indirectly solicit or negotiate  
 725 insurance contracts, or hold herself or himself out in any

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726 manner to be an insurance agent, unless so qualified, licensed,  
 727 and appointed therefor under the Florida Insurance Code. A  
 728 licensed personal lines or general lines agent is not required  
 729 to be licensed as a salesperson under this section to advertise,  
 730 solicit, negotiate, or sell motor vehicle service agreements. A  
 731 motor vehicle service agreement company is not required to be  
 732 licensed as a salesperson to solicit, sell, issue, or otherwise  
 733 transact the motor vehicle service agreements issued by the  
 734 motor vehicle service agreement company.

735 Section 14. Section 634.317, Florida Statutes, is amended  
 736 to read:

737 634.317 License and appointment required.-A ~~No~~ person may  
 738 not solicit, negotiate, or effectuate home warranty contracts  
 739 for remuneration in this state unless such person is licensed  
 740 and appointed as a sales representative. A licensed and  
 741 appointed sales representative shall be directly responsible and  
 742 accountable for all acts of the licensee's employees. A licensed  
 743 personal lines or general lines agent is not required to be  
 744 licensed as a sales representative under this section to  
 745 advertise, solicit, negotiate, or sell home warranties.

746 Section 15. Section 634.419, Florida Statutes, is amended  
 747 to read:

748 634.419 License and appointment required.-A ~~No~~ person or  
 749 entity may not ~~shall~~ solicit, negotiate, advertise, or  
 750 effectuate service warranty contracts in this state unless such  
 751 person or entity is licensed and appointed as a sales  
 752 representative. Sales representatives shall be responsible for  
 753 the actions of persons under their supervision. However, a  
 754 service warranty association licensed as such under this part

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shall not be required to be licensed and appointed as a sales representative to solicit, negotiate, advertise, or effectuate its products. A licensed personal lines or general lines agent is not required to be licensed as a sale representative under this section to advertise, solicit, negotiate, or sell service warranties.

Section 16. The Division of Law Revision is directed to create chapter 647, Florida Statutes, consisting of ss. 647.01-647.08, Florida Statutes, to be entitled "Travel Insurance."

Section 17. Section 647.01, Florida Statutes, is created to read:

647.01 Purpose and scope.—

(1) The purpose of this chapter is to promote the public welfare by creating a comprehensive legal framework within which travel insurance may be sold in this state.

(2) This chapter applies to:

(a) Travel insurance that covers any resident of this state and that is sold, solicited, negotiated, or offered in this state.

(b) Policies and certificates that are delivered or issued for delivery in this state.

This chapter does not apply to cancellation fee waivers or travel assistance services, except as expressly provided in this chapter.

(3) All other applicable provisions of the insurance laws of this state continue to apply to travel insurance, except that the specific provisions of this chapter shall supersede any general provisions of law that would otherwise be applicable to

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travel insurance.

Section 18. Section 647.02, Florida Statutes, is created to read:

647.02 Definitions.—As used in this chapter, the term:

(1) "Aggregator site" means a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.

(2) "Blanket travel insurance" means a policy of travel insurance issued to an eligible group providing coverage to all members of the eligible group without a separate charge to individual members of the eligible group.

(3) "Cancellation fee waiver" means a contractual agreement between a supplier of travel services and its customer to waive some or all of the nonrefundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.

(4) "Department" means the Department of Financial Services.

(5) "Eligible group," solely for the purposes of travel insurance, means two or more persons who are engaged in a common enterprise or who have an economic, educational, or social affinity or relationship, including, but not limited to, any of the following:

(a) An entity engaged in the business of providing travel or travel services, including, but not limited to:

1. A tour operator, lodging provider, vacation property owner, hotel, resort, travel club, travel agency, property

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813 manager, and cultural exchange program.

814 2. An operator, owner, or lessor of a means of  
815 transportation of passengers, including, but not limited to, a  
816 common carrier, airline, cruise line, railroad, steamship  
817 company, and public bus carrier.

818  
819 With regard to any particular travel or type of travel or  
820 travelers, all members or customers of the group must have a  
821 common exposure to risk attendant to such travel.

