

Tab 1 CS/SB 478 by IT, Perry; (Similar to H 00377) Motor Vehicle Rentals

| | | | | | | |
|--------|---|---|--|------------|-------------------------|----------------|
| 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 |

Tab 2 SB 924 by Brandes; Civil Actions Against Insurers

Tab 3 SB 1334 by Brandes; (Compare to CS/H 00359) Financial Services

| | | | | | | |
|--------|----|---|--|--------------|---------------------|----------------|
| 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 |

Tab 4 SB 1492 by Wright; (Similar to CS/H 01137) Consumer Protection

| | | | | | | |
|-------------------|----|---|-----|------------|-------------------------|----------------|
| 957714 | D | S | FAV | BI, Wright | Delete everything after | 02/04 02:38 PM |
| 338934 | AA | S | WD | BI, Rouson | Delete L.146 - 176. | 02/04 02:38 PM |
| 269288 | AA | S | WD | BI, Rouson | Delete L.436 - 438: | 02/04 02:38 PM |
| 278986 | AA | S | WD | BI, Rouson | Delete L.442 - 443: | 02/04 02:38 PM |
| 241560 | A | S | 00 | BI, Rouson | Delete L.260 - 281: | 02/04 02:38 PM |
| 814670 | A | S | 00 | BI, Rouson | Delete L.260 - 281: | 02/04 02:38 PM |

Tab 5 SB 1606 by Perry; (Similar to CS/H 00895) Insurance

| | | | | | | |
|--------|---|---|-----|-----------|-------------------------|----------------|
| 778872 | D | S | RCS | BI, Perry | Delete everything after | 02/04 02:38 PM |
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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 | CS/SB 478 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 | SB 924 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 | SB 1334 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 | SB 1492 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 | SB 1606 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.)

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

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 | Fav/CS |
| 2. | Arnold | Knudson | BI | Pre-meeting |
| 3. | | | AP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

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.¹ 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 percent² of the gross proceeds derived from the lease or rental.³ 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.⁴ 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.⁵

¹ Section 212.05(1), F.S.

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

³ Section 212.05(1)(c), F.S.

⁴ Section 212.02(10)(g), F.S.

⁵ 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 surcharge⁶ of \$2.00 per day, or any part of a day, upon the lease or rental of a “motor vehicle licensed for hire”⁷ and designed to carry less than nine passengers, regardless of whether such motor vehicle is licensed in Florida.⁸ The surcharge applies to the first 30 days of the term of any lease or rental.⁹ 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....”¹⁰ 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.”¹¹

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.¹² 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.¹³ 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.¹⁴

⁶ 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.

⁷ 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.

⁸ Section 212.0606(1), F.S.

⁹ *Id.*

¹⁰ Section 212.02(12), F.S.

¹¹ Section 212.02(2), F.S.

¹² Rule 12A-16.002(3), F.A.C.

¹³ Section 212.0606(2), F.S.

¹⁴ *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 \$10,000¹⁵ 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:

¹⁵ 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."¹⁶ 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

¹⁶ 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.”¹⁷ 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.¹⁸

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.¹⁹

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.

¹⁷ Fla. Const. art. VII, s. 19(d)(2) (2019).

¹⁸ See Fla. Const. art. VII, s. 19(a),(b) (2019).

¹⁹ <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

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

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

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

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

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

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

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

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



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

43 3. The tax imposed by this chapter does not apply to the
44 lease or rental of a commercial motor vehicle as defined in s.
45 316.003(13)(a) to one lessee or rentee for a period of not less
46 than 12 months when tax was paid on the purchase price of such
47 vehicle by the lessor. To the extent tax was paid with respect
48 to the purchase of such vehicle in another state, territory of
49 the United States, or the District of Columbia, the Florida tax
50 payable shall be reduced in accordance with the provisions of s.
51 212.06(7). This subparagraph shall only be available when the
52 lease or rental of such property is an established business or
53 part of an established business or the same is incidental or
54 germane to such business.

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

57 212.0606 Rental car surcharge.—

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

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

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

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

67 3. Only through automated means, including, but not limited
68 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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98 service who uses the same motor vehicle for 24 hours or more
99 shall pay a surcharge of \$2 per day or any part of a day as
100 provided in subsection (2) ~~(1)~~. The car-sharing service shall
101 collect the surcharge ~~For purposes of this subsection, the term~~
102 ~~"car-sharing service" means a membership-based organization or~~
103 ~~business, or division thereof, which requires the payment of an~~
104 ~~application or membership fee and provides member access to~~
105 ~~motor vehicles:~~

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

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

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

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

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

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

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

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



127 4.25 percent of the proceeds of this surcharge shall be
128 deposited in the Florida International Trade and Promotion Trust
129 Fund. For the purposes of this subsection, the term "proceeds of
130 this surcharge" ~~of the surcharge~~ means all funds collected and
131 received by the department under this section, including
132 interest and penalties on delinquent surcharges. The department
133 shall provide the Department of Transportation rental car
134 surcharge revenue information for the previous state fiscal year
135 by September 1 of each year.

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

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

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

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



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156 and penalties on delinquent taxes apply to the surcharge. The
157 surcharge shall not be included in the calculation of estimated
158 taxes pursuant to s. 212.11. The dealer's credit provided in s.
159 212.12 does not apply to any amount collected under this
160 section.

161 (6)~~(5)~~ The surcharge imposed by this section does not apply
162 to a motor vehicle provided at no charge to a person whose motor
163 vehicle is being repaired, adjusted, or serviced by the entity
164 providing the replacement motor vehicle.

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

167 627.7483 Peer-to-peer car sharing; insurance requirements.-

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

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

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

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

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

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



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

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

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

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

205 (f) "Peer-to-peer car-sharing program" means a business
206 platform that enables peer-to-peer car sharing by connecting
207 motor vehicle owners with drivers for financial consideration.
208 For the purposes of this section, the term does not include a
209 rental car company, a car-sharing service as defined in s.
210 212.0606(1), a taxicab association, or the owner of a for-hire
211 vehicle as defined in s. 320.01(15).

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



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214 program which are applicable to a shared vehicle owner and a
215 shared vehicle driver and which govern the use of a shared
216 vehicle through a peer-to-peer car-sharing program. For the
217 purposes of this section, the term does not include a rental
218 agreement or an agreement for a for-hire vehicle as defined in
219 s. 320.01(15) or for a car-sharing service as defined in s.
220 212.0606(1).

221 (h) "Shared vehicle" means a motor vehicle that is
222 available for sharing through a peer-to-peer car-sharing
223 program. For the purposes of this section, the term does not
224 include a rental car, a for-hire vehicle as defined in s.
225 320.01(15), or a motor vehicle used for ridesharing as defined
226 in s. 341.031(9), for carpool as defined in s. 450.28(3), or for
227 car-sharing service as defined in s. 212.0606(1).

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

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

237 (2) INSURANCE COVERAGE REQUIREMENTS.-

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

242 a. Property damage liability coverage that meets the



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243 minimum coverage amounts required under s. 324.022.
244 b. Bodily injury liability coverage limits as described in
245 s. 324.021(7) (a) and (b).
246 c. Personal injury protection benefits that meet the
247 minimum coverage amounts required under s. 627.736.
248 d. Uninsured and underinsured vehicle coverage as required
249 under s. 627.727.
250 2. The peer-to-peer car-sharing program shall also ensure
251 that the motor vehicle insurance policy under subparagraph 1.:
252 a. Recognizes that the shared vehicle insured under the
253 policy is made available and used through a peer-to-peer car-
254 sharing program; or
255 b. Does not exclude the use of a shared vehicle by a shared
256 vehicle driver.
257 (b)1. The insurance described under paragraph (a) may be
258 satisfied by a motor vehicle insurance policy maintained by:
259 a. A shared vehicle owner;
260 b. A shared vehicle driver;
261 c. A peer-to-peer car-sharing program; or
262 d. A combination of a shared vehicle owner, a shared
263 vehicle driver, and a peer-to-peer car-sharing program.
264 2. The insurance policy maintained in subparagraph 1. which
265 satisfies the insurance requirements under paragraph (a) is
266 primary during each car-sharing period.
267 3.a. If the insurance maintained by a shared vehicle owner
268 or shared vehicle driver in accordance with subparagraph 1. has
269 lapsed or does not provide the coverage required under paragraph
270 (a), the insurance maintained by the peer-to-peer car-sharing
271 program must provide the coverage required under paragraph (a),



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

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

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

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

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

292 (II) Liability of the shared vehicle owner;

293 (III) Liability of the shared vehicle driver;

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

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

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



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

307 (3) LIABILITIES AND INSURANCE EXCLUSIONS.-

308 (a) Liability.-

309 1. A peer-to-peer car-sharing program shall assume
310 liability, except as provided in subparagraph 2., of a shared
311 vehicle owner for bodily injury or property damage to third
312 parties or uninsured and underinsured motorist or personal
313 injury protection losses during the car-sharing period in an
314 amount stated in the peer-to-peer car-sharing program agreement,
315 which amount may not be less than those set forth in ss.
316 324.021(7) (a) and (b), 324.022, 627.727, and 627.736,
317 respectively.

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

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

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

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



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

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

335
336 The shared vehicle owner's insurer shall indemnify the peer-to-
337 peer car-sharing program to the extent of the insurer's
338 obligation, if any, under the applicable insurance policy if it
339 is determined that the shared vehicle owner was in control of
340 the shared motor vehicle at the time of the loss.

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

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

352 1. Liability coverage for bodily injury and property
353 damage;

354 2. Personal injury protection coverage;

355 3. Uninsured and underinsured motorist coverage;

356 4. Medical payments coverage;

357 5. Comprehensive physical damage coverage; and

358 6. Collision physical damage coverage.



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359
360 This paragraph does not invalidate or limit any exclusion
361 contained in a motor vehicle insurance policy, including any
362 insurance policy in use or approved for use which excludes
363 coverage for motor vehicles made available for rent, sharing, or
364 hire or for any business use.

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

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

374 2. Excluded under the terms of its policy.

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

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

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



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

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

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

398 (6) CONSUMER PROTECTIONS.—

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

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

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

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



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417 insurance coverage.

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

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

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

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

430 (b) Driver license verification and data retention.-

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

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

437 b. Is a nonresident who:

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

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

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



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446 class of the shared vehicle.

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

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

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

453 c. The place of issuance of the driver license.

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

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

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

474 2. Notify the shared vehicle owner that if the shared



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475 vehicle owner:

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

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

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

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

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

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

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

503



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

505 And the title is amended as follows:

506 Delete everything before the enacting clause

507 and insert:

508 A bill to be entitled

509 An act relating to motor vehicle rentals; amending s.
510 212.05, F.S.; specifying the applicable sales tax rate
511 on motor vehicle leases and rentals by motor vehicle
512 rental companies and peer-to-peer car-sharing
513 programs; requiring peer-to-peer car-sharing programs
514 to collect and remit the applicable sales tax;
515 amending s. 212.0606, F.S.; defining terms; specifying
516 the applicable rental car surcharge on motor vehicle
517 leases and rentals by motor vehicle rental companies
518 and peer-to-peer car-sharing programs; specifying
519 applicability of the surcharge; requiring motor
520 vehicle rental companies and peer-to-peer car-sharing
521 programs to collect the surcharge; requiring car-
522 sharing services to collect a certain surcharge;
523 making technical changes; creating s. 627.7483, F.S.;
524 defining terms; specifying insurance requirements for
525 shared vehicle owners and shared vehicle drivers under
526 peer-to-peer car-sharing programs; providing that a
527 peer-to-peer car-sharing program has an insurable
528 interest in a shared vehicle during certain periods;
529 authorizing peer-to-peer car-sharing programs to own
530 and maintain certain motor vehicle insurance policies;
531 requiring peer-to-peer car-sharing programs to assume
532 certain liability; providing exceptions; requiring a



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533 shared vehicle owner's insurer to indemnify the peer-
534 to-peer car-sharing program under certain
535 circumstances; providing an exemption from vicarious
536 liability for peer-to-peer car-sharing programs and
537 shared vehicle owners; authorizing motor vehicle
538 insurers to exclude coverages and a duty to defend or
539 indemnify claims under a shared vehicle owner's
540 policy; providing construction relating to exclusions;
541 providing a right of contribution to a shared vehicle
542 owner's insurer for certain claims; requiring a peer-
543 to-peer car-sharing program to provide certain
544 information to shared vehicle owners regarding liens;
545 specifying recordkeeping and record sharing,
546 disclosure, and driver license verification and data
547 retention requirements for peer-to-peer car-sharing
548 programs; providing that peer-to-peer car-sharing
549 programs have sole responsibility for certain
550 equipment in or on a shared vehicle; providing for
551 indemnification; specifying requirements for peer-to-
552 peer car-sharing programs relating to safety recalls
553 on a shared vehicle; providing construction; providing
554 an effective date.



272308

LEGISLATIVE ACTION

Senate

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. .
. .
. .
. .

House

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

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

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

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

78 (3)(2) A member of a car-sharing service who uses a motor
 79 vehicle as described in subsection (2) (1) for less than 24
 80 hours pursuant to an agreement with the car-sharing service
 81 shall pay a surcharge of \$1 per usage. A member of a car-sharing
 82 service who uses the same motor vehicle for 24 hours or more
 83 shall pay a surcharge of \$2 per day or any part of a day as
 84 provided in subsection (2) (1). The car-sharing service shall
 85 collect the surcharge For purposes of this subsection, the term
 86 "car-sharing service" means a membership based organization or
 87 business, or division thereof, which requires the payment of an

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

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

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

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

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

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

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

100 ~~responsibility liability insurance; and~~

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

106 (4)(3)(a) Notwithstanding s. 212.20, and less the costs of
 107 administration, 80 percent of the proceeds of this surcharge
 108 shall be deposited in the State Transportation Trust Fund, 15.75
 109 percent of the proceeds of this surcharge shall be deposited in
 110 the Tourism Promotional Trust Fund created in s. 288.122, and
 111 4.25 percent of the proceeds of this surcharge shall be
 112 deposited in the Florida International Trade and Promotion Trust
 113 Fund. For the purposes of this subsection, the term "proceeds of
 114 this surcharge" of the surcharge means all funds collected and
 115 received by the department under this section, including
 116 interest and penalties on delinquent surcharges. The department

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

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

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

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

135 (c) ~~(b)~~ A dealer ~~Dealers~~ who collects ~~collect~~ the rental car
136 surcharge shall report to the department all surcharge revenues
137 attributed to the county where the rental agreement was entered
138 into on a timely filed return for each required reporting
139 period. The provisions of this chapter which apply to interest
140 and penalties on delinquent taxes apply to the surcharge. The
141 surcharge shall not be included in the calculation of estimated
142 taxes pursuant to s. 212.11. The dealer's credit provided in s.
143 212.12 does not apply to any amount collected under this
144 section.

145 (6) ~~(5)~~ The surcharge imposed by this section does not apply

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

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

151 627.7483 Peer-to-peer car sharing.—

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

153 (a) "Peer-to-peer car sharing" means the authorized use of
154 a motor vehicle by an individual other than the vehicle's owner
155 through a peer-to-peer car-sharing program. The term does not
156 include ridesharing as defined in s. 341.031(9), a carpool as
157 defined in s. 450.28(3), or the use of a motor vehicle under an
158 agreement for a car-sharing service as defined in s.
159 212.0606(1).

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

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

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

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

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

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

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

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

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

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

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

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

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

210 (2) INSURANCE COVERAGE REQUIREMENTS.—

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

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

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

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

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

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

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

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

231 (b)1. The insurance requirements under paragraph (a) may be
 232 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 The shared vehicle owner's insurer shall indemnify the peer-to-
 309 peer car-sharing program to the extent of the insurer's
 310 obligation, if any, under the applicable insurance policy if it
 311 is determined that the shared vehicle owner was in control of
 312 the shared motor vehicle at the time of the loss.
 313 (b) Exclusions in motor vehicle insurance policies.—An
 314 authorized insurer that writes motor vehicle liability insurance
 315 in this state may exclude any coverage and the duty to defend or
 316 indemnify for any claim afforded under a shared vehicle owner's
 317 motor vehicle insurance policy, including, but not limited to:
 318 1. Liability coverage for bodily injury and property
 319

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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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349 the terms of the contract with the lienholder.

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

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

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

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

362 (6) CONSUMER PROTECTIONS.—

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

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

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

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

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

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

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

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

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

394 (b) Driver license verification and data retention.—

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

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

401 b. Is a nonresident who:

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

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

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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.

Page 16 of 17

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

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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 and is positioned above a horizontal line.

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

Job Title Assistant Vice President

Address 215 S. Monroe St, Suite 720

Street

Phone 850 681 2615

Tallahassee

FL

32301

City

State

Zip

Email logan.mcfaddin@apci.org

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.

Phone (305) 720 7099

Street

Tallahassee

FL

32301

Email grfeijoo@flapartners.com

City

State

Zip

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

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.

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 PEER-TO-PEER 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

City

FL

State

33128

Zip

Email JMM2@MIAMIDADE.GOV

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.