822 (b) A university, college, school, or other institution of  
823 learning, covering students, teachers, employees, or volunteers.

824 (c) An employer covering any group of employees,  
825 volunteers, contractors, board of directors, dependents, or  
826 guests.

827 (d) A sports team or camp, or a sponsor thereof, covering  
828 participants, members, campers, employees, officials,  
829 supervisors, or volunteers.

830 (e) A religious, charitable, recreational, educational, or  
831 civic organization, or a branch thereof, covering any group of  
832 members, participants, or volunteers.

833 (f) A financial institution or financial institution  
834 vendor, or a parent holding company, trustee, or agent of or  
835 designated by one or more financial institutions or financial  
836 institution vendors, including account holders, credit card  
837 holders, debtors, guarantors, or purchasers.

838 (g) An incorporated or unincorporated association,  
839 including a labor union, having a common interest and  
840 constitution and bylaws, which is organized and maintained in  
841 good faith for purposes other than obtaining insurance coverage

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842 for its members or participants.

843 (h) A trust or the trustees of a fund that covers its  
844 members, employees, or customers and is established, created, or  
845 maintained for the benefit of its members, employees, or  
846 customers, subject to:

847 1. The department's authorizing the use of a trust.

848 2. The premium tax provisions in s. 647.03 applicable to  
849 incorporated or unincorporated associations that have a common  
850 interest and constitution and bylaws and that are organized and  
851 maintained in good faith for purposes other than obtaining  
852 insurance coverage for their members, employees, or customers.

853 (i) An entertainment production company covering any group  
854 of participants, volunteers, audience members, contestants, or  
855 workers.

856 (j) A volunteer fire department, ambulance, rescue, police,  
857 court, first-aid, civil defense, or other such volunteer group.

858 (k) A preschool, daycare institution for children or  
859 adults, or senior citizen club.

860 (l) An automobile or truck rental or leasing company  
861 covering a group of individuals who may become renters, lessees,  
862 or passengers as defined by their travel status on the rented or  
863 leased vehicles. The common carrier, the operator, owner, or  
864 lessor of a means of transportation, or the motor vehicle or  
865 truck rental or leasing company is the policyholder under a  
866 policy to which this section applies.

867 (m) Any other group for which the department has made the  
868 following determinations:

869 1. The group members are engaged in a common enterprise or  
870 have an economic, educational, or social affinity or

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871 relationship.872 2. Issuance of the travel insurance policy is not contrary  
873 to the public interest.874 (6) "Fulfillment materials" means documentation sent to the  
875 purchaser of a travel protection plan confirming the purchase  
876 and providing the travel protection plan's coverage and  
877 assistance details.878 (7) "Group travel insurance" means travel insurance issued  
879 to an eligible group.880 (8) "Limited lines travel insurance producer" means:881 (a) A licensed or third-party administrator;882 (b) A licensed insurance producer, including a limited  
883 lines producer; or884 (c) A travel administrator.885 (9) "Travel administrator" means a person who directly or  
886 indirectly underwrites policies for, collects charges,  
887 collateral, or premiums from, or adjusts or settles claims on,  
888 residents of this state, in connection with travel insurance,  
889 except that a person is not considered a travel administrator if  
890 the person is:891 (a) A person working for a travel administrator, to the  
892 extent that the person's activities are subject to the  
893 supervision and control of the travel administrator;894 (b) An insurance producer selling insurance or engaged in  
895 administrative and claims-related activities within the scope of  
896 the producer's license;897 (c) A travel retailer, as defined s. 626.321(1)(c)2.,  
898 offering and disseminating travel insurance and registered under  
899 the license of a limited lines travel insurance producer in