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 Auto Rentals

Amendment Barcode (if applicable)

Name FRED DICKINSON

Job Title Pooler McKinley

Address 150 E. College

Phone 850.681.198

Street
City TEH State FL Zip 32301

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.

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 DughiL@ghawco

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.)

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

BILL: SB 924

INTRODUCER: Senator Brandes

SUBJECT: Civil Actions Against Insurers

DATE: January 27, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Arnold | Knudson | BI | Pre-meeting |
| 2. | | | JU | |
| 3. | | | RC | |

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.¹ 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.

¹ *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 1938.² 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.³ 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.⁴ With no actionable remedy, insureds in this state and elsewhere were left personally responsible for the excess judgment amount.⁵ 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.⁶

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.⁷ 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.⁸

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

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.¹²

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

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

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

⁵ *Id.*

⁶ *Id.*

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

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

⁹ Chapter 82-243, s. 9, L.O.F.

¹⁰ *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).

¹¹ *Id.*

¹² 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.¹³ 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.¹⁴

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.¹⁵ 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.¹⁶

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.¹⁷

¹³ Section 624.155(3), F.S.

¹⁴ Section 624.155(3)(b)(1)-(5), F.S.

¹⁵ See *Talat Enterprises, Inc.*, 753 So.2d at 1284.

¹⁶ *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).

¹⁷ 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.¹⁸ 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.¹⁹ 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.”²⁰ The claimant bringing the bad faith action has the burden of proving the insurer acted in bad faith by a preponderance of the evidence.²¹

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.²² 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.²³

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.²⁴

Conduct of the Claimant in the Settlement Context

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

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

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

²⁰ See *Harvey*, 259 So.3d at 7.

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

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

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

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

²⁵ *Id.*

Ins. Co., the 4th 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.²⁶

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.²⁷ Interpleader serves the purpose of allowing the defendant to avoid multiple litigations and multiple liability stemming from the same claim.²⁸ It is not intended to prevent multiple recoveries under the claim.²⁹ In the insurance context, insurers use interpleaders if claims are made by different parties.³⁰ 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.”³¹

²⁶ *Id.*

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

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

²⁹ *Id.*

³⁰ See *supra* at Note 30.

³¹ *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.³²

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.³³

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.³⁴

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.”³⁵

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.³⁶

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

³² Fla. R. Civ. P. 1.240.

³³ *Id.*

³⁴ *Morrisette v. US*, 342 U.S. 246, 263 (1952).

³⁵ *Farmer v. Brennan*, 511 U.S. 825, 836 (1994).

³⁶ *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.³⁷ 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.³⁸

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.

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

³⁸ *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);

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

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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

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

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

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

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

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

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

Page 4 of 4

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



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", 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)

924

Meeting Date _____

Bill Number (if applicable) _____

Topic Bad Faith

Amendment Barcode (if applicable) _____

Name John Swartz

Job Title _____

Address 1234 1st Ave.

Phone _____

Street

City Tampa State FL

Email _____

Zip _____

Speaking: For Against Information

Waive Speaking: In Support Against

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

Representing Tax payers against the 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.

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.

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

SB 924

Meeting Date

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.

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@fichconker.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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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.

Phone 305 720 7099

Street

Tallahassee
City

FL
State

32301
Zip

Email grferjoo@lcapartners.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.

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

(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 INSURER BAD FAITH

Amendment Barcode (if applicable)

Name FRED CUNNINGHAM

Job Title FIA

Address 2401 PGA BLVD, STE 140

Phone 561 676 3333

Street

PAVM BEACH FL 33410

Email fred@dcwlaw.com

City

State

Zip

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.

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

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: SB 1334

INTRODUCER: Senator Brandes

SUBJECT: Financial Services

DATE: February 3, 2020

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Knudson | Knudson | BI | Pre-meeting |
| 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-exempt¹ fund created in 1993² after Hurricane Andrew³ as a form of mandatory reinsurance for residential property insurers. The FHCF is administered by the State Board of Administration (SBA)⁴ and is a tax-exempt source of reimbursement to property insurers for a selected percentage (45, 75, or 90 percent)⁵ 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.⁶ The FHCF is authorized by statute to sell \$17 billion of

¹ Section 215.555(1)(f), F.S.

² Ch. 93-409, Laws of Fla.

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

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

⁵ Section 215.555(2)(e), F.S.

⁶ *See* s. 215.555(4)(a), F.S.

mandatory layer coverage.⁷ 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 percent⁸ of the reimbursed losses for loss adjustment expenses.⁹

FHCF Premiums and Ratemaking Formula

The FHCF must charge insurers the actuarially indicated premium¹⁰ for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology.¹¹ 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.¹²

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.¹³ The SBA selects an independent actuarial consultant through a competitive procurement process every 5 years, with the most recent contract entered into in 2018.¹⁴ Paragon Strategic Solutions, Inc., is the current independent actuarial consultant. The reimbursement premium formula is adopted by rule.¹⁵ 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.¹⁶

When the moneys in the FHCF are or will be insufficient to cover losses, the law¹⁷ authorizes the FHCF to issue revenue bonds funded by emergency assessments on all lines of insurance except medical malpractice and workers compensation.¹⁸ 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

⁷ Section 215.555(4)(c)1., F.S.

⁸ Section 215.555(4)(b)1., F.S.

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

¹⁰ Section 215.555(5)(a), F.S.

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

¹² Section 215.555(2)(a), F.S.

¹³ Section 215.555(5)(b), F.S.

¹⁴

¹⁵ Rule 19-8.028, F.A.C.

¹⁶ [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).

¹⁷ Section 215.555(6), F.S.

¹⁸ 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.¹⁹

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.²⁰

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.²¹

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.²² 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.²³

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,

¹⁹ 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).

²⁰ Section 215.555(2)(c), F.S.

²¹ Section 319.30(3)(b), F.S.

²² Section 319.30(3)(b)1., F.S.

²³ *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.²⁴

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.²⁵ 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 1938.²⁶ 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.²⁷ 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.²⁸ With no actionable remedy, insureds in this state and elsewhere were left personally responsible for the excess judgment amount.²⁹ 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.³⁰

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.³¹ 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.³²

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,³³ codified Florida Supreme Court precedent authorizing a common-law third-

²⁴ 84 Fed. Reg. 52664, at 52665 (Oct. 2, 2019).

²⁵ *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).

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

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

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

²⁹ *Id.*

³⁰ *Id.*

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

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

³³ Chapter 82-243, s. 9, L.O.F.

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

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.³⁶

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 must³⁷ 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.³⁸

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

³⁴ *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).

³⁵ *Id.*

³⁶ Section 624.155(1)(b)(1)-(3), F.S.

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

³⁸ 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.”³⁹ 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.⁴⁰ 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.

³⁹ Section 119.07(1), F.S.

⁴⁰ 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.⁴¹ 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,⁴² which means they do not obtain a certificate of authority from the OIR to transact insurance in Florida.⁴³ Rather, surplus lines insurers are “unauthorized” insurers,⁴⁴ 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:

⁴¹ 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.

⁴² 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.

⁴³ Section 624.09(1), F.S.

⁴⁴ 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,⁴⁵ with the consent of the insurance applicant, placing a policy with an unauthorized insurer under the Surplus Lines Law through a surplus lines agent.⁴⁶ 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.⁴⁷ “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.⁴⁸ The law further specifies that:⁴⁹

- 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;

⁴⁵ 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.

⁴⁶ Section 626.914(3), F.S.

⁴⁷ Section 626.916(1)(a), F.S.

⁴⁸ Section 626.914(4), F.S.

⁴⁹ 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,⁵⁰ 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.⁵¹ 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 tax⁵² and surplus lines service fee,⁵³ and other specified duties.⁵⁴ 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.⁵⁵ 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 Law⁵⁶ governing property, casualty, and surety insurance that covers subject of insurance resident, located, or to be performed in this state.⁵⁷ The Rating Law provides that the rates for all classes of insurance it governs may not be excessive, inadequate, or unfairly discriminatory.⁵⁸ 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.⁵⁹

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:

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

⁵¹ Section 626.921, F.S.

⁵² See Section 626.932, F.S.

⁵³ See Section 626.9325, F.S.

⁵⁴ Section 626.921(3), F.S.

⁵⁵ Section 626.931, F.S.

⁵⁶ Section 627.011, F.S.

⁵⁷ Section 627.021, F.S.

⁵⁸ Section 627.062(1), F.S.

⁵⁹ 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.⁶⁰ 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.⁶¹

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.

⁶⁰ Section 627.062(2)(b)11., F.S.

⁶¹ 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.⁶²

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.⁶³ 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.⁶⁴ 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.⁶⁵

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

⁶² *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”).

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

⁶⁴ S. 627.714(1), F.S.

⁶⁵ 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 agent⁶⁶ is one who sells the following lines of insurance: property,⁶⁷ casualty,⁶⁸ including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund,⁶⁹ or a workers' compensation self-insurance fund;⁷⁰ surety;⁷¹ health;⁷² and marine.⁷³ The general lines agent may only transact health insurance for an insurer that the general lines agent also represents for property and casualty insurance.⁷⁴ 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.⁷⁵

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.⁷⁶

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.⁷⁷ Motor vehicle service agreements can only be sold by a licensed and appointed salesperson.⁷⁸ 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.⁷⁹

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

⁶⁶ Section 626.015(5), F.S.

⁶⁷ Section 624.604, F.S.

⁶⁸ Section 624.605, F.S.

⁶⁹ As defined in s. 624.462, F.S.

⁷⁰ Pursuant to s. 624.4621, F.S.

⁷¹ Section 626.606, F.S.

⁷² Section 624.603, F.S.

⁷³ Section 624.607, F.S.

⁷⁴ Section 626.827, F.S.

⁷⁵ Section 626.829, F.S.

⁷⁶ Section 626.015(17), F.S.

⁷⁷ Section 634.011(8), F.S.

⁷⁸ Section 634.031, F.S.

⁷⁹ 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.⁸⁰ 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.⁸¹

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.⁸² 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.⁸³

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

⁸⁰ Section 634.401(13), F.S.

⁸¹ 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.

⁸² Section 634.301, F.S.

⁸³ 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 FLSO 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 FLSO 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.⁸⁴

VI. Technical Deficiencies:

None.

⁸⁴ 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

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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40 in this paragraph.

41

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

43 And the directory clause is amended as follows:

44 Delete lines 97 - 98

45 and insert:

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

49

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

51 And the title is amended as follows:

52 Delete line 6

53 and insert:

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



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LEGISLATIVE ACTION

Senate

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House

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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40 in this paragraph.

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

56 (17) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL COVERAGE.-

57 (a) Findings and intent.-

58 1. The Legislature finds that:

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

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



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

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

73 2. It is the intent of the Legislature to create a
74 temporary emergency program, applicable to the 2020, 2021, and
75 2022 hurricane seasons, to address these market disruptions and
76 enable insurers, at their option, to procure additional coverage
77 from the Florida Hurricane Catastrophe Fund.

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

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

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

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

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

97 3. "TEACO options" means the temporary emergency additional



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98 coverage options created under this subsection.

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

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

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

116 b. The TEACO retention multiples as determined under sub-
117 subparagraph a. shall be adjusted to reflect the coverage level
118 electd by the insurer. For insurers electing the 90-percent
119 coverage level, the adjusted retention multiple is 100 percent
120 of the amount determined under sub-subparagraph a. For insurers
121 electing the 75-percent coverage level, the retention multiple
122 is 120 percent of the amount determined under sub-subparagraph
123 a. For insurers electing the 45-percent coverage level, the
124 adjusted retention multiple is 200 percent of the amount
125 determined under sub-subparagraph a.

126 c. An insurer shall determine its provisional TEACO



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127 retention by multiplying its provisional TEACO reimbursement
128 premium by the applicable adjusted TEACO retention multiple and
129 shall determine its actual TEACO retention by multiplying its
130 actual TEACO reimbursement premium by the applicable adjusted
131 TEACO retention multiple.

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

139 (e) TEACO addendum.—

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

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

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



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156 the insurer from other sources.

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

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

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

184 (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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214 commencing June 1, 2021, and the contract term beginning June 1,
215 2022, the program created by this subsection shall increase the
216 claims-paying capacity of the fund as provided in subparagraph
217 (4)(c)1. by an amount equal to two times the difference between
218 the industry retention level calculated under paragraph (2)(e)
219 and the \$3 billion industry TEACO retention level specified in
220 sub-subparagraph (d)5.a. The additional capacity shall apply
221 only to the additional coverage provided by the TEACO option and
222 shall not otherwise affect any insurer's reimbursement from the
223 fund.

224
225 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

226 And the directory clause is amended as follows:

227 Delete lines 97 - 99

228 and insert:

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

233
234 ===== T I T L E A M E N D M E N T =====

235 And the title is amended as follows:

236 Delete lines 6 - 12

237 and insert:

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



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243 an independent consultant to audit the fund's
244 reimbursement premium formula at specified intervals;
245 specifying requirements for the audit; requiring the
246 office to report audit findings and certain
247 recommendations to the Financial Services Commission
248 and the Legislature; providing legislative findings
249 and intent; providing applicability; requiring the
250 State Board of Administration to offer temporary
251 emergency additional coverage options (TEACO) to
252 insurers during specified contract years; defining
253 terms; specifying requirements for the TEACO addendum
254 to the reimbursement contract; specifying requirements
255 for, and calculations of, TEACO reimbursement
256 premiums; specifying the effect of the TEACO program
257 on the fund's claims-paying capacity; amending s.
258 319.30,



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LEGISLATIVE ACTION

Senate

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House

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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11 construction project contracted for and before commencement of
12 work, provide to each of its contractors that it directly
13 contracts with a written certification from a principal or an
14 authorized officer of the subcontractor. The certification must
15 contain an attestation that the subcontractor has secured
16 workers' compensation coverage for all of its employees,
17 including leased employees pursuant to part XI of chapter 468,
18 and that for all of its employees, including leased employees,
19 for the duration of the contract, workers' compensation
20 insurance coverage will be maintained while the subcontractor is
21 performing work for the contractor. Each contractor who receives
22 such certification shall retain each certification for at least
23 3 years after the termination date of the project.

24 (b) The department shall verify the coverage attested to in
25 certifications under this subsection.

26 (c) An employee leasing company as defined in s. 468.520(5)
27 shall provide the department with notice within 30 days after
28 any employee of a client company, as defined in s. 468.520(6),
29 which is operating pursuant to an employee leasing arrangement
30 is denied workers' compensation benefits by the employee leasing
31 company or the carrier of the employee leasing company on the
32 basis that the employee of the client company was not an
33 employee of the employee leasing company.

34 (d) The department shall adopt rules to administer this
35 subsection.

36 (17) The Office of Program Policy Analysis and Government
37 Accountability shall conduct a study and prepare a report to
38 determine the feasibility of regulation of employee leasing
39 companies by the department. The study must include a survey of



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40 the regulation of employee leasing companies in other states and
41 the staffing requirements and potential costs to the department.
42 The report must be completed by October 1, 2020, and presented
43 to the Governor, the Chief Financial Officer, the President of
44 the Senate, and the Speaker of the House of Representatives.

45
46 ===== T I T L E A M E N D M E N T =====

47 And the title is amended as follows:

48 Delete line 15

49 and insert:

50 title; amending s. 440.107, F.S.; requiring a
51 subcontractor, before commencement of work, to provide
52 a specified written certification to each of its
53 contractors relating to workers' compensation coverage
54 for the subcontractor's employees; requiring
55 contractors to retain the certifications for a certain
56 time after a project ends; requiring the Department of
57 Financial Services to verify coverage attested to in
58 the certifications; requiring employee leasing
59 companies to provide the department with notice of
60 certain denied workers' compensation benefits within a
61 certain timeframe; requiring the department to adopt
62 rules; requiring the Office of Program Policy Analysis
63 and Government Accountability to perform a certain
64 study and prepare a report relating to the feasibility
65 of employee leasing company regulation by the
66 department; requiring the report to be completed by a
67 certain date and presented to the Governor, the Chief
68 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

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

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

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

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

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



787114

11 policy within 3 years after the date of loss ~~hurricane first~~
12 ~~made landfall or the windstorm caused the covered damage.~~ Notice
13 of all supplemental claims or reopened claims must be made
14 within the later of 3 years after the date of loss or 12 months
15 after the last payment by the insurer on the loss. This section
16 does not

17
18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete lines 57 - 59

21 and insert:

22 revising property insurance coverages and types of
23 claims for which a notice of a claim must be given to
24 the insurer within a specified timeframe; specifying
25 the timeframe in which notices of supplemental or
26 reopened claims must be made; revising the timeframe
27 for



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LEGISLATIVE ACTION

Senate

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House

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

1 **Senate Substitute for Amendment (787114) (with title**
2 **amendment)**

3
4 Delete lines 497 - 504
5 and insert:

6 ~~hurricane claim.~~ An initial A claim, ~~supplemental claim, or~~
7 ~~reopened claim~~ under an insurance policy that provides property
8 insurance, as defined in s. 624.604, ~~for loss or damage caused~~
9 ~~by the peril of windstorm or hurricane~~ is barred unless initial
10 notice of the claim is, ~~supplemental claim, or reopened claim~~



461914

11 ~~was~~ given to the insurer in accordance with the terms of the
12 policy within 3 years after the date of loss ~~hurricane first~~
13 ~~made landfall or the windstorm caused the covered damage.~~ Notice
14 of all supplemental claims or reopened claims must be made
15 within the later of 3 years after the date of loss or 12 months
16 after the insurer's final payment of the initial claim. This
17 section does not

18
19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 Delete lines 57 - 59

22 and insert:

23 revising property insurance coverages and types of
24 claims for which a notice of a claim must be given to
25 the insurer within a specified timeframe; specifying
26 the timeframe in which notices of supplemental or
27 reopened claims must be made; revising the timeframe
28 for



670458

LEGISLATIVE ACTION

Senate

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House

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

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

1 **Senate Substitute for Amendment (670458) (with title**
2 **amendment)**

3
4 Delete lines 516 - 544
5 and insert:

6 627.70152 Suits arising under a property insurance policy.-
7 As a condition precedent to filing suit under a property
8 insurance policy, the attorney of record must provide the
9 insurer and insured with a written notice of intent to initiate
10 litigation before filing suit under the policy.



392164

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

And the title is amended as follows:

Delete lines 61 - 70

and insert:

627.70152, F.S.; requiring the attorney of record, as
a condition precedent to filing suit under a property
insurance policy, to provide the insurer and insured a
written notice of intent to initiate litigation;
amending s.



893146

LEGISLATIVE ACTION

Senate

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House

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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11 disability, except for benefits provided under s. 440.13.
12 However, if the injury results in more than 21 days of
13 disability, compensation is allowed from the commencement of the
14 disability.

15 (a) All weekly compensation payments, except for the first
16 payment, must be paid by check or, if authorized by the
17 employee, on a prepaid card pursuant to paragraph (b) or
18 deposited directly into the employee's account at a financial
19 institution as defined in s. 655.005 or transmitted to the
20 employee's account with a money transmitter licensed under part
21 II of chapter 560.

22 Section 28. Paragraph (a) of subsection (1) and paragraph
23 (a) of subsection (6) of section 440.20, Florida Statutes, are
24 amended to read:

25 440.20 Time for payment of compensation and medical bills;
26 penalties for late payment.—

27 (1) (a) Unless the carrier denies compensability or
28 entitlement to benefits, the carrier shall pay compensation
29 directly to the employee as required by ss. 440.14, 440.15, and
30 440.16, in accordance with those sections. Upon receipt of the
31 employee's authorization as provided for in s. 440.12(1)(a), the
32 carrier's obligation to pay compensation directly to the
33 employee is satisfied when the carrier directly deposits, by
34 electronic transfer or other means, compensation into the
35 employee's account at a financial institution as defined in s.
36 655.005 or onto a prepaid card in accordance with s. 440.12(1)
37 or transmits the employee's compensation to the employee's
38 account with a money transmitter licensed under part II of
39 chapter 560. Compensation by direct deposit or through the use



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40 of a prepaid card or through transmission is considered paid on
41 the date the funds become available for withdrawal by the
42 employee.

43 (6) (a) If any installment of compensation for death or
44 dependency benefits, or compensation for disability benefits
45 payable without an award is not paid within 7 days after it
46 becomes due, as provided in subsection (2), subsection (3), or
47 subsection (4), there shall be added to such unpaid installment
48 a penalty of an amount equal to 20 percent of the unpaid
49 installment, which shall be paid at the same time as, but in
50 addition to, such installment of compensation. This penalty
51 shall not apply for late payments resulting from conditions over
52 which the employer or carrier had no control. When any
53 installment of compensation payable without an award has not
54 been paid within 7 days after it became due and the claimant
55 concludes the prosecution of the claim before a judge of
56 compensation claims without having specifically claimed
57 additional compensation in the nature of a penalty under this
58 section, the claimant will be deemed to have acknowledged that,
59 owing to conditions over which the employer or carrier had no
60 control, such installment could not be paid within the period
61 prescribed for payment and to have waived the right to claim
62 such penalty. However, during the course of a hearing, the judge
63 of compensation claims shall on her or his own motion raise the
64 question of whether such penalty should be awarded or excused.
65 The department may assess without a hearing the penalty against
66 either the employer or the carrier, depending upon who was at
67 fault in causing the delay. The insurance policy cannot provide
68 that this sum will be paid by the carrier if the department or



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69 the judge of compensation claims determines that the penalty
70 should be paid by the employer rather than the carrier. Any
71 additional installment of compensation paid by the carrier
72 pursuant to this section shall be paid directly to the employee
73 by check or, if authorized by the employee, by direct deposit
74 into the employee's account at a financial institution or by
75 transmission to the employee's account with a money transmitter
76 licensed under part II of chapter 560.

77 Section 29. Subsection (4) of section 627.914, Florida
78 Statutes, is redesignated as subsection (5), a new subsection
79 (4) is added to that section, and subsections (2) and (3) of
80 that section are amended, to read:

81 627.914 Reports of information by workers' compensation
82 insurers required.—

83 (2) (a) Each insurer and self-insurance fund authorized to
84 write a policy of workers' compensation insurance shall report
85 ~~transmit~~ the following information annually on both Florida
86 experience and nationwide experience separately:

- 87 1. ~~(a)~~ Payrolls by classification.
88 2. ~~(b)~~ Manual premiums by classification.
89 3. ~~(c)~~ Standard premiums by classification.
90 4. ~~(d)~~ Losses by classification and injury type.
91 5. ~~(e)~~ Expenses.

92
93 An insurer or self-insurance fund that is placed in receivership
94 pursuant to part I of chapter 631 must continue to report the
95 information required under this paragraph. At the discretion of
96 the receiver, the insurer or self-insurance fund may outsource
97 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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127 (1) The department shall issue to a qualified applicant a
128 license as agent authorized to transact a limited class of
129 business in any of the following categories of limited lines
130 insurance:

131 (c) *Travel insurance.*—License covering only policies and
132 certificates of travel insurance which are subject to review by
133 the department office. Policies and certificates of travel
134 insurance may provide coverage for travel insurance, as defined
135 in s. 647.02 ~~risks incidental to travel, planned travel, or~~
136 ~~accommodations while traveling, including, but not limited to,~~
137 ~~accidental death and dismemberment of a traveler; trip or event~~
138 ~~cancellation, interruption, or delay; loss of or damage to~~
139 ~~personal effects or travel documents; damages to travel~~
140 ~~accommodations; baggage delay; emergency medical travel or~~
141 ~~evacuation of a traveler; or medical, surgical, and hospital~~
142 ~~expenses related to an illness or emergency of a traveler. Such~~
143 ~~policy or certificate may be issued for terms longer than 90~~
144 ~~days, but, other than a policy or certificate providing coverage~~
145 ~~for air ambulatory services only, each policy or certificate~~
146 ~~must be limited to coverage for travel or use of accommodations~~
147 ~~of no longer than 90 days. The license may be issued only to an~~
148 individual or business entity that has filed with the department
149 an application for a license in a form and manner prescribed by
150 the department.÷

151 1. A limited lines travel insurance producer, as defined in
152 s. 647.02, shall be licensed to sell, solicit, or negotiate
153 travel insurance through a licensed insurer.

154 2. A person may not act as a limited lines travel insurance
155 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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185 producer shall submit the register to the department upon
186 reasonable request. The limited lines travel insurance producer
187 shall also certify that the travel retailer register complies
188 with 18 U.S.C. s. 1033. The grounds for the suspension and
189 revocation and the penalties applicable to resident insurance
190 producers under this section apply to the limited lines travel
191 insurance producers and travel retailers.

192 c. The limited lines travel insurance producer has
193 designated one of its employees as the designated responsible
194 producer. The designated responsible producer, who must be a
195 licensed insurance producer, is responsible for the compliance
196 with the travel insurance laws and regulations applicable to the
197 limited lines travel insurance producer and its registrants. The
198 designated responsible producer and the president, secretary,
199 treasurer, and any other officer or person who directs or
200 controls the limited lines travel insurance producer's insurance
201 operations must comply with the fingerprinting requirements
202 applicable to insurance producers in the resident state of the
203 limited lines travel insurance producer.

204 d. The limited lines travel insurance producer has paid all
205 applicable licensing fees as set forth in applicable general
206 law.

207 e. The limited lines travel insurance producer requires
208 each employee and each authorized representative of the travel
209 retailer whose duties include offering and disseminating travel
210 insurance to receive a program of instruction or training, which
211 is subject, at the discretion of the department, to review and
212 approval. The training material must, at a minimum, contain
213 adequate instructions on the types of insurance offered, ethical



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214 sales practices, and required disclosures to prospective
215 purchasers.

216
217 As used in this paragraph, the term "offer and disseminate"
218 means to provide general information, including a description of
219 the coverage and price, as well as processing the application
220 and collecting premiums.

221 4. A travel retailer offering or disseminating travel
222 insurance shall make available to prospective purchasers
223 brochures or other written materials that have been approved by
224 the travel insurer. Such materials must include information
225 that, at a minimum:

226 a. Provides the identity and contact information of the
227 insurer and the limited lines travel insurance producer.

228 b. Explains that the purchase of travel insurance is not
229 required in order to purchase any other product or service from
230 the travel retailer.

231 c. Explains that a travel retailer is authorized to provide
232 only general information about the insurance offered by the
233 travel retailer, including a description of the coverage and
234 price, but is not qualified or authorized to answer technical
235 questions about the terms and conditions of the insurance
236 offered by the travel retailer or to evaluate the adequacy of
237 the customer's existing insurance coverage.

238 5. A travel retailer employee or authorized representative
239 who is not licensed as an insurance producer may not:

240 a. Evaluate or interpret the technical terms, benefits, and
241 conditions of the offered travel insurance coverage;

242 b. Evaluate or provide advice concerning a prospective



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243 purchaser's existing insurance coverage; or
244 c. Hold himself or herself or the travel retailer out as a
245 licensed insurer, licensed producer, or insurance expert.
246
247 Notwithstanding any other provision of law, a travel retailer
248 whose insurance-related activities, and those of its employees
249 and authorized representatives, are limited to offering and
250 disseminating travel insurance on behalf of and under the
251 direction of a limited lines travel insurance producer meeting
252 the conditions in this section may receive related compensation
253 upon registration by the limited lines travel insurance producer
254 as described in paragraph (2) (b).
255 6. As the insurer's designee, the limited lines travel
256 insurance producer is responsible for the acts of the travel
257 retailer and shall use reasonable means to ensure compliance by
258 the travel retailer with this section.
259 7. Any person licensed in a major line of authority as an
260 insurance producer, including a property and casualty insurance
261 producer who is not appointed by an insurer, may sell, solicit,
262 and negotiate travel insurance.
263 ~~1. To a full-time salaried employee of a common carrier or~~
264 ~~a full-time salaried employee or owner of a transportation~~
265 ~~ticket agency and may authorize the sale of such ticket policies~~
266 ~~only in connection with the sale of transportation tickets, or~~
267 ~~to the full-time salaried employee of such an agent. Such policy~~
268 ~~may not be for more than 48 hours or more than the duration of a~~
269 ~~specified one-way trip or round trip.~~
270 ~~2. To an entity or individual that is:~~
271 ~~a. The developer of a timeshare plan that is the subject of~~



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272 ~~an approved public offering statement under chapter 721;~~
273 ~~b. An exchange company operating an exchange program~~
274 ~~approved under chapter 721;~~
275 ~~e. A managing entity operating a timeshare plan approved~~
276 ~~under chapter 721;~~
277 ~~d. A seller of travel as defined in chapter 559; or~~
278 ~~e. A subsidiary or affiliate of any of the entities~~
279 ~~described in sub-subparagraphs a.-d.~~
280 ~~3. To a full-time salaried employee of a licensed general~~
281 ~~lines agent or a business entity that offers travel planning~~
282 ~~services if insurance sales activities authorized by the license~~
283 ~~are in connection with, and incidental to, travel.~~
284 ~~a. A license issued to a business entity that offers travel~~
285 ~~planning services must encompass each office, branch office, or~~
286 ~~place of business making use of the entity's business name in~~
287 ~~order to offer, solicit, and sell insurance pursuant to this~~
288 ~~paragraph.~~
289 ~~b. The application for licensure must list the name,~~
290 ~~address, and phone number for each office, branch office, or~~
291 ~~place of business that is to be covered by the license. The~~
292 ~~licensee shall notify the department of the name, address, and~~
293 ~~phone number of any new location that is to be covered by the~~
294 ~~license before the new office, branch office, or place of~~
295 ~~business engages in the sale of insurance pursuant to this~~
296 ~~paragraph. The licensee shall notify the department within 30~~
297 ~~days after the closing or terminating of an office, branch~~
298 ~~office, or place of business. Upon receipt of the notice, the~~
299 ~~department shall delete the office, branch office, or place of~~
300 ~~business from the license.~~



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301 ~~e. A licensed and appointed entity is directly responsible~~
302 ~~and accountable for all acts of the licensee's employees and~~
303 ~~parties with whom the licensee has entered into a contractual~~
304 ~~agreement to offer travel insurance.~~

305
306 ~~A licensee shall require each individual who offers policies or~~
307 ~~certificates under subparagraph 2. or subparagraph 3. to receive~~
308 ~~initial training from a general lines agent or an insurer~~
309 ~~authorized under chapter 624 to transact insurance within this~~
310 ~~state. For an entity applying for a license as a travel~~
311 ~~insurance agent, the fingerprinting requirement of this section~~
312 ~~applies only to the president, secretary, and treasurer and to~~
313 ~~any other officer or person who directs or controls the travel~~
314 ~~insurance operations of the entity.~~

315 Section 31. The Division of Law Revision is directed to
316 create chapter 647, Florida Statutes, consisting of ss. 647.01-
317 647.08, Florida Statutes, to be entitled "Travel Insurance."

318 Section 32. Section 647.01, Florida Statutes, is created to
319 read:

320 647.01 Purpose and scope.—

321 (1) The purpose of this chapter is to promote the public
322 welfare by creating a comprehensive legal framework within which
323 travel insurance may be sold in this state.

324 (2) This chapter applies to:

325 (a) Travel insurance that covers any resident of this state
326 and that is sold, solicited, negotiated, or offered in this
327 state.

328 (b) Policies and certificates that are delivered or issued
329 for delivery in this state.



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330
331 This chapter does not apply to cancellation fee waivers or
332 travel assistance services, except as expressly provided in this
333 chapter.

334 (3) All other applicable provisions of the insurance laws
335 of this state continue to apply to travel insurance, except that
336 the specific provisions of this chapter shall supersede any
337 general provisions of law that would otherwise be applicable to
338 travel insurance.

339 Section 33. Section 647.02, Florida Statutes, is created to
340 read:

341 647.02 Definitions.—As used in this chapter, the term:

342 (1) "Aggregator site" means a website that provides access
343 to information regarding insurance products from more than one
344 insurer, including product and insurer information, for use in
345 comparison shopping.

346 (2) "Blanket travel insurance" means a policy of travel
347 insurance issued to an eligible group providing coverage to all
348 members of the eligible group without a separate charge to
349 individual members of the eligible group.

350 (3) "Cancellation fee waiver" means a contractual agreement
351 between a supplier of travel services and its customer to waive
352 some or all of the nonrefundable cancellation fee provisions of
353 the supplier's underlying travel contract with or without regard
354 to the reason for the cancellation or form of reimbursement. A
355 cancellation fee waiver is not insurance.

356 (4) "Department" means the Department of Financial
357 Services.

358 (5) "Eligible group," solely for the purposes of travel



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359 insurance, means two or more persons who are engaged in a common
360 enterprise or who have an economic, educational, or social
361 affinity or relationship, including, but not limited to, any of
362 the following:

363 (a) An entity engaged in the business of providing travel
364 or travel services, including, but not limited to:

365 1. A tour operator, lodging provider, vacation property
366 owner, hotel, resort, travel club, travel agency, property
367 manager, and cultural exchange program.

368 2. An operator, owner, or lessor of a means of
369 transportation of passengers, including, but not limited to, a
370 common carrier, airline, cruise line, railroad, steamship
371 company, and public bus carrier.

372
373 With regard to any particular travel or type of travel or
374 travelers, all members or customers of the group must have a
375 common exposure to risk attendant to such travel.

376 (b) A university, college, school, or other institution of
377 learning, covering students, teachers, employees, or volunteers.

378 (c) An employer covering any group of employees,
379 volunteers, contractors, board of directors, dependents, or
380 guests.

381 (d) A sports team or camp, or a sponsor thereof, covering
382 participants, members, campers, employees, officials,
383 supervisors, or volunteers.

384 (e) A religious, charitable, recreational, educational, or
385 civic organization, or a branch thereof, covering any group of
386 members, participants, or volunteers.

387 (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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417 leased vehicles. The common carrier, the operator, owner, or
418 lessor of a means of transportation, or the motor vehicle or
419 truck rental or leasing company is the policyholder under a
420 policy to which this section applies.