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900 accordance with s. 626.321(1)(c);901 (d) A person adjusting or settling claims in the normal  
902 course of the person's practice or employment as an attorney at  
903 law, without collecting charges or premiums in connection with  
904 insurance coverage; or905 (e) A business entity that is affiliated with a licensed  
906 insurer while acting as a travel administrator for the direct  
907 and assumed insurance business of the affiliated insurer.908 (10) "Travel assistance services" means noninsurance  
909 services for which the consumer is not indemnified based on a  
910 fortuitous event, and the provision of which does not result in  
911 the transfer or shifting of risk which would constitute the  
912 business of insurance. The term includes, but is not limited to,  
913 security advisories, destination information, vaccination and  
914 immunization information services, travel reservation services,  
915 entertainment, activity and event planning, translation  
916 assistance, emergency messaging, international legal and medical  
917 referrals, medical case monitoring, coordination of  
918 transportation arrangements, emergency cash transfer assistance,  
919 medical prescription replacement assistance, passport and travel  
920 document replacement assistance, lost luggage assistance,  
921 concierge services, and any other service that is furnished in  
922 connection with planned travel. Travel assistance services are  
923 not insurance and are not related to insurance.924 (11) "Travel insurance" means insurance coverage for  
925 personal risks incidental to planned travel, including:926 (a) Interruption or cancellation of trip or event;927 (b) Loss of baggage or personal effects;928 (c) Damages to accommodations or rental vehicles;

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(d) Sickness, accident, disability, or death occurring during travel;  
(e) Emergency evacuation;  
(f) Repatriation of remains; or  
(g) Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the Commissioner of Insurance Regulation.

The term does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting longer than 6 months, including major medical plans for those working or residing overseas as expatriates, or any other product that requires a specific insurance producer license.

(12) "Travel protection plan" means a plan that provides one or more of the following: travel insurance, travel assistance services, and cancellation fee waivers.

Section 19. Section 647.03, Florida Statutes, is created to read:

647.03 Premium tax.—

(1) As used in this section, the term:

(a) "Primary certificateholder" means an individual who purchases travel insurance under a group policy.

(b) "Primary policyholder" means an individual who purchases individual travel insurance.

(2) A travel insurer shall pay the premium tax, as required under s. 624.509, on travel insurance premiums paid by any of the following:

(a) A primary policyholder who is a resident of this state.

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(b) A primary certificateholder who is a resident of this state.

(c) A blanket travel insurance policyholder:

1. Who is a resident in this state;

2. Who has his or her principal place of business in this state; or

3. Whose affiliate or subsidiary who has purchased blanket travel insurance for eligible blanket group members has his or her principal place of business in this state.

The premium tax under this subsection is subject to any apportionment rules that apply to an insurer across multiple taxing jurisdictions or that authorize an insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(3) A travel insurer shall:

(a) Document the state of residence or principal place of business of the policyholder or certificateholder, or an affiliate or subsidiary thereof, as required under subsection (2).

(b) Report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

Section 20. Section 647.04, Florida Statutes, is created to read:

647.04 Travel protection plans.—A travel protection plan may be offered for one price for the combined features that the travel protection plan offers in this state if the travel protection plan meets all of the following requirements:

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987 (1) The travel protection plan clearly discloses to the  
 988 consumer, at or before the time of purchase, that it includes  
 989 travel insurance, travel assistance services, and cancellation  
 990 fee waivers, as applicable, and provides information and an  
 991 opportunity, at or before the time of purchase, for the consumer  
 992 to obtain additional information regarding the features and  
 993 pricing of each.

994 (2) The fulfillment materials:

995 (a) Describe and delineate the travel insurance, travel  
 996 assistance services, and cancellation fee waivers in the travel  
 997 protection plan.

998 (b) Include the travel insurance disclosures required in  
 999 this chapter, the contact information for persons providing  
 1000 travel assistance services, and cancellation fee waivers, as  
 1001 applicable.

1002 Section 21. Section 647.05, Florida Statutes, is created to  
 1003 read:

1004 647.05 Sales practices.—

1005 (1) (a) All documents provided to a consumer before the  
 1006 purchase of travel insurance, including, but not limited to,  
 1007 sales materials, advertising materials, and marketing materials,  
 1008 must be consistent with the travel insurance policy, including,  
 1009 but not limited to, forms, endorsements, policies, rate filings,  
 1010 and certificates of insurance.

1011 (b) For travel insurance policies or certificates that  
 1012 contain preexisting condition exclusions, information and an  
 1013 opportunity to learn more about the preexisting condition  
 1014 exclusions must be provided any time before the purchase.  
 1015 Information on the exclusions and the opportunity to learn more

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1016 about these exclusions must be included in the coverage's  
 1017 fulfillment materials.

1018 (c) The fulfillment materials and the information described  
 1019 in s. 626.321(1)(c)3.a. must be provided to a policyholder or  
 1020 certificateholder as soon as practicable after the purchase of a  
 1021 travel protection plan. Unless the insured has started a covered  
 1022 trip or filed a claim under the travel insurance coverage, the  
 1023 policyholder or certificateholder may cancel a policy or  
 1024 certificate for a full refund of the travel protection plan  
 1025 price from the date of purchase of a travel protection plan  
 1026 until at least:

1027 1. Fifteen days after the date of delivery of the travel  
 1028 protection plan's fulfillment materials by postal mail; or

1029 2. Ten days after the date of delivery of the travel  
 1030 protection plan's fulfillment materials by means other than  
 1031 postal mail.

1032 For the purposes of this paragraph, the term "delivery" means  
 1033 handing fulfillment materials to the policyholder or  
 1034 certificateholder or sending fulfillment materials by postal  
 1035 mail or electronic means to the policyholder or  
 1036 certificateholder.

1037 (d) An insurer shall disclose in the policy documentation  
 1038 and fulfillment materials whether the travel insurance is  
 1039 primary or secondary to other applicable coverage.

1040 (e) If travel insurance is marketed directly to a consumer  
 1041 through an insurer's website or by others through an aggregator  
 1042 site, it is not an unfair trade practice or other violation of  
 1043 law if the following requirements are met:



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- 1045 1. The web page provides an accurate summary or short  
 1046 description of the coverage.
- 1047 2. The consumer has access to the full provisions of the  
 1048 policy through electronic means.
- 1049 (2) A person offering, soliciting, or negotiating travel  
 1050 insurance or travel protection plans on an individual or group  
 1051 basis may not do so by using a negative or opt-out option that  
 1052 would require a consumer to take an affirmative action to  
 1053 deselect coverage, such as unchecking a box on an electronic  
 1054 form, when the consumer purchases a trip.
- 1055 (3) If a consumer's destination jurisdiction requires  
 1056 insurance coverage, it is not an unfair trade practice to  
 1057 require that the consumer choose between the following options  
 1058 as a condition of purchasing a trip or travel package:
- 1059 (a) Purchasing the coverage required by the destination  
 1060 jurisdiction through the travel retailer, as defined s.  
 1061 626.321(1)(c)2., or limited lines travel insurance producer  
 1062 supplying the trip or travel package; or
- 1063 (b) Agreeing to obtain and provide proof of coverage that  
 1064 meets the destination jurisdiction's requirements before  
 1065 departure.
- 1066 (4) (a) A person offering travel insurance to residents of  
 1067 this state is subject to part IX of chapter 626, the Unfair  
 1068 Insurance Trade Practices Act, except as otherwise provided in  
 1069 this chapter. If a conflict arises between this chapter and the  
 1070 Unfair Insurance Trade Practices Act regarding the sale and  
 1071 marketing of travel insurance and travel protection plans, the  
 1072 provisions of this chapter shall control.
- 1073 (b) A person commits an unfair insurance trade practice