421 (m) Any other group for which the department has made the
422 following determinations:

423 1. The group members are engaged in a common enterprise or
424 have an economic, educational, or social affinity or
425 relationship.

426 2. Issuance of the travel insurance policy is not contrary
427 to the public interest.

428 (6) "Fulfillment materials" means documentation sent to the
429 purchaser of a travel protection plan confirming the purchase
430 and providing the travel protection plan's coverage and
431 assistance details.

432 (7) "Group travel insurance" means travel insurance issued
433 to an eligible group.

434 (8) "Limited lines travel insurance producer" means:

435 (a) A licensed or third-party administrator;

436 (b) A licensed insurance producer, including a limited
437 lines producer; or

438 (c) A travel administrator.

439 (9) "Travel administrator" means a person who directly or
440 indirectly underwrites policies for, collects charges,
441 collateral, or premiums from, or adjusts or settles claims on,
442 residents of this state, in connection with travel insurance,
443 except that a person is not considered a travel administrator if
444 the person is:

445 (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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475 concierge services, and any other service that is furnished in
476 connection with planned travel. Travel assistance services are
477 not insurance and are not related to insurance.

478 (11) "Travel insurance" means insurance coverage for
479 personal risks incidental to planned travel, including:

480 (a) Interruption or cancellation of trip or event;

481 (b) Loss of baggage or personal effects;

482 (c) Damages to accommodations or rental vehicles;

483 (d) Sickness, accident, disability, or death occurring
484 during travel;

485 (e) Emergency evacuation;

486 (f) Repatriation of remains; or

487 (g) Any other contractual obligations to indemnify or pay a
488 specified amount to the traveler upon determinable contingencies
489 related to travel as approved by the Commissioner of Insurance
490 Regulation.

491
492 The term does not include major medical plans that provide
493 comprehensive medical protection for travelers with trips
494 lasting longer than 6 months, including major medical plans for
495 those working or residing overseas as expatriates, or any other
496 product that requires a specific insurance producer license.

497 (12) "Travel protection plan" means a plan that provides
498 one or more of the following: travel insurance, travel
499 assistance services, and cancellation fee waivers.

500 Section 34. Section 647.03, Florida Statutes, is created to
501 read:

502 647.03 Premium tax.—

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



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504 (a) "Primary certificateholder" means an individual who
505 purchases travel insurance under a group policy.

506 (b) "Primary policyholder" means an individual who
507 purchases individual travel insurance.

508 (2) A travel insurer shall pay the premium tax, as required
509 under s. 624.509, on travel insurance premiums paid by any of
510 the following:

511 (a) A primary policyholder who is a resident of this state.

512 (b) A primary certificateholder who is a resident of this
513 state.

514 (c) A blanket travel insurance policyholder:

515 1. Who is a resident in this state;

516 2. Who has his or her principal place of business in this
517 state; or

518 3. Whose affiliate or subsidiary who has purchased blanket
519 travel insurance for eligible blanket group members has his or
520 her principal place of business in this state.

521
522 The premium tax under this subsection is subject to any
523 apportionment rules that apply to an insurer across multiple
524 taxing jurisdictions or that authorize an insurer to allocate
525 premium on an apportioned basis in a reasonable and equitable
526 manner in those jurisdictions.

527 (3) A travel insurer shall:

528 (a) Document the state of residence or principal place of
529 business of the policyholder or certificateholder, or an
530 affiliate or subsidiary thereof, as required under subsection

531 (2).

532 (b) Report as premium only the amount allocable to travel



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533 insurance and not any amounts received for travel assistance
534 services or cancellation fee waivers.

535 Section 35. Section 647.04, Florida Statutes, is created to
536 read:

537 647.04 Travel protection plans.—A travel protection plan
538 may be offered for one price for the combined features that the
539 travel protection plan offers in this state if the travel
540 protection plan meets all of the following requirements:

541 (1) The travel protection plan clearly discloses to the
542 consumer, at or before the time of purchase, that it includes
543 travel insurance, travel assistance services, and cancellation
544 fee waivers, as applicable, and provides information and an
545 opportunity, at or before the time of purchase, for the consumer
546 to obtain additional information regarding the features and
547 pricing of each.

548 (2) The fulfillment materials:

549 (a) Describe and delineate the travel insurance, travel
550 assistance services, and cancellation fee waivers in the travel
551 protection plan.

552 (b) Include the travel insurance disclosures required in
553 this chapter, the contact information for persons providing
554 travel assistance services, and cancellation fee waivers, as
555 applicable.

556 Section 36. Section 647.05, Florida Statutes, is created to
557 read:

558 647.05 Sales practices.—

559 (1) (a) All documents provided to a consumer before the
560 purchase of travel insurance, including, but not limited to,
561 sales materials, advertising materials, and marketing materials,



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562 must be consistent with the travel insurance policy, including,
563 but not limited to, forms, endorsements, policies, rate filings,
564 and certificates of insurance.

565 (b) For travel insurance policies or certificates that
566 contain preexisting condition exclusions, information and an
567 opportunity to learn more about the preexisting condition
568 exclusions must be provided any time before the purchase.
569 Information on the exclusions and the opportunity to learn more
570 about these exclusions must be included in the coverage's
571 fulfillment materials.

572 (c) The fulfillment materials and the information described
573 in s. 626.321(1)(c)3.a. must be provided to a policyholder or
574 certificateholder as soon as practicable after the purchase of a
575 travel protection plan. Unless the insured has started a covered
576 trip or filed a claim under the travel insurance coverage, the
577 policyholder or certificateholder may cancel a policy or
578 certificate for a full refund of the travel protection plan
579 price from the date of purchase of a travel protection plan
580 until at least:

581 1. Fifteen days after the date of delivery of the travel
582 protection plan's fulfillment materials by postal mail; or

583 2. Ten days after the date of delivery of the travel
584 protection plan's fulfillment materials by means other than
585 postal mail.

586
587 For the purposes of this paragraph, the term "delivery" means
588 handing fulfillment materials to the policyholder or
589 certificateholder or sending fulfillment materials by postal
590 mail or electronic means to the policyholder or



591 certificateholder.

592 (d) An insurer shall disclose in the policy documentation
593 and fulfillment materials whether the travel insurance is
594 primary or secondary to other applicable coverage.

595 (e) If travel insurance is marketed directly to a consumer
596 through an insurer's website or by others through an aggregator
597 site, it is not an unfair trade practice or other violation of
598 law if the following requirements are met:

599 1. The web page provides an accurate summary or short
600 description of the coverage.

601 2. The consumer has access to the full provisions of the
602 policy through electronic means.

603 (2) A person offering, soliciting, or negotiating travel
604 insurance or travel protection plans on an individual or group
605 basis may not do so by using a negative or opt-out option that
606 would require a consumer to take an affirmative action to
607 deselect coverage, such as unchecking a box on an electronic
608 form, when the consumer purchases a trip.

609 (3) If a consumer's destination jurisdiction requires
610 insurance coverage, it is not an unfair trade practice to
611 require that the consumer choose between the following options
612 as a condition of purchasing a trip or travel package:

613 (a) Purchasing the coverage required by the destination
614 jurisdiction through the travel retailer, as defined s.
615 626.321(1)(c)2., or limited lines travel insurance producer
616 supplying the trip or travel package; or

617 (b) Agreeing to obtain and provide proof of coverage that
618 meets the destination jurisdiction's requirements before
619 departure.



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620 (4) (a) A person offering travel insurance to residents of
621 this state is subject to part IX of chapter 626, the Unfair
622 Insurance Trade Practices Act, except as otherwise provided in
623 this chapter. If a conflict arises between this chapter and the
624 Unfair Insurance Trade Practices Act regarding the sale and
625 marketing of travel insurance and travel protection plans, the
626 provisions of this chapter shall control.

627 (b) A person commits an unfair insurance trade practice
628 under the Unfair Insurance Trade Practices Act if the person:

629 1. Offers or sells a travel insurance policy that could
630 never result in payment of any claims for any insured under the
631 policy; or

632 2. Markets blanket travel insurance coverage as free.

633 Section 37. Section 647.06, Florida Statutes, is created to
634 read:

635 647.06 Travel administrators.—

636 (1) Notwithstanding any other provision of the Florida
637 Insurance Code, a person may not act or represent himself or
638 herself as a travel administrator in this state unless the
639 person:

640 (a) Is a licensed property and casualty insurance producer
641 in this state for activities authorized under that producer
642 license;

643 (b) Is appointed as a managing general agent in this state;
644 or

645 (c) Holds a valid third-party administrator license in this
646 state.

647 (2) A travel administrator and its employees are exempt
648 from the licensing requirements of part VI of chapter 626 for



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649 the travel insurance it administers.

650 (3) An insurer is responsible for ensuring that a travel
651 administrator administering travel insurance underwritten by the
652 insurer:

653 (a) Acts in accordance with this chapter.

654 (b) Maintains all books and records that are relevant to
655 the insurer and makes these books and records available to the
656 department upon request.

657 Section 38. Section 647.07, Florida Statutes, is created to
658 read:

659 647.07 Travel insurance policy.-

660 (1) Notwithstanding any other provision of the Florida
661 Insurance Code, travel insurance shall be classified and filed
662 for purposes of rates and forms under the inland marine line of
663 insurance; however, travel insurance that provides coverage for
664 sickness, accident, disability, or death occurring during
665 travel, either exclusively or in conjunction with related
666 coverages of emergency evacuation or repatriation of remains, or
667 incidental limited property and casualty benefits such as
668 baggage or trip cancellation, may be classified and filed for
669 purposes of rates and forms under either the accident and health
670 line of insurance or the inland marine line of insurance.

671 (2) Travel insurance may be in the form of an individual,
672 group, or blanket policy.

673 (3) Eligibility and underwriting standards for travel
674 insurance may be developed and provided based on travel
675 protection plans designed for individual or identified marketing
676 or distribution channels, if those standards also meet the
677 state's underwriting standards for inland marine insurance.



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678 Section 39. Section 647.08, Florida Statutes, is created to
679 read:

680 647.08 Rulemaking authority.—The department shall adopt
681 rules to administer this chapter.

682

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

684 And the title is amended as follows:

685 Delete lines 67 - 69

686 and insert:

687 Timeframe; requiring the

688 Delete line 92

689 and insert:

690 respectively, without specified licenses; amending s.
691 440.12, F.S.; providing that an employee receiving
692 workers' compensation payments may authorize a carrier
693 to transmit compensation payments to a licensed money
694 transmitter; amending s. 440.20, F.S.; specifying that
695 the carrier's transmission of compensation with a
696 licensed money transmitter to the employee's account
697 satisfies the carrier's obligation to pay compensation
698 directly to the employee; amending s. 626.321, F.S.;
699 providing that certain travel insurance licenses are
700 subject to review by the Department of Financial
701 Services rather than the Office of Insurance
702 Regulation; revising persons who may be licensed to
703 transact in travel insurance; specifying licensure and
704 registration requirements for certain persons;
705 defining the term "travel retailer"; specifying
706 requirements for, restrictions on, and authorized acts



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707 by travel retailers and limited lines travel insurance
708 producers; defining the term "offer and disseminate";
709 authorizing certain persons to sell, solicit, and
710 negotiate travel insurance; amending s. 627.914, F.S.;
711 requiring insurers or self-insurance funds that write
712 workers' compensation insurance and that are in
713 receivership to continue to report certain information
714 to the office; authorizing the outsourcing of
715 reporting under certain circumstances; requiring the
716 office to approve a certain reporting plan;
717 authorizing the office to use the information for
718 certain purposes; creating ch. 647, F.S., entitled
719 "Travel Insurance"; creating s. 647.01, F.S.;
720 providing legislative purpose; providing
721 applicability; creating s. 647.02, F.S.; defining
722 terms; creating s. 647.03, F.S.; defining the terms
723 "primary certificateholder" and "primary
724 policyholder"; requiring travel insurers to pay the
725 insurance premium tax on specified travel insurance
726 premiums; providing construction; specifying
727 requirements for travel insurers; creating s. 647.04,
728 F.S.; providing that a travel protection plan may be
729 offered for one price if its meets specified
730 requirements; creating s. 647.05, F.S.; specifying
731 sales practice requirements, prohibited sales
732 practices, and authorized sales practices relating to
733 travel insurance; specifying a policyholder or
734 certificateholder's right to cancel a travel
735 protection plan for a full refund; defining the term



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736 "delivery"; specifying unfair insurance trade
737 practices; providing construction; creating s. 647.06,
738 F.S.; specifying qualifications for travel
739 administrators; providing an exemption from certain
740 licensure; providing that insurers are responsible for
741 ensuring certain acts by travel administrators;
742 creating s. 647.07, F.S.; specifying the
743 classification for travel insurance for rate filing
744 purposes; specifying authorized forms of travel
745 insurance; authorizing certain eligibility and
746 underwriting standards for travel insurance; creating
747 s. 647.08, F.S.; requiring the department to adopt
748 rules; providing



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LEGISLATIVE ACTION

Senate

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. .

House

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

1 **Senate Substitute for Amendment (893146) (with title**
2 **amendment)**

3
4 Between lines 693 and 694
5 insert:

6 Section 27. Paragraph (a) of subsection (1) of section
7 440.12, Florida Statutes, is amended to read:

8 440.12 Time for commencement and limits on weekly rate of
9 compensation.—

10 (1) Compensation is not allowed for the first 7 days of the



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11 disability, except for benefits provided under s. 440.13.
12 However, if the injury results in more than 21 days of
13 disability, compensation is allowed from the commencement of the
14 disability.

15 (a) All weekly compensation payments, except for the first
16 payment, must be paid by check or, if authorized by the
17 employee, paid on a prepaid card pursuant to paragraph (b), or
18 deposited directly into the employee's account at a financial
19 institution as defined in s. 655.005, or transmitted to the
20 employee's account with a money transmitter licensed under part
21 II of chapter 560.

22 Section 28. Paragraph (a) of subsection (1) and paragraph
23 (a) of subsection (6) of section 440.20, Florida Statutes, is
24 amended to read:

25 440.20 Time for payment of compensation and medical bills;
26 penalties for late payment.—

27 (1)(a) Unless the carrier denies compensability or
28 entitlement to benefits, the carrier shall pay compensation
29 directly to the employee as required by ss. 440.14, 440.15, and
30 440.16, in accordance with those sections. Upon receipt of the
31 employee's authorization as provided for in s. 440.12(1)(a), the
32 carrier's obligation to pay compensation directly to the
33 employee is satisfied when the carrier directly deposits, by
34 electronic transfer or other means, compensation into the
35 employee's account at a financial institution as defined in s.
36 655.005 or onto a prepaid card in accordance with s. 440.12(1)
37 or transmits the employee's compensation to the employee's
38 account with a money transmitter licensed under part II of
39 chapter 560. Compensation by direct deposit, ~~or~~ through the use



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40 of a prepaid card, or through transmission is considered paid on
41 the date the funds become available for withdrawal by the
42 employee.

43 (6) (a) If any installment of compensation for death or
44 dependency benefits, or compensation for disability benefits
45 payable without an award is not paid within 7 days after it
46 becomes due, as provided in subsection (2), subsection (3), or
47 subsection (4), there shall be added to such unpaid installment
48 a penalty of an amount equal to 20 percent of the unpaid
49 installment, which shall be paid at the same time as, but in
50 addition to, such installment of compensation. This penalty
51 shall not apply for late payments resulting from conditions over
52 which the employer or carrier had no control. When any
53 installment of compensation payable without an award has not
54 been paid within 7 days after it became due and the claimant
55 concludes the prosecution of the claim before a judge of
56 compensation claims without having specifically claimed
57 additional compensation in the nature of a penalty under this
58 section, the claimant will be deemed to have acknowledged that,
59 owing to conditions over which the employer or carrier had no
60 control, such installment could not be paid within the period
61 prescribed for payment and to have waived the right to claim
62 such penalty. However, during the course of a hearing, the judge
63 of compensation claims shall on her or his own motion raise the
64 question of whether such penalty should be awarded or excused.
65 The department may assess without a hearing the penalty against
66 either the employer or the carrier, depending upon who was at
67 fault in causing the delay. The insurance policy cannot provide
68 that this sum will be paid by the carrier if the department or



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69 the judge of compensation claims determines that the penalty
70 should be paid by the employer rather than the carrier. Any
71 additional installment of compensation paid by the carrier
72 pursuant to this section shall be paid directly to the employee
73 by check or, if authorized by the employee, by direct deposit
74 into the employee's account at a financial institution or by
75 transmission to the employee's account with a money transmitter
76 licensed under part II of chapter 560.