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- 1074 under the Unfair Insurance Trade Practices Act if the person:
- 1075 1. Offers or sells a travel insurance policy that could  
 1076 never result in payment of any claims for any insured under the  
 1077 policy; or
- 1078 2. Markets blanket travel insurance coverage as free.
- 1079 Section 22. Section 647.06, Florida Statutes, is created to  
 1080 read:
- 1081 647.06 Travel administrators.—
- 1082 (1) Notwithstanding any other provision of the Florida  
 1083 Insurance Code, a person may not act or represent himself or  
 1084 herself as a travel administrator in this state unless the  
 1085 person:
- 1086 (a) Is a licensed property and casualty insurance producer  
 1087 in this state for activities authorized under that producer  
 1088 license;
- 1089 (b) Is appointed as a managing general agent in this state;  
 1090 or
- 1091 (c) Holds a valid third-party administrator license in this  
 1092 state.
- 1093 (2) A travel administrator and its employees are exempt  
 1094 from the licensing requirements of part VI of chapter 626 for  
 1095 the travel insurance it administers.
- 1096 (3) An insurer is responsible for ensuring that a travel  
 1097 administrator administering travel insurance underwritten by the  
 1098 insurer:
- 1099 (a) Acts in accordance with this chapter.
- 1100 (b) Maintains all books and records that are relevant to  
 1101 the insurer and makes these books and records available to the  
 1102 department upon request.

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1103 Section 23. Section 647.07, Florida Statutes, is created to  
1104 read:

1105 647.07 Travel insurance policy.-

1106 (1) Notwithstanding any other provision of the Florida  
1107 Insurance Code, travel insurance shall be classified and filed  
1108 for purposes of rates and forms under the inland marine line of  
1109 insurance; however, travel insurance that provides coverage for  
1110 sickness, accident, disability, or death occurring during  
1111 travel, either exclusively or in conjunction with related  
1112 coverages of emergency evacuation or repatriation of remains, or  
1113 incidental limited property and casualty benefits such as  
1114 baggage or trip cancellation, may be classified and filed for  
1115 purposes of rates and forms under either the accident and health  
1116 line of insurance or the inland marine line of insurance.

1117 (2) Travel insurance may be in the form of an individual,  
1118 group, or blanket policy.

1119 (3) Eligibility and underwriting standards for travel  
1120 insurance may be developed and provided based on travel  
1121 protection plans designed for individual or identified marketing  
1122 or distribution channels, if those standards also meet the  
1123 state's underwriting standards for inland marine insurance.

1124 Section 24. Section 647.08, Florida Statutes, is created to  
1125 read:

1126 647.08 Rulemaking authority.-The department shall adopt  
1127 rules to administer this chapter.

1128 Section 25. Section 655.969, Florida Statutes, is created  
1129 to read:

1130 655.969 Disposition of insurance proceeds.-The following  
1131 provisions apply to mortgage loans held by a financial

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1132 institution or its subsidiary:

1133 (1) The financial institution or its subsidiary must  
1134 promptly endorse a check, draft, or other negotiable instrument  
1135 payable jointly to the financial institution or subsidiary and  
1136 the insured by the insurance company. However, the financial  
1137 institution or subsidiary is not required to endorse such  
1138 instrument if the insured or a payee who is not subject to the  
1139 financial institutions codes refuses to endorse the instrument.

1140 (2)(a)1. Insurance proceeds received by a financial  
1141 institution or subsidiary that relate to compensation for damage  
1142 to property or contents insurance coverage in which the  
1143 financial institution or subsidiary has a security interest must  
1144 be promptly deposited into a segregated account of a federally  
1145 insured financial institution.

1146 2. Pending completion of all or part of damage repairs,  
1147 insurance proceeds received by a financial institution or  
1148 subsidiary under subparagraph 1. must be deposited into a  
1149 segregated, interest-bearing account of a federally insured  
1150 financial institution for the benefit of the insured. The  
1151 account must bear interest no less than the insured could expect  
1152 to obtain from a savings or money market account. The interest  
1153 must begin to accrue on the date the financial institution or  
1154 subsidiary endorses the check, draft, or other negotiable  
1155 instrument for proceeds.

1156 (b) A financial institution or subsidiary holding insurance  
1157 proceeds under paragraph (a) must notify the insured of each  
1158 requirement that the insured must fulfill for the financial  
1159 institution or subsidiary to release the proceeds. Notice  
1160 required under this paragraph must be in writing and delivered

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by mail or electronic transmission within 10 business day after  
the date the financial institution or subsidiary endorses the  
check, draft, or other negotiable instrument for proceeds.