77 Section 29. Paragraph (c) of subsection (1) of section
78 626.321, Florida Statutes, is amended to read:

79 626.321 Limited licenses and registration.-

80 (1) The department shall issue to a qualified applicant a
81 license as agent authorized to transact a limited class of
82 business in any of the following categories of limited lines
83 insurance:

84 (c) *Travel insurance.*-License covering only policies and
85 certificates of travel insurance which are subject to review by
86 the office. Policies and certificates of travel insurance may
87 provide coverage for travel insurance, as defined in s. 647.02
88 ~~risks incidental to travel, planned travel, or accommodations~~
89 ~~while traveling, including, but not limited to, accidental death~~
90 ~~and dismemberment of a traveler; trip or event cancellation,~~
91 ~~interruption, or delay; loss of or damage to personal effects or~~
92 ~~travel documents; damages to travel accommodations; baggage~~
93 ~~delay; emergency medical travel or evacuation of a traveler; or~~
94 ~~medical, surgical, and hospital expenses related to an illness~~
95 ~~or emergency of a traveler. Such policy or certificate may be~~
96 ~~issued for terms longer than 90 days, but, other than a policy~~
97 ~~or certificate providing coverage for air ambulatory services~~



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98 ~~only, each policy or certificate must be limited to coverage for~~
99 ~~travel or use of accommodations of no longer than 90 days.~~ The
100 license may be issued only to an individual or business entity
101 that has filed with the department an application for a license
102 in a form and manner prescribed by the department.

103 1. A limited lines travel insurance producer, as defined in
104 s. 647.02, shall be licensed to sell, solicit, or negotiate
105 travel insurance through a licensed insurer.

106 2. A person may not act as a limited lines travel insurance
107 producer or travel retailer unless properly licensed or
108 registered, respectively. As used in this paragraph, the term
109 "travel retailer" means a business entity that:

110 a. Makes, arranges, or offers planned travel.

111 b. May, under subparagraph 3., offer and disseminate travel
112 insurance as a service to its customers on behalf of and under
113 the direction of a limited lines travel insurance producer.

114 3. A travel retailer may offer and disseminate travel
115 insurance under a limited lines travel insurance producer
116 business entity license only if all of the following
117 requirements are met:

118 a. The limited lines travel insurance producer or travel
119 retailer provides to purchasers of travel insurance:

120 (I) A description of the material terms or the actual
121 material terms of the insurance coverage.

122 (II) A description of the process for filing a claim.

123 (III) A description of the review or cancellation process
124 for the travel insurance policy.

125 (IV) The identity and contact information of the insurer
126 and limited lines travel insurance producer.



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127 b. At the time of licensure, the limited lines travel
128 insurance producer establishes and maintains a register on the
129 department's website and appoints each travel retailer that
130 offers travel insurance on behalf of the limited lines travel
131 insurance producer. The limited lines travel insurance producer
132 must maintain and update the register, which must include the
133 travel retailer's federal tax identification number and the
134 name, address, and contact information of the travel retailer
135 and an officer or person who directs or controls the travel
136 retailer's operations. The limited lines travel insurance
137 producer shall submit the register to the department upon
138 reasonable request. The limited lines travel insurance producer
139 shall also certify that the travel retailer register complies
140 with 18 U.S.C. s. 1033. The grounds for the suspension and
141 revocation and the penalties applicable to resident insurance
142 producers under this section apply to the limited lines travel
143 insurance producers and travel retailers.

144 c. The limited lines travel insurance producer has
145 designated one of its employees as the designated responsible
146 producer. The designated responsible producer, who must be a
147 licensed insurance producer, is responsible for the compliance
148 with the travel insurance laws and regulations applicable to the
149 limited lines travel insurance producer and its registrants. The
150 designated responsible producer and the president, secretary,
151 treasurer, and any other officer or person who directs or
152 controls the limited lines travel insurance producer's insurance
153 operations must comply with the fingerprinting requirements
154 applicable to insurance producers in the resident state of the
155 limited lines travel insurance producer.



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156 d. The limited lines travel insurance producer has paid all
157 applicable licensing and appointment fees, as set forth in
158 applicable general law.

159 e. The limited lines travel insurance producer requires
160 each employee and each authorized representative of the travel
161 retailer whose duties include offering and disseminating travel
162 insurance to receive a program of instruction or training, which
163 is subject, at the discretion of the department, to review and
164 approval. The training material must, at a minimum, contain
165 adequate instructions on the types of insurance offered, ethical
166 sales practices, and required disclosures to prospective
167 purchasers.

168
169 As used in this paragraph, the term "offer and disseminate"
170 means to provide general information, including a description of
171 the coverage and price, as well as processing the application
172 and collecting premiums.

173 4. A travel retailer offering or disseminating travel
174 insurance shall make available to prospective purchasers
175 brochures or other written materials that have been approved by
176 the travel insurer. Such materials must include information
177 that, at a minimum:

178 a. Provides the identity and contact information of the
179 insurer and the limited lines travel insurance producer.

180 b. Explains that the purchase of travel insurance is not
181 required in order to purchase any other product or service from
182 the travel retailer.

183 c. Explains that a travel retailer is authorized to provide
184 only general information about the insurance offered by the



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185 travel retailer, including a description of the coverage and
186 price, but is not qualified or authorized to answer technical
187 questions about the terms and conditions of the insurance
188 offered by the travel retailer or to evaluate the adequacy of
189 the customer's existing insurance coverage.

190 5. A travel retailer employee or authorized representative
191 who is not licensed as an insurance producer may not:

192 a. Evaluate or interpret the technical terms, benefits, and
193 conditions of the offered travel insurance coverage;

194 b. Evaluate or provide advice concerning a prospective
195 purchaser's existing insurance coverage; or

196 c. Hold himself or herself or the travel retailer out as a
197 licensed insurer, licensed producer, or insurance expert.

198
199 Notwithstanding any other provision of law, a travel retailer
200 whose insurance-related activities, and those of its employees
201 and authorized representatives, are limited to offering and
202 disseminating travel insurance on behalf of and under the
203 direction of a limited lines travel insurance producer meeting
204 the conditions in this section may receive related compensation
205 upon registration by the limited lines travel insurance producer
206 as described in paragraph (2)(b).

207 6. As the insurer's designee, the limited lines travel
208 insurance producer is responsible for the acts of the travel
209 retailer and shall use reasonable means to ensure compliance by
210 the travel retailer with this section.

211 7. Any person licensed as a general or personal lines agent
212 may sell, solicit, and negotiate travel insurance.

213 : 1. To a full-time salaried employee of a common carrier



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214 ~~or a full-time salaried employee or owner of a transportation~~
215 ~~ticket agency and may authorize the sale of such ticket policies~~
216 ~~only in connection with the sale of transportation tickets, or~~
217 ~~to the full-time salaried employee of such an agent. Such policy~~
218 ~~may not be for more than 48 hours or more than the duration of a~~
219 ~~specified one-way trip or round trip.~~

220 ~~2. To an entity or individual that is:~~

221 ~~a. The developer of a timeshare plan that is the subject of~~
222 ~~an approved public offering statement under chapter 721;~~

223 ~~b. An exchange company operating an exchange program~~
224 ~~approved under chapter 721;~~

225 ~~e. A managing entity operating a timeshare plan approved~~
226 ~~under chapter 721;~~

227 ~~d. A seller of travel as defined in chapter 559; or~~

228 ~~e. A subsidiary or affiliate of any of the entities~~
229 ~~described in sub-subparagraphs a.-d.~~

230 ~~3. To a full-time salaried employee of a licensed general~~
231 ~~lines agent or a business entity that offers travel planning~~
232 ~~services if insurance sales activities authorized by the license~~
233 ~~are in connection with, and incidental to, travel.~~

234 ~~a. A license issued to a business entity that offers travel~~
235 ~~planning services must encompass each office, branch office, or~~
236 ~~place of business making use of the entity's business name in~~
237 ~~order to offer, solicit, and sell insurance pursuant to this~~
238 ~~paragraph.~~

239 ~~b. The application for licensure must list the name,~~
240 ~~address, and phone number for each office, branch office, or~~
241 ~~place of business that is to be covered by the license. The~~
242 ~~licensee shall notify the department of the name, address, and~~



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243 ~~phone number of any new location that is to be covered by the~~
244 ~~license before the new office, branch office, or place of~~
245 ~~business engages in the sale of insurance pursuant to this~~
246 ~~paragraph. The licensee shall notify the department within 30~~
247 ~~days after the closing or terminating of an office, branch~~
248 ~~office, or place of business. Upon receipt of the notice, the~~
249 ~~department shall delete the office, branch office, or place of~~
250 ~~business from the license.~~

251 ~~e. A licensed and appointed entity is directly responsible~~
252 ~~and accountable for all acts of the licensee's employees and~~
253 ~~parties with whom the licensee has entered into a contractual~~
254 ~~agreement to offer travel insurance.~~

255
256 ~~A licensee shall require each individual who offers policies or~~
257 ~~certificates under subparagraph 2. or subparagraph 3. to receive~~
258 ~~initial training from a general lines agent or an insurer~~
259 ~~authorized under chapter 624 to transact insurance within this~~
260 ~~state. For an entity applying for a license as a travel~~
261 ~~insurance agent, the fingerprinting requirement of this section~~
262 ~~applies only to the president, secretary, and treasurer and to~~
263 ~~any other officer or person who directs or controls the travel~~
264 ~~insurance operations of the entity.~~

265 Section 30. Present subsection (4) of section 627.914,
266 Florida Statutes, is redesignated as subsection (5), a new
267 subsection (4) is added to that section, and subsections (2) and
268 (3) of that section are amended, to read:

269 627.914 Reports of information by workers' compensation
270 insurers required.-

271 (2) (a) Each insurer and self-insurance fund authorized to



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272 write a policy of workers' compensation insurance shall report
273 ~~transmit~~ the following information annually on both Florida
274 experience and nationwide experience separately:

- 275 1.~~(a)~~ Payrolls by classification.
- 276 2.~~(b)~~ Manual premiums by classification.
- 277 3.~~(c)~~ Standard premiums by classification.
- 278 4.~~(d)~~ Losses by classification and injury type.
- 279 5.~~(e)~~ Expenses.

280
281 An insurer or self-insurance fund that is placed in receivership
282 pursuant to part I of chapter 631 must continue to report the
283 information required under this paragraph. At the discretion of
284 the receiver, the insurer or self-insurance fund may outsource
285 the reporting of such information to a third-party reporting
286 vendor. The office shall approve a modified reporting plan that
287 is limited in terms of data elements.

288 (b) A report of the ~~this~~ information required under
289 paragraph (a) shall be filed no later than July 1 of each year.
290 All reports shall be filed in accordance with standard reporting
291 procedures for insurers, which procedures have received approval
292 by the office, and shall contain data for the most recent policy
293 period available. A statistical or rating organization may be
294 used by insurers and self-insurance funds to report the data
295 required by this section. The statistical or rating organization
296 shall report each data element in the aggregate only for
297 insurers and self-insurance funds required to report under this
298 section who elect to have the organization report on their
299 behalf. Such insurers and self-insurance funds shall be named in
300 the report.



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301 (3) Individual self-insurers as defined in s. 440.02 shall
302 report only Florida data as prescribed in subparagraphs
303 (2) (a) 1.-5. paragraphs (2) (a) - (e) to the office.

304 (a) The office shall publish the dates and forms necessary
305 to enable individual self-insurers to comply with this section.

306 (b) A statistical or rating organization may be used by
307 individual self-insurers for the purposes of reporting the data
308 required by this section and calculating experience ratings.

309 (4) The office may use the information it receives under
310 this section in its adoption of rates and experience ratings
311 modifications.

312 Section 31. The Division of Law Revision is directed to
313 create chapter 647, Florida Statutes, consisting of ss. 647.01-
314 647.08, Florida Statutes, to be entitled "Travel Insurance."

315 Section 32. Section 647.01, Florida Statutes, is created to
316 read:

317 647.01 Purpose and scope.-

318 (1) The purpose of this chapter is to promote the public
319 welfare by creating a comprehensive legal framework within which
320 travel insurance may be sold in this state.

321 (2) This chapter applies to:

322 (a) Travel insurance that covers any resident of this state
323 and that is sold, solicited, negotiated, or offered in this
324 state.

325 (b) Policies and certificates that are delivered or issued
326 for delivery in this state.

327
328 This chapter does not apply to cancellation fee waivers or
329 travel assistance services, except as expressly provided in this



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330 chapter.

331 (3) All other applicable provisions of the insurance laws
332 of this state continue to apply to travel insurance, except that
333 the specific provisions of this chapter shall supersede any
334 general provisions of law that would otherwise be applicable to
335 travel insurance.

336 Section 33. Section 647.02, Florida Statutes, is created to
337 read:

338 647.02 Definitions.—As used in this chapter, the term:

339 (1) "Aggregator site" means a website that provides access
340 to information regarding insurance products from more than one
341 insurer, including product and insurer information, for use in
342 comparison shopping.

343 (2) "Blanket travel insurance" means a policy of travel
344 insurance issued to an eligible group providing coverage to all
345 members of the eligible group without a separate charge to
346 individual members of the eligible group.

347 (3) "Cancellation fee waiver" means a contractual agreement
348 between a supplier of travel services and its customer to waive
349 some or all of the nonrefundable cancellation fee provisions of
350 the supplier's underlying travel contract with or without regard
351 to the reason for the cancellation or form of reimbursement. A
352 cancellation fee waiver is not insurance.

353 (4) "Department" means the Department of Financial
354 Services.

355 (5) "Eligible group," solely for the purposes of travel
356 insurance, means two or more persons who are engaged in a common
357 enterprise or who have an economic, educational, or social
358 affinity or relationship, including, but not limited to, any of



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359 the following:

360 (a) An entity engaged in the business of providing travel
361 or travel services, including, but not limited to:

362 1. A tour operator, lodging provider, vacation property
363 owner, hotel, resort, travel club, travel agency, property
364 manager, and cultural exchange program.

365 2. An operator, owner, or lessor of a means of
366 transportation of passengers, including, but not limited to, a
367 common carrier, airline, cruise line, railroad, steamship
368 company, and public bus carrier.

369
370 With regard to any particular travel or type of travel or
371 travelers, all members or customers of the group must have a
372 common exposure to risk attendant to such travel.

373 (b) A university, college, school, or other institution of
374 learning, covering students, teachers, employees, or volunteers.

375 (c) An employer covering any group of employees,
376 volunteers, contractors, board of directors, dependents, or
377 guests.

378 (d) A sports team or camp, or a sponsor thereof, covering
379 participants, members, campers, employees, officials,
380 supervisors, or volunteers.

381 (e) A religious, charitable, recreational, educational, or
382 civic organization, or a branch thereof, covering any group of
383 members, participants, or volunteers.

384 (f) A financial institution or financial institution
385 vendor, or a parent holding company, trustee, or agent of or
386 designated by one or more financial institutions or financial
387 institution vendors, including account holders, credit card



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388 holders, debtors, guarantors, or purchasers.

389 (g) An incorporated or unincorporated association,
390 including a labor union, having a common interest and
391 constitution and bylaws, which is organized and maintained in
392 good faith for purposes other than obtaining insurance coverage
393 for its members or participants.

394 (h) A trust or the trustees of a fund that covers its
395 members, employees, or customers and is established, created, or
396 maintained for the benefit of its members, employees, or
397 customers, subject to:

398 1. The department's authorizing the use of a trust.

399 2. The premium tax provisions in s. 647.03 applicable to
400 incorporated or unincorporated associations that have a common
401 interest and constitution and bylaws and that are organized and
402 maintained in good faith for purposes other than obtaining
403 insurance coverage for their members, employees, or customers.

404 (i) An entertainment production company covering any group
405 of participants, volunteers, audience members, contestants, or
406 workers.

407 (j) A volunteer fire department, ambulance, rescue, police,
408 court, first-aid, civil defense, or other such volunteer group.

409 (k) A preschool, daycare institution for children or
410 adults, or senior citizen club.

411 (l) An automobile or truck rental or leasing company
412 covering a group of individuals who may become renters, lessees,
413 or passengers as defined by their travel status on the rented or
414 leased vehicles. The common carrier, the operator, owner, or
415 lessor of a means of transportation, or the motor vehicle or
416 truck rental or leasing company is the policyholder under a



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417 policy to which this section applies.

418 (m) Any other group for which the department has made the
419 following determinations:

420 1. The group members are engaged in a common enterprise or
421 have an economic, educational, or social affinity or
422 relationship.

423 2. Issuance of the travel insurance policy is not contrary
424 to the public interest.

425 (6) "Fulfillment materials" means documentation sent to the
426 purchaser of a travel protection plan confirming the purchase
427 and providing the travel protection plan's coverage and
428 assistance details.

429 (7) "Group travel insurance" means travel insurance issued
430 to an eligible group.

431 (8) "Limited lines travel insurance producer" means:

432 (a) A licensed or third-party administrator;

433 (b) A licensed insurance producer, including a limited
434 lines producer; or

435 (c) A travel administrator.

436 (9) "Travel administrator" means a person who directly or
437 indirectly underwrites policies for, collects charges,
438 collateral, or premiums from, or adjusts or settles claims on,
439 residents of this state, in connection with travel insurance,
440 except that a person is not considered a travel administrator if
441 the person is:

442 (a) A person working for a travel administrator, to the
443 extent that the person's activities are subject to the
444 supervision and control of the travel administrator;

445 (b) An insurance producer selling insurance or engaged in



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446 administrative and claims-related activities within the scope of
447 the producer's license;

448 (c) A travel retailer, as defined s. 626.321(1)(c)2.,
449 offering and disseminating travel insurance and registered under
450 the license of a limited lines travel insurance producer in
451 accordance with s. 626.321(1)(c);

452 (d) A person adjusting or settling claims in the normal
453 course of the person's practice or employment as an attorney at
454 law, without collecting charges or premiums in connection with
455 insurance coverage; or

456 (e) A business entity that is affiliated with a licensed
457 insurer while acting as a travel administrator for the direct
458 and assumed insurance business of the affiliated insurer.

459 (10) "Travel assistance services" means noninsurance
460 services for which the consumer is not indemnified based on a
461 fortuitous event, and the provision of which does not result in
462 the transfer or shifting of risk which would constitute the
463 business of insurance. The term includes, but is not limited to,
464 security advisories, destination information, vaccination and
465 immunization information services, travel reservation services,
466 entertainment, activity and event planning, translation
467 assistance, emergency messaging, international legal and medical
468 referrals, medical case monitoring, coordination of
469 transportation arrangements, emergency cash transfer assistance,
470 medical prescription replacement assistance, passport and travel
471 document replacement assistance, lost luggage assistance,
472 concierge services, and any other service that is furnished in
473 connection with planned travel. Travel assistance services are
474 not insurance and are not related to insurance.



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475 (11) "Travel insurance" means insurance coverage for
476 personal risks incidental to planned travel, including:
477 (a) Interruption or cancellation of trip or event;
478 (b) Loss of baggage or personal effects;
479 (c) Damages to accommodations or rental vehicles;
480 (d) Sickness, accident, disability, or death occurring
481 during travel;
482 (e) Emergency evacuation;
483 (f) Repatriation of remains; or
484 (g) Any other contractual obligations to indemnify or pay a
485 specified amount to the traveler upon determinable contingencies
486 related to travel as determined by the office.

487
488 The term does not include major medical plans that provide
489 comprehensive medical protection for travelers with trips
490 lasting longer than 6 months, including major medical plans for
491 those working or residing overseas as expatriates, or any other
492 product that requires a specific insurance producer license.

493 (12) "Travel protection plan" means a plan that provides
494 one or more of the following: travel insurance, travel
495 assistance services, and cancellation fee waivers.

496 Section 34. Section 647.03, Florida Statutes, is created to
497 read:

498 647.03 Premium tax.—

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

500 (a) "Primary certificateholder" means an individual who
501 purchases travel insurance under a group policy.

502 (b) "Primary policyholder" means an individual who
503 purchases individual travel insurance.



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504 (2) A travel insurer shall pay the premium tax, as required
505 under s. 624.509, on travel insurance premiums paid by any of
506 the following:

507 (a) A primary policyholder who is a resident of this state.

508 (b) A primary certificateholder who is a resident of this
509 state.

510 (c) A blanket travel insurance policyholder:

511 1. Who is a resident in this state;

512 2. Who has his or her principal place of business in this
513 state; or

514 3. Whose affiliate or subsidiary who has purchased blanket
515 travel insurance for eligible blanket group members has his or
516 her principal place of business in this state.

517
518 The premium tax under this subsection is subject to any
519 apportionment rules that apply to an insurer across multiple
520 taxing jurisdictions or that authorize an insurer to allocate
521 premium on an apportioned basis in a reasonable and equitable
522 manner in those jurisdictions.

523 (3) A travel insurer shall:

524 (a) Document the state of residence or principal place of
525 business of the policyholder or certificateholder, or an
526 affiliate or subsidiary thereof, as required under subsection
527 (2).

528 (b) Report as premium only the amount allocable to travel
529 insurance and not any amounts received for travel assistance
530 services or cancellation fee waivers.

531 Section 35. Section 647.04, Florida Statutes, is created to
532 read:



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533 647.04 Travel protection plans.—A travel protection plan
534 may be offered for one price for the combined features that the
535 travel protection plan offers in this state if the travel
536 protection plan meets all of the following requirements:

537 (1) The travel protection plan clearly discloses to the
538 consumer, at or before the time of purchase, that it includes
539 travel insurance, travel assistance services, and cancellation
540 fee waivers, as applicable, and provides information and an
541 opportunity, at or before the time of purchase, for the consumer
542 to obtain additional information regarding the features and
543 pricing of each.

544 (2) The fulfillment materials:

545 (a) Describe and delineate the travel insurance, travel
546 assistance services, and cancellation fee waivers in the travel
547 protection plan.

548 (b) Include the travel insurance disclosures required in
549 this chapter, the contact information for persons providing
550 travel assistance services, and cancellation fee waivers, as
551 applicable.

552 Section 36. Section 647.05, Florida Statutes, is created to
553 read:

554 647.05 Sales practices.—

555 (1) (a) All documents provided to a consumer before the
556 purchase of travel insurance, including, but not limited to,
557 sales materials, advertising materials, and marketing materials,
558 must be consistent with the travel insurance policy, including,
559 but not limited to, forms, endorsements, policies, rate filings,
560 and certificates of insurance.

561 (b) For travel insurance policies or certificates that



562 contain preexisting condition exclusions, information and an
563 opportunity to learn more about the preexisting condition
564 exclusions must be provided any time before the purchase.
565 Information on the exclusions and the opportunity to learn more
566 about these exclusions must be included in the coverage's
567 fulfillment materials.

568 (c) The fulfillment materials and the information described
569 in s. 626.321(1)(c)3.a. must be provided to a policyholder or
570 certificateholder as soon as practicable after the purchase of a
571 travel protection plan. Unless the insured has started a covered
572 trip or filed a claim under the travel insurance coverage, the
573 policyholder or certificateholder may cancel a policy or
574 certificate for a full refund of the travel protection plan
575 price from the date of purchase of a travel protection plan
576 until at least:

- 577 1. Fifteen days after the date of delivery of the travel
578 protection plan's fulfillment materials by postal mail; or
579 2. Ten days after the date of delivery of the travel
580 protection plan's fulfillment materials by means other than
581 postal mail.

582
583 For the purposes of this paragraph, the term "delivery" means
584 handing fulfillment materials to the policyholder or
585 certificateholder or sending fulfillment materials by postal
586 mail or electronic means to the policyholder or
587 certificateholder.

588 (d) An insurer shall disclose in the policy documentation
589 and fulfillment materials whether the travel insurance is
590 primary or secondary to other applicable coverage.



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591 (e) If travel insurance is marketed directly to a consumer
592 through an insurer's website or by others through an aggregator
593 site, it is not an unfair trade practice or other violation of
594 law if the following requirements are met:

595 1. The web page provides an accurate summary or short
596 description of the coverage.

597 2. The consumer has access to the full provisions of the
598 policy through electronic means.

599 (2) A person offering, soliciting, or negotiating travel
600 insurance or travel protection plans on an individual or group
601 basis may not do so by using a negative or opt-out option that
602 would require a consumer to take an affirmative action to
603 deselect coverage, such as unchecking a box on an electronic
604 form, when the consumer purchases a trip.

605 (3) If a consumer's destination jurisdiction requires
606 insurance coverage, it is not an unfair trade practice to
607 require that the consumer choose between the following options
608 as a condition of purchasing a trip or travel package:

609 (a) Purchasing the coverage required by the destination
610 jurisdiction through the travel retailer, as defined s.
611 626.321(1)(c)2., or limited lines travel insurance producer
612 supplying the trip or travel package; or

613 (b) Agreeing to obtain and provide proof of coverage that
614 meets the destination jurisdiction's requirements before
615 departure.

616 (4) (a) A person offering travel insurance to residents of
617 this state is subject to part IX of chapter 626, the Unfair
618 Insurance Trade Practices Act, except as otherwise provided in
619 this chapter. If a conflict arises between this chapter and the



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620 Unfair Insurance Trade Practices Act regarding the sale and
621 marketing of travel insurance and travel protection plans, the
622 provisions of this chapter shall control.

623 (b) A person commits an unfair insurance trade practice
624 under the Unfair Insurance Trade Practices Act if the person:

625 1. Offers or sells a travel insurance policy that could
626 never result in payment of any claims for any insured under the
627 policy; or

628 2. Markets blanket travel insurance coverage as free.

629 Section 37. Section 647.06, Florida Statutes, is created to
630 read:

631 647.06 Travel administrators.—

632 (1) Notwithstanding any other provision of the Florida
633 Insurance Code, a person may not act or represent himself or
634 herself as a travel administrator in this state unless the
635 person:

636 (a) Is a licensed and appointed property and casualty
637 insurance producer in this state for activities authorized under
638 that producer license;

639 (b) Is a licensed insurance agency, appointed as a managing
640 general agent in this state; or

641 (c) Holds a valid third-party administrator license in this
642 state.

643 (2) A travel administrator and its employees are exempt
644 from the licensing requirements of part VI of chapter 626 for
645 the travel insurance it administers.

646 (3) An insurer is responsible for ensuring that a travel
647 administrator administering travel insurance underwritten by the
648 insurer:



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649 (a) Acts in accordance with this chapter.

650 (b) Maintains all books and records that are relevant to
651 the insurer and makes these books and records available to the
652 department upon request.

653 Section 38. Section 647.07, Florida Statutes, is created to
654 read:

655 647.07 Travel insurance policy.-

656 (1) Notwithstanding any other provision of the Florida
657 Insurance Code, travel insurance shall be classified and filed
658 for purposes of rates and forms under the inland marine line of
659 insurance; however, travel insurance that provides coverage for
660 sickness, accident, disability, or death occurring during
661 travel, either exclusively or in conjunction with related
662 coverages of emergency evacuation or repatriation of remains, or
663 incidental limited property and casualty benefits such as
664 baggage or trip cancellation, may be classified and filed for
665 purposes of rates and forms under either the accident and health
666 line of insurance or the inland marine line of insurance.

667 (2) Travel insurance may be in the form of an individual,
668 group, or blanket policy. Group or blanket policies are
669 classified as commercial inland marine insurance under s.
670 627.021(2)(d). Travel insurance policies not issued to a
671 commercial entity and primarily used for personal, family, or
672 household purposes are considered personal inland marine
673 insurance and shall not be subject to s. 627.062. Sections of
674 policies or endorsements for travel insurance which are
675 considered personal inland marine insurance consisting of travel
676 assistance services or cancellation fee waivers are not subject
677 to s. 627.410.



678 (3) Travel insurance programs may be developed and provided
679 based on travel protection plans designed for individual or
680 identified marketing or distribution channels.

681 Section 39. Section 647.08, Florida Statutes, is created to
682 read:

683 647.08 Rulemaking authority.—The department shall adopt
684 rules to administer this chapter.

685
686 ===== T I T L E A M E N D M E N T =====

687 And the title is amended as follows:

688 Delete line 92

689 and insert:

690 respectively, without specified licenses; amending ss.
691 440.12 and 440.20, F.S.; authorizing the payment of
692 certain workers' compensation benefits to be
693 transmitted to the employee's account with a licensed
694 money transmitter; amending s. 626.321, F.S.;
695 providing that certain travel insurance licenses are
696 subject to review by the department rather than the
697 office; revising persons who may be licensed to
698 transact in travel insurance; specifying licensure and
699 registration requirements for certain persons;
700 defining the term "travel retailer"; specifying
701 requirements for, restrictions on, and authorized acts
702 by travel retailers and limited lines travel insurance
703 producers; defining the term "offer and disseminate";
704 authorizing certain persons to sell, solicit, and
705 negotiate travel insurance; amending s. 627.914, F.S.;
706 requiring insurers or self-insurance funds that write



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707 workers' compensation insurance and that are in
708 receivership to continue to report certain information
709 to the office; authorizing the outsourcing of
710 reporting under certain circumstances; requiring the
711 office to approve a certain reporting plan;
712 authorizing the office to use the information for
713 certain purposes; creating ch. 647, F.S., entitled
714 "Travel Insurance"; creating s. 647.01, F.S.;
715 providing legislative purpose; providing
716 applicability; creating s. 647.02, F.S.; defining
717 terms; creating s. 647.03, F.S.; defining the terms
718 "primary certificateholder" and "primary
719 policyholder"; requiring travel insurers to pay the
720 insurance premium tax on specified travel insurance
721 premiums; providing construction; specifying
722 requirements for travel insurers; creating s. 647.04,
723 F.S.; providing that a travel protection plan may be
724 offered for one price if its meets specified
725 requirements; creating s. 647.05, F.S.; specifying
726 sales practice requirements, prohibited sales
727 practices, and authorized sales practices relating to
728 travel insurance; specifying a policyholder or
729 certificateholder's right to cancel a travel
730 protection plan for a full refund; defining the term
731 "delivery"; specifying unfair insurance trade
732 practices; providing construction; creating s. 647.06,
733 F.S.; specifying qualifications for travel
734 administrators; providing an exemption from certain
735 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



600108

LEGISLATIVE ACTION

Senate

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House

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

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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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175 uses a system providing an Identity Assurance Level,
 176 Authenticator Assurance Level, and Federation Assurance Level,
 177 as described in the National Institute of Standards and
 178 Technology Special Publication 800-63-3, as of December 1, 2017,
 179 ~~which that~~ are equivalent to or greater than+

180 ~~1. Level 2, for each level, for a certificate of~~
 181 ~~destruction or-~~

182 ~~2. Level 3, for each level, for a salvage certificate of~~
 183 ~~title.~~

184 Section 3. Subsection (3) of section 624.155, Florida
 185 Statutes, is amended to read:

186 624.155 Civil remedy.—

187 (3) (a) As a condition precedent to bringing an action under
 188 this section, the department and the authorized insurer must
 189 have been given 60 days' written notice of the violation. Notice
 190 to the authorized insurer must be delivered to the name and
 191 address designated by the insurer under s. 624.422(2).

192 (b) The notice shall be on a form provided by the
 193 department and shall state with specificity the following
 194 information, and such other information as the department may
 195 require:

196 1. The statutory provision, including the specific language
 197 of the statute, which the authorized insurer allegedly violated.

198 2. The facts and circumstances giving rise to the
 199 violation.

200 3. The name of any individual involved in the violation.

201 4. Reference to specific policy language that is relevant
 202 to the violation, if any. If the person bringing the civil
 203 action is a third party claimant, she or he shall not be

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204 required to reference the specific policy language if the
 205 authorized insurer has not provided a copy of the policy to the
 206 third party claimant pursuant to written request.

207 5. The damages to be paid by the insurer for the claim,
 208 available under and pursuant to the express terms and conditions
 209 of the policy, less any amount earlier paid by the insurer and
 210 any applicable policy deductibles. The notice may not demand
 211 vague remedial action regarding changes to claims-handling
 212 procedures or practices.

213 6. A statement that the notice is given in order to perfect
 214 the right to pursue the civil remedy authorized by this section.

215 (c) No action shall lie if, within 60 days after the
 216 insurer receives filing notice in accordance with this
 217 subsection, the damages are paid or the circumstances giving
 218 rise to the violation are corrected.

219 (d) The authorized insurer that is the recipient of a
 220 notice filed pursuant to this section shall report to the
 221 department on the disposition of the alleged violation.

222 (e) The applicable statute of limitations for an action
 223 under this section shall be tolled for a period of:

224 1. Sixty-five ~~65~~ days by the mailing of the notice required
 225 by this subsection.

226 2. Sixty days after the date appraisal is invoked pursuant
 227 to paragraph (f) or the mailing of a subsequent notice required
 228 by this subsection.

229 (f) A notice required under this subsection may not be
 230 filed within 60 days after appraisal is invoked by any party in
 231 a residential property insurance claim.

232 Section 4. Subsection (4) of section 624.307, Florida

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233 Statutes, is amended to read:

234 624.307 General powers; duties.—

235 (4) The department and office may each collect, propose,
236 publish, and disseminate information relating to the subject
237 matter of any duties imposed upon it by law. Aggregate
238 information may include information asserted as trade secret
239 information unless the trade secret information can be
240 individually extrapolated, in which case the trade secret
241 information remains protected as provided under s. 624.4213.

242 Section 5. Subsection (4) is added to section 624.315,
243 Florida Statutes, to read:

244 624.315 Department; annual report.—

245 (4) When aggregate information includes information
246 asserted as trade secret information, the office may include the
247 trade secret information in the report required under subsection
248 (1) or may make the trade secret information available under
249 subsection (2) unless the trade secret information can be
250 individually extrapolated, in which case the trade secret
251 information remains protected as provided under s. 624.4213.

252 Section 6. Subsection (13) and present subsection (18) of
253 section 626.854, Florida Statutes, are amended to read:

254 626.854 "Public adjuster" defined; prohibitions.—The
255 Legislature finds that it is necessary for the protection of the
256 public to regulate public insurance adjusters and to prevent the
257 unauthorized practice of law.

258 ~~(13) A company employee adjuster, independent adjuster,~~
259 ~~attorney, investigator, or other persons acting on behalf of an~~
260 ~~insurer that needs access to an insured or claimant or to the~~
261 ~~insured property that is the subject of a claim must provide at~~

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262 ~~least 48 hours' notice to the insured or claimant, public~~
263 ~~adjuster, or legal representative before scheduling a meeting~~
264 ~~with the claimant or an onsite inspection of the insured~~
265 ~~property. The insured or claimant may deny access to the~~
266 ~~property if the notice has not been provided. The insured or~~
267 ~~claimant may waive the 48-hour notice.~~

268 (17)-(18) Subsections (5)-(16) (5)-(17) apply only to
269 residential property insurance policies and condominium unit
270 owner policies as described in s. 718.111(11).