(c) A financial institution or subsidiary holding insurance  
proceeds under paragraph (a) must distribute all accrued  
interest in the account to the insured no later than upon the  
final disbursement of proceeds.

(3) Insurance proceeds received by a financial institution  
or subsidiary that relate to contents insurance coverage in  
which the financial institution or subsidiary does not have a  
security interest in the contents must be promptly distributed  
to the insured.

(4) Insurance proceeds received by a financial institution  
or subsidiary that relate to additional living expenses must be  
promptly distributed to the insured.

(5) The financial institution or subsidiary is not required  
to remit the portion of the proceeds relating to additional  
living expenses and contents insurance if the financial  
institution or subsidiary cannot determine which part of the  
proceeds relates to additional living expenses and contents  
insurance.

This section does not prevent an insurance company from paying  
the insured directly for additional living expenses or paying  
the insured directly for contents insurance coverage if the  
financial institution or subsidiary does not have a security  
interest in the contents.

Section 26. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

2/4/20

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1606

Bill Number (if applicable)

Topic Insurance

Amendment Barcode (if applicable)

Name Scott Matiyow

Job Title Vice President, Legislative & Regulatory Affairs

Address 215 S. Monroe Street

Phone 850-597-7425

Street

Tallahassee

FL

32301

City

State

Zip

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Personal Insurance Federation of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

# CourtSmart Tag Report

**Room:** KN 412  
**Caption:** Senate Banking and Insurance Committee

**Case No.:**

**Type:**  
**Judge:**

**Started:** 2/4/2020 12:36:43 PM

**Ends:** 2/4/2020 2:04:57 PM **Length:** 01:28:15

12:36:46 PM Meeting called to order by Chair. Quorum present  
12:40:32 PM Kathy Maus - FL Justice Reform Institute  
12:45:31 PM Fred Cunningham - FJA  
12:46:32 PM TAB 4 - by Sen. Wright - Consumer Protection  
12:46:59 PM Explanation of bill by Sen. Wright  
12:47:40 PM Sen. Lee recognized for question of sponsor.  
1:01:29 PM Greg Thomas-Division Director, DFS  
1:10:14 PM Sen. Rouson recognized to explain AMD to AMD - motion to withdraw  
1:12:07 PM Amy Boggs, FL Justice Association  
1:16:06 PM Steve Geller - FAPIA  
1:24:51 PM Chief Financial Officer-Jimmy Patronis  
1:37:49 PM Senator Thurston with question  
1:39:00 PM  
1:39:01 PM Chair Broxson with question of CFO  
1:40:16 PM Ashley Kelifch - FL Surplus Lines Assoc.  
1:41:07 PM Mark Delegal, State Farm Florida Ins. Company  
1:45:11 PM Back on Delete all amendment  
1:45:30 PM Question by Sen. Lee  
1:48:35 PM Motion by Sen. Lee to report bill with delete all amendment to travel w/bill  
1:49:36 PM Senator Wright with comments on bill.  
1:50:10 PM Voice vote on Amendment - adopted  
1:50:28 PM Gary Rutledge - Professional Claimants Reps. Assoc.  
1:53:56 PM Sen. Lee in debate.  
1:54:51 PM Senator Wright recognized to close on bill.  
1:55:41 PM Sen. Lee moves bill with traveling amendment - passed  
1:56:05 PM Roll call cote on s 1492 - passed  
1:56:39 PM TAB 5 - S 1606 by Perry - Insurance  
1:57:04 PM Sen. Perry recognized to explain delete all amendment.  
1:57:37 PM Voice Vote on Delete Amd. - passed  
1:58:07 PM Roll call vote on CS/SB 1606 - Favorable  
1:58:45 PM TAB 3 - S 1334 by Brandes - Financial Services  
1:58:59 PM Sen. Brandes recognized to explain the bill.  
2:00:35 PM Sen. Thurston recognized to explain Amd. 777928  
2:03:13 PM Motion to TP bill by Sen. Brandes - w/o adopted  
2:04:25 PM Motion to TP S 478 - passed  
2:04:41 PM Sen. Thurston motion to adjourn.