271 Section 7. Paragraph (f) is added to subsection (1) of
272 section 626.916, Florida Statutes, to read:

273 626.916 Eligibility for export.—

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

276 (f) For risks placed with an insurer made eligible under s.
277 626.918(2)(a)1., the policy or contract under which the
278 insurance is exported must provide that any form of alternative
279 dispute resolution, including, but not limited to, appraisal or
280 arbitration, must be conducted in this state.

281 Section 8. Paragraph (a) of subsection (2) of section
282 626.918, Florida Statutes, is amended to read:

283 626.918 Eligible surplus lines insurers.—

284 (2) An unauthorized insurer may not be or become an
285 eligible surplus lines insurer unless made eligible by the
286 office in accordance with the following conditions:

287 (a) The insurer must be either of the following:

288 1. Wholly owned by an insurer domiciled in this state which
289 is authorized, and has been authorized for at least the 3
290 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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407 after January 25, 2007, but before May 1, 2012, an insurer
 408 seeking a rate that is greater than the rate most recently
 409 approved by the office shall make a "file and use" filing. For
 410 purposes of this subparagraph, motor vehicle collision and
 411 comprehensive coverages are not considered property coverages.

412 (j) With respect to residential property insurance rate
 413 filings:~~7~~

414 1. The rate filing must account for mitigation measures
 415 undertaken by policyholders to reduce hurricane losses.

416 2. The office may not disapprove a rate for homeowners'
 417 insurance solely because the rate filing uses a modeling
 418 indication that is the weighted or straight average of two or
 419 more models currently found to be accurate or reliable pursuant
 420 to s. 627.0628.

421
 422 The provisions of this subsection do not apply to workers'
 423 compensation, employer's liability insurance, and motor vehicle
 424 insurance.

425 Section 13. Paragraph (b) of subsection (2) of section
 426 627.0629, Florida Statutes, is amended to read:

427 627.0629 Residential property insurance; rate filings.-

428 (2)

429 (b) A rate filing for residential property insurance made
 430 more than 150 days after approval by the office of a building
 431 code rating factor plan submitted by a statewide rating
 432 organization may ~~shall~~ include positive and negative rate
 433 factors that reflect the manner in which building code
 434 enforcement in a particular jurisdiction addresses risk of wind
 435 damage. The rate filing shall include variations from standard

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436 rate factors on an individual basis based on inspection of a
 437 particular structure by a licensed home inspector. If an
 438 inspection is requested by the insured, the insurer may require
 439 the insured to pay the reasonable cost of the inspection. This
 440 paragraph applies to structures constructed or renovated after
 441 the implementation of this paragraph.

442 Section 14. Paragraph (a) of subsection (1) of section
 443 627.0651, Florida Statutes, is amended to read:

444 627.0651 Making and use of rates for motor vehicle
 445 insurance.-

446 (1) Insurers shall establish and use rates, rating
 447 schedules, or rating manuals to allow the insurer a reasonable
 448 rate of return on motor vehicle insurance written in this state.
 449 A copy of rates, rating schedules, and rating manuals, and
 450 changes therein, shall be filed with the office under one of the
 451 following procedures:

452 (a) If the filing is made at least 60 days before the
 453 proposed effective date and the filing is not implemented during
 454 the office's review of the filing and any proceeding and
 455 judicial review, such filing shall be considered a "file and
 456 use" filing. In such case, the office shall initiate proceedings
 457 to disapprove the rate and so notify the insurer or shall
 458 finalize its review within 60 days after receipt of the filing.
 459 If the 60-day period ends on a weekend or a holiday under s.
 460 110.117(1)(a)-(i), it must be extended until the conclusion of
 461 the next business day. Notification to the insurer by the office
 462 of its preliminary findings shall toll the 60-day period during
 463 any such proceedings and subsequent judicial review. The rate
 464 shall be deemed approved if the office does not issue notice to

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465 the insurer of its preliminary findings within 60 days after the
466 filing.

467 Section 15. Subsection (2) of section 627.410, Florida
468 Statutes, is amended to read:

469 627.410 Filing, approval of forms.—

470 (2) Every such filing must be made at least 30 days in
471 advance of any such use or delivery. At the expiration of the 30
472 days, the form filed will be deemed approved unless prior
473 thereto it has been affirmatively approved or disapproved by
474 order of the office. The approval of such form by the office
475 constitutes a waiver of any unexpired portion of such waiting
476 period. The office may extend the period within which it may
477 affirmatively approve or disapprove such form by up to 15 days
478 by giving notice of such extension before expiration of the
479 initial 30-day period. If the initial 30-day period or the 15-
480 day extension period ends on a weekend or a holiday under s.
481 110.117(1)(a)-(i), the review period must be extended until the
482 conclusion of the next business day. At the expiration of such
483 extended period, and in the absence of prior affirmative
484 approval or disapproval, such form shall be deemed approved.

485 Section 16. Paragraph (f) is added to subsection (5) of
486 section 627.7011, Florida Statutes, to read:

487 627.7011 Homeowners' policies; offer of replacement cost
488 coverage and law and ordinance coverage.—

489 (5) This section does not:

490 (f) Prohibit an insurer from offering a policy or
491 endorsement providing that a loss to a roof older than 10 years
492 which is caused by a covered peril other than a hurricane will
493 be adjusted on the basis of actual cash value.

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494 Section 17. Section 627.70132, Florida Statutes, is amended
495 to read:

496 627.70132 Notice of property insurance ~~windstorm or~~
497 ~~hurricane~~ claim.—A claim, supplemental claim, or reopened claim
498 under an insurance policy that provides property insurance, as
499 defined in s. 624.604, ~~for loss or damage caused by the peril of~~
500 ~~windstorm or hurricane~~ is barred unless notice of the claim,
501 supplemental claim, or reopened claim is ~~was~~ given to the
502 insurer in accordance with the terms of the policy within 3
503 years after the date of loss ~~hurricane first made landfall or~~
504 ~~the windstorm caused the covered damage.~~ This section does not
505 apply to sinkhole loss claims, which are subject to the time
506 limitation under s. 627.706(5). For purposes of this section,
507 the term "supplemental claim" or "reopened claim" means any
508 additional claim for recovery from the insurer for losses ~~from~~
509 ~~the same hurricane or windstorm which~~ the insurer has previously
510 adjusted pursuant to the initial claim. This section does not
511 affect any applicable limitation on civil actions provided in s.
512 95.11 for claims, supplemental claims, or reopened claims timely
513 filed under this section.

514 Section 18. Section 627.70152, Florida Statutes, is created
515 to read:

516 627.70152 Suits arising under a property insurance policy.—

517 (1) As a condition precedent to filing suit under a
518 property insurance policy, the named insured must provide the
519 insurer with a written notice of intent to initiate litigation
520 before filing suit under the policy. Concurrent with the notice
521 and as a precondition to filing suit, the named insured must
522 provide a detailed written invoice or estimate of services,

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523 including itemized information on equipment, materials, and
 524 supplies; the number of labor hours; and, in the case of work
 525 performed, proof that the work has been performed in accordance
 526 with accepted industry standards. The notice must be served at
 527 least 10 business days before filing suit by certified mail,
 528 return receipt requested, to the name and address designated by
 529 the insurer in the policy forms or by electronic delivery to an
 530 e-mail address designated by the insurer in the policy forms,
 531 but may not be served before the insurer has made a
 532 determination of coverage under s. 627.70131. The notice must
 533 specify the damages in dispute and the amount claimed. An
 534 insurer must acknowledge receipt of the notice in writing within
 535 10 business days after receiving the notice.

536 (2) In any suit arising under a property insurance policy,
 537 the named insured has the burden to demonstrate that the insurer
 538 is not prejudiced by the failure of the named insured, or a
 539 public adjuster or attorney representing the named insured, to
 540 cooperate with the insurer in the claim investigation,
 541 including, but not limited to, failing to allow the insurer to
 542 inspect the property.

543 (3) A named insured filing suit under a property insurance
 544 policy must sign any complaint seeking relief under such policy.

545 Section 19. Subsection (2) of section 627.714, Florida
 546 Statutes, is amended to read:

547 627.714 Residential condominium unit owner coverage; loss
 548 assessment coverage required.—

549 (2) The maximum amount of any unit owner's loss assessment
 550 coverage that can be assessed for any loss shall be an amount
 551 equal to that unit owner's loss assessment coverage limit in

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552 effect 1 day before the date of the occurrence that gave rise to
 553 the loss. Such coverage is applicable to any loss assessment
 554 regardless of the date of the assessment by the association. Any
 555 changes to the limits of a unit owner's coverage for loss
 556 assessments made on or after the day before the date of the
 557 occurrence are not applicable to such loss.

558 Section 20. Notwithstanding the expiration of subsection
 559 (4) of section 627.715, Florida Statutes, which occurred on July
 560 1, 2019, that subsection is revived, reenacted, and amended to
 561 read:

562 627.715 Flood insurance.—An authorized insurer may issue an
 563 insurance policy, contract, or endorsement providing personal
 564 lines residential coverage for the peril of flood or excess
 565 coverage for the peril of flood on any structure or the contents
 566 of personal property contained therein, subject to this section.
 567 This section does not apply to commercial lines residential or
 568 commercial lines nonresidential coverage for the peril of flood.
 569 An insurer may issue flood insurance policies, contracts,
 570 endorsements, or excess coverage on a standard, preferred,
 571 customized, flexible, or supplemental basis.

572 (4) A surplus lines agent may export a contract or
 573 endorsement providing flood coverage to an eligible surplus
 574 lines insurer without making a diligent effort to seek such
 575 coverage from three or more authorized insurers under s.
 576 626.916(1)(a). This subsection expires July 1, 2025 ~~2019~~, or on
 577 the date on which the Commissioner of Insurance Regulation
 578 determines in writing that there is an adequate admitted market
 579 to provide coverage for the peril of flood consistent with this
 580 section, whichever date occurs first. If there are fewer than

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581 three admitted insurers on the date this subsection expires, the
 582 number of declinations necessary to meet the diligent-effort
 583 requirement shall be no fewer than the number of authorized
 584 insurers providing flood coverage.

585 Section 21. Paragraph (a) of subsection (9) of section
 586 627.7152, Florida Statutes, is amended to read:

587 627.7152 Assignment agreements.—

588 (9) (a) An assignee must provide the named insured, insurer,
 589 and the assignor, if not the named insured, with a written
 590 notice of intent to initiate litigation before filing suit under
 591 the policy. Such notice must be served by certified mail, return
 592 receipt requested, to the name and address designated by the
 593 insurer in the policy forms or by electronic delivery at the e-
 594 mail address designated by the insurer in the policy forms at
 595 least 10 business days before filing suit, but may not be served
 596 before the insurer has made a determination of coverage under s.
 597 627.70131. The notice must specify the damages in dispute, the
 598 amount claimed, and a presuit settlement demand. Concurrent with
 599 the notice, and as a precondition to filing suit, the assignee
 600 must provide the named insured, insurer, and the assignor, if
 601 not the named insured, a detailed written invoice or estimate of
 602 services, including itemized information on equipment,
 603 materials, and supplies; the number of labor hours; and, in the
 604 case of work performed, proof that the work has been performed
 605 in accordance with accepted industry standards.

606 Section 22. Subsection (4) of section 627.7295, Florida
 607 Statutes, is amended to read:

608 627.7295 Motor vehicle insurance contracts.—

609 (4) The insurer may cancel the policy in accordance with

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610 this code except that, notwithstanding s. 627.728, an insurer
 611 may not cancel a new policy or binder during the first ~~30~~ 60
 612 days immediately following the effective date of the policy or
 613 binder for nonpayment of premium unless the reason for the
 614 cancellation is the issuance of a check for the premium that is
 615 dishonored for any reason or any other type of premium payment
 616 that was subsequently determined to be rejected or invalid.

617 Section 23. Paragraph (a) of subsection (1) of section
 618 629.401, Florida Statutes, is amended to read:

619 629.401 Insurance exchange.—

620 (1) There may be created one or more insurance exchanges,
 621 with one or more offices each, subject to such rules as are
 622 adopted by the commission. For the purposes of this section, the
 623 term "exchange" applies to any such insurance exchange proposed
 624 or created under this section. The purposes of the exchange are:

625 (a) To provide a facility for the underwriting of:

626 1. Reinsurance of all kinds of insurance.
 627 2. Direct insurance of all kinds on risks located entirely
 628 outside the United States.

629 3. Surplus lines insurance for risks located in this state
 630 eligible for export under s. 626.916 or s. 626.917 and placed
 631 through a licensed Florida surplus lines agent subject to
 632 compliance with ~~the provisions of~~ ss. 626.921, 626.922, 626.923,
 633 626.924, 626.929, 626.9295, and 626.930, ~~and 626.931~~. With
 634 respect to compliance with s. 626.924, the required legend may
 635 refer to any coverage provided for by a security fund
 636 established under paragraph (3) (d).

637 4. Surplus lines insurance in any other state subject to
 638 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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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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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 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
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

Phone (954) 589-5504

Street

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.

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. Suit 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.

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

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 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: [X] For [] Against [] Information

Waive Speaking: [X] 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: [X] 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.

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

Phone 727-954-8833

Street

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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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

Phone 521-1200

Tallahassee FL 32301

City

State

Zip

Email cjohnson@flchamber.com

Speaking: For [] Against [x] 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 [x]

Lobbyist registered with Legislature: Yes [x] 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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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 Fund 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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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 CARDYN TAMSON

Job Title Policy Director

Address 130 S Bronough St

Street

Phone 521-1200

Tallahassee

City

FL

State

32301

Zip

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.

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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

SB1334
Bill Number (if applicable)

Topic Financial Services

~~84548~~ 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@meenenlawfirm.com
Call

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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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 Lew 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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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 ACV on Roof - Section 16

472784
Amendment Barcode (if applicable)

Name Amy Boggs

by Sen. Thurston

Job Title _____

Address 4554 Central Ave Suite L

Phone 727-954-8833

Saint Petersburg, FL 33704
Street City State Zip

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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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/4

SB 1334

Meeting Date

Bill Number (if applicable)

Topic 3 year Notice - Section 17

548082 and Amendment Barcode (if applicable)

Name Amy Boggs

787114 by Sen. Toddeo

Job Title

Address 4554 Central Ave Suite L

Phone 727-954-8833

Street

Saint Petersburg, FL 33704

City

State

Zip

Email ABoggs@BoggsLaw

Group.com

Speaking: [X] 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 [X] No

Lobbyist registered with Legislature: [] Yes [X] No

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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.

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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 ~~_____~~ Hillary Cassel

Job Title Hillary Cassel

Address 4000 Hollywood Blvd Ste. 605-S
Hollywood Fl 33021
Street 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.

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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)

~~797~~ 794-740

Amendment Barcode (if applicable)

Topic _____

Name Steve Geller

Job Title Attorney

Address 110 E. Broward Blvd. Ste. 1700

Street

Phone 954-315-3926

Fort Lauderdale FL 33301

City

State

Zip

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.

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: 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> | Favorable |
| 2. | <u>Knudson</u> | <u>Knudson</u> | <u>BI</u> | Fav/1 amendment |
| 3. | <u> </u> | <u> </u> | <u>RC</u> | |

Please see Section IX. for Additional Information:

AMENDMENTS - Significant amendments were recommended

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.¹

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.² Three major credit bureaus—Equifax, Experian, and

¹ 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).

² 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.³ 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) Act⁴ 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.⁵

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.⁶

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

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.

³ 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 (last visited Jan. 27, 2020).

⁴ Section 501.0051, F.S.

⁵ Section 501.0051(9), F.S.

⁶ 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.

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.⁷ 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.⁸

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.⁹ 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.¹⁰

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.¹¹

⁷ 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).

⁸ Section 624.307(10)(a), F.S.

⁹ *Saviak v. Gunter*, 379 So. 2d 450 (Fla. Dist. Ct. App. 3d Dist. 1980).

¹⁰ *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).

¹¹ 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.¹² 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.¹³ Florida law provides form language that the insurer must include in the Bill of Rights, which gives notice of the consumer's right to:¹⁴

- 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.

¹² 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).

¹³ Section 627.70131, F.S.

¹⁴ 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;¹⁵ 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.¹⁶

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.¹⁷

Adjusting Firms

Current law authorizes, but does not require, licensure of adjusting firms.¹⁸ 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.¹⁹ An adjusting firm license application must include:²⁰

- 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.²¹

Chapter 626 provides grounds for mandatory and discretionary denial, suspension, or revocation of an adjusting firm license.²²

¹⁵ 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.

¹⁶ See s. 627.70131(5)(a), F.S.

¹⁷ Section 626.854(1), F.S.

¹⁸ Section 626.8696, F.S.

¹⁹ Section 624.501(20), F.S.

²⁰ Section 626.8696, F.S.

²¹ Section 626.8695, F.S.

²² 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.^{23, 24} 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.²⁵

²³ 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.

²⁴ Rule 69B-220.201(4) and (5), F.A.C.

²⁵ 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.²⁶

There are currently 85 insurance agencies licensed in Florida whose agency names contain the words “Medicare,” or “Medicaid.”²⁷

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.²⁸

Administrative Penalties and Grounds to Refuse a License

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) 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.²⁹ 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 HIPAA 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.³⁰ Similarly, the Federal Trade Commission’s Telemarketing Sales Rule prohibits telemarketing calls before 8 a.m., or after 9 p.m.³¹

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.³²

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

²⁶ 42 U.S. Code s.1320b-10(a)(1). Upheld by *United Seniors Ass’n Inc. v. SSA*, 423 F. 3d 397, 399 (4th Cir. 2005).

²⁷ 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).

²⁸ Insurance agency licenses are indefinite. Section 626.382, F.S.

²⁹ 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 (last visited Jan. 27, 2020).

³⁰ Section 501.604(7), F.S.

³¹ Federal Trade Commission, *The Telemarketing Sales Rule*, <https://www.consumer.ftc.gov/articles/0198-telemarketing-sales-rule> (last visited Jan. 27, 2020).

³² 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,³³ and bail bond agents.³⁴

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.³⁵

Unfair Insurance Trade Practices

The Unfair Insurance Trade Practices Act³⁶ prohibits unfair methods of competition and unfair or deceptive acts in the business of insurance,³⁷ 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").³⁸

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.³⁹ However, specific violations are subject to greater administrative penalties and are also punishable as criminal misdemeanors.⁴⁰

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.⁴¹

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

³³ Section 626.641, F.S. *See also*, Rule 69B-231, Laws of Fla.

³⁴ Section 648.45, F.S. *See also*, Rule 69B-241, Laws of Fla.

³⁵ Section 626.641(2), F.S.

³⁶ Chapter 626, F.S., part IX, ss. 626.951-626.99, F.S.

³⁷ Section 626.9541, F.S.

³⁸ Section 626.9541(1)(z), F.S. *See also*, *Beckett v. Department of Financial Services*, 982 So. 2d 94 (Fla. 1st DCA).

³⁹ 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.

⁴⁰ *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.

⁴¹ 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.⁴²

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,⁴³ 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 \$5,000.⁴⁴ 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.⁴⁵

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.⁴⁶ There are three basic categories of surplus lines risks:

⁴² 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.

⁴³ 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.

⁴⁴ 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).

⁴⁵ Florida Department of Financial Services, *SB 1492 Agency Analysis*, 3 (Jan. 15, 2020), (on file with the Senate Committee on Commerce and Tourism).

⁴⁶ 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,⁴⁷ which means they do not obtain a certificate of authority from the Office of Insurance Regulation (OIR) to transact insurance in Florida.⁴⁸ Rather, surplus lines insurers are “unauthorized” insurers,⁴⁹ but may transact surplus lines insurance if they are made eligible by the OIR.

An insurance agent⁵⁰ 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.⁵¹ 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:⁵²

- 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,⁵³ 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:

Florida Surplus Lines Service Office, *What is Surplus Lines Insurance?*, <https://www.fslso.com/AboutGroup/about/surplus-lines-insurance> (last visited Jan. 27, 2020).

⁴⁷ Section 626.914(2), F.S.

⁴⁸ Section 624.09(1), F.S.

⁴⁹ Section 624.09(2), F.S.

⁵⁰ 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.

⁵¹ Section 626.916(1)(a), F.S.

⁵² Section 626.916(1), F.S.

⁵³ 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.⁵⁴

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.⁵⁵ 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.⁵⁶ 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.⁵⁷ However, “a mandatory forum selection clause must be enforced unless it is shown to be unreasonable or unjust.”⁵⁸ 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.⁵⁹

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.⁶⁰

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

⁵⁴ Section 626.916(3)(b), F.S.

⁵⁵ Black's Law Dictionary (11th ed. 2019).

⁵⁶ Section 47.011, F.S.

⁵⁷ Section 47.051, F.S.

⁵⁸ *Illinois Union Ins. Co. v. Co-Free, Inc.*, 128 So.3d 820, 821 (Fla. 1st DCA 2014) (citing *Land O'Sun Mgmt. Corp. v. Commerce and Indus. Ins. Co.*, 961 So. 2d 1078, 1080 (Fla 1st DCA 2007)). Internal citations omitted.

⁵⁹ 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).

⁶⁰ Section 47.025, F.S.

claims⁶¹ that would otherwise be left unpaid.⁶² 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.⁶³ Condominium and homeowner's association claims have a coverage cap of \$100,000 multiplied by the number of units in the association.⁶⁴ All claims filed with FIGA are subject to a \$100 deductible in addition to any deductible identified in the consumer's policy.⁶⁵

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.⁶⁶ Unclaimed property may include savings and checking accounts, securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes.⁶⁷ 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.⁶⁸ There is no statute of limitations and individuals may claim their property at any time and at no cost.⁶⁹

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.⁷⁰ There are currently over 350 claimant's representatives registered with the Department.⁷¹ 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

⁶¹ 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.

⁶² 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).

⁶³ Section 631.57(2), F.S.

⁶⁴ Section 631.57(3), F.S.

⁶⁵ 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).

⁶⁶ 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).

⁶⁷ 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).

⁶⁸ 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).

⁶⁹ 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).

⁷⁰ 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).

⁷¹ 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.⁷²

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.⁷³ 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.⁷⁴ 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

⁷² Section 717.135(2), F.S.

⁷³ Section 717.1351, F.S.

⁷⁴ 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.”⁷⁵

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.”⁷⁶ 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.⁷⁷ 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.⁷⁸

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.⁷⁹ 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.⁸⁰ This is generally expressed as a two-part test asking: (1) does

⁷⁵ FLA. CONST. art. VII, s. 19(d)(1)

⁷⁶ *Beckett v. Department of Financial Services*, 982 So.2d 94, 100 (Fla. 1st DCA 2008) (quoting *Elmariah v. Department of Professional Regulation, Board of Medicine*, 574 So.2d 164, 165 (Fla. 1st DCA 1990).

⁷⁷ *Tuberville v. Department of Financial Services*, 248 So.3d 194, 196 (Fla 1st DCA 2018).

⁷⁸ *Accelerated Benefits Corp v. Department of Insurance*, 813 So.2d 117 (Fla 1st DCA 2002) (internal citations omitted).

⁷⁹ U.S. CONST., amends. I, XIV. *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557, 564 (1980).

⁸⁰ *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)



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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: FAV | . | |
| 02/04/2020 | . | |
| | . | |
| | . | |
| | . | |

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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11 ~~to retain the original unique personal identifier provided by~~
12 ~~the consumer reporting agency and the agency must~~ reissue the
13 unique personal identifier or provide a new unique personal
14 identifier to the consumer representative.

15 Section 2. Paragraph (b) of subsection (10) of section
16 624.307, Florida Statutes, is amended to read:

17 624.307 General powers; duties.-

18 (10)

19 (b) Any entity ~~person~~ licensed or issued a certificate of
20 authority by the department or the office shall respond, in
21 writing, to the division within 20 days after receipt of a
22 written request for documents and information from the division
23 concerning a consumer complaint. The response must address the
24 issues and allegations raised in the complaint and include any
25 requested documents concerning the consumer complaint not
26 subject to attorney-client or work-product privilege. The
27 division may impose an administrative penalty for failure to
28 comply with this paragraph of up to \$2,500 per violation upon
29 any entity licensed by the department or the office ~~and \$250 for~~
30 ~~the first violation, \$500 for the second violation, and up to~~
31 ~~\$1,000 for the third or subsequent violation upon any individual~~
32 ~~licensed by the department or the office.~~

33 Section 3. Present subsection (9) of section 626.112,
34 Florida Statutes, is redesignated as subsection (10), a new
35 subsection (9) is added to that section, and paragraph (d) of
36 subsection (7) and present subsection (9) of that section are
37 amended, to read:

38 626.112 License and appointment required; agents, customer
39 representatives, adjusters, insurance agencies, service



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40 representatives, managing general agents, insurance adjusting
41 firms.-

42 (7)

43 ~~(d) Effective October 1, 2015, the department must~~
44 ~~automatically convert the registration of an approved registered~~
45 ~~insurance agency to an insurance agency license.~~

46 (9) (a) An individual, firm, partnership, corporation,
47 association, or other entity may not act in its own name or
48 under a trade name, directly or indirectly, as an adjusting firm
49 unless it complies with s. 626.8696 with respect to possessing
50 an adjusting firm license for each place of business at which it
51 engages in an activity that may be performed only by a licensed
52 insurance adjuster. However, an adjusting firm that is owned and
53 operated by a single licensed adjuster conducting business in
54 his or her individual name and not employing or otherwise using
55 the services of or appointing other licensees is exempt from the
56 adjusting firm licensing requirements of this subsection.

57 (b) A branch place of business that is established by a
58 licensed adjusting firm is considered a branch firm and is not
59 required to be licensed if:

60 1. It transacts business under the same name and federal
61 tax identification number as the licensed adjusting firm;

62 2. It has designated with the department a primary adjuster
63 operating the location as required by s. 626.8695; and

64 3. The address and telephone number of the branch location
65 have been submitted to the department for inclusion in the
66 licensing record of the licensed adjusting firm within 30 days
67 after insurance transactions begin at the branch location.

68 (c) If an adjusting firm is required to be licensed but



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69 fails to file an application for licensure in accordance with
70 this section, the department shall impose on the firm an
71 administrative penalty of up to \$10,000.

72 (10)-(9) Any person who knowingly transacts insurance or
73 otherwise engages in insurance activities in this state without
74 a license in violation of this section or who knowingly aids or
75 abets an unlicensed person in transacting insurance or otherwise
76 engaging in insurance activities in this state without a license
77 commits a felony of the third degree, punishable as provided in
78 s. 775.082, s. 775.083, or s. 775.084.

79 Section 4. Subsection (4) is added to section 626.602,
80 Florida Statutes, to read:

81 626.602 Insurance agency names; disapproval.—The department
82 may disapprove the use of any true or fictitious name, other
83 than the bona fide natural name of an individual, by any
84 insurance agency on any of the following grounds:

85 (4) The name contains the word "Medicare" or "Medicaid." An
86 insurance agency whose name contains the word "Medicare" or
87 "Medicaid" but which is licensed as of July 1, 2020, may
88 continue to use that name as long as the agency's license is
89 valid. If the agency's license expires or is suspended or
90 revoked, the agency may not be relicensed using that name.

91 Section 5. Subsections (16) and (17) are added to section
92 626.621, Florida Statutes, to read:

93 626.621 Grounds for discretionary refusal, suspension, or
94 revocation of agent's, adjuster's, customer representative's,
95 service representative's, or managing general agent's license or
96 appointment.—The department may, in its discretion, deny an
97 application for, suspend, revoke, or refuse to renew or continue



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98 the license or appointment of any applicant, agent, adjuster,
99 customer representative, service representative, or managing
100 general agent, and it may suspend or revoke the eligibility to
101 hold a license or appointment of any such person, if it finds
102 that as to the applicant, licensee, or appointee any one or more
103 of the following applicable grounds exist under circumstances
104 for which such denial, suspension, revocation, or refusal is not
105 mandatory under s. 626.611:

106 (16) Taking an action that allows the personal financial or
107 medical information of a consumer or customer to be made
108 available or accessible to the general public, regardless of the
109 format in which the record is stored.

110 (17) Initiating in-person or telephone solicitation after 9
111 p.m. or before 8 a.m. local time of the prospective customer
112 unless requested by the prospective customer.

113 Section 6. Section 626.782, Florida Statutes, is amended to
114 read:

115 626.782 "Industrial class insurer" defined.—An "industrial
116 class insurer" is an insurer collecting premiums on policies of
117 ~~writing~~ industrial life insurance, as defined in s. 627.502,
118 written before July 1, 2020, and as to such insurance, operates
119 under a system of collecting a debit by its agent.

120 Section 7. Section 626.783, Florida Statutes, is amended to
121 read:

122 626.783 "Ordinary-combination class insurer" defined.—An
123 "ordinary-combination class insurer" is an insurer writing ~~both~~
124 ordinary class insurance and collecting premiums on existing
125 industrial life ~~class~~ insurance under s. 626.782.

126 Section 8. Section 626.796, Florida Statutes, is repealed.



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127 Section 9. Subsection (1) of section 626.8443, Florida
128 Statutes, is amended to read:

129 626.8443 Duration of suspension or revocation.—

130 (1) The department shall, in its order suspending a title
131 insurance agent's or agency's license or appointment or in its
132 order suspending the eligibility of a person to hold or apply
133 for such license or appointment, specify the period during which
134 the suspension is to be in effect, but such period shall not
135 exceed 2 years ~~1 year~~. The license, ~~or~~ appointment, or
136 eligibility shall remain suspended during the period so
137 specified, subject, however, to any rescission or modification
138 of the order by the department, or modification or reversal
139 thereof by the court, prior to expiration of the suspension
140 period. A license, appointment, or eligibility that ~~which~~ has
141 been suspended may not be reinstated except upon request for
142 such reinstatement, but the department shall not grant such
143 reinstatement if it finds that the circumstance or circumstances
144 for which the license, appointment, and eligibility was
145 suspended still exist or are likely to recur.

146 Section 10. Subsection (6) of section 626.854, Florida
147 Statutes, is amended to read:

148 626.854 "Public adjuster" defined; prohibitions.—The
149 Legislature finds that it is necessary for the protection of the
150 public to regulate public insurance adjusters and to prevent the
151 unauthorized practice of law.

152 (6) Except during a state of emergency declared by the
153 Governor and except during the 1-year period after the date of
154 loss, an insured or claimant may cancel a public adjuster's
155 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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185 form: "You are agreeing to place coverage in the surplus lines
186 market. Coverage may be available in the admitted market.
187 Persons insured by surplus lines carriers are not protected
188 under the Florida Insurance Guaranty Act with respect to any
189 right of recovery for the obligation of an insolvent unlicensed
190 insurer."

191 (3) (a) Subsection (1) does not apply to wet marine and
192 transportation or aviation risks that ~~which~~ are subject to s.
193 626.917.

194 (b) Paragraphs (1) (a)-(d) do not apply to classes of
195 insurance which are subject to s. 627.062(3)(d)1. These classes
196 may be exportable under the following conditions:

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

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

200 3. The insured has complied with ~~must sign a disclosure~~
201 paragraph (1) (f) that substantially provides the following: "You
202 are agreeing to place coverage in the surplus lines market.
203 Superior coverage may be available in the admitted market and at
204 a lesser cost. Persons insured by surplus lines carriers are not
205 protected under the Florida Insurance Guaranty Act with respect
206 to any right of recovery for the obligation of an insolvent
207 unlicensed insurer." If the disclosure ~~notice~~ is signed by the
208 insured, the insured is presumed to have been informed and to
209 know that other coverage may be available, and, with respect to
210 the diligent-effort requirement under subsection (1), there is
211 no liability on the part of, and no cause of action arises
212 against, the retail agent presenting the form.

213 Section 12. Paragraph (z) of subsection (1) of section



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214 626.9541, Florida Statutes, is amended to read:

215 626.9541 Unfair methods of competition and unfair or
216 deceptive acts or practices defined.—

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

220 (z) *Sliding*.—Sliding is the act or practice of any of the
221 following:

222 1. Representing to the applicant that a specific ancillary
223 coverage or product is required by law in conjunction with the
224 purchase of insurance when such coverage or product is not
225 required.†

226 2. Representing to the applicant that a specific ancillary
227 coverage or product is included in the policy applied for
228 without an additional charge when such charge is required.† ~~or~~

229 3. Charging an applicant for a specific ancillary coverage
230 or product, in addition to the cost of the insurance coverage
231 applied for, without the informed consent of the applicant.

232 4. Initiating, effectuating, binding, or otherwise issuing
233 a policy of insurance without the prior informed consent of the
234 owner of the property to be insured.

235 5. Mailing, transmitting, or otherwise submitting by any
236 means an invoice for premium payment to a mortgagee or escrow
237 agent, for the purpose of effectuating an insurance policy,
238 without the prior informed consent of the owner of the property
239 to be insured. However, this subparagraph does not apply in
240 cases where the mortgagee or escrow is renewing insurance or
241 issuing collateral protection insurance, as defined in s.
242 624.6085, pursuant to the mortgage or other pertinent loan



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243 documents or communications regarding the property.

244 Section 13. Effective January 1, 2021, subsection (3) of
245 section 626.9741, Florida Statutes, is amended to read:

246 626.9741 Use of credit reports and credit scores by
247 insurers.-

248 (3) An insurer must inform an applicant or insured, in the
249 same medium as the application is taken, that a credit report or
250 score is being requested for underwriting or rating purposes.

251 The notification to the consumer must include the following

252 language: "The Department of Financial Services offers free

253 financial literacy programs to assist you with insurance-related

254 questions, including how credit works and how credit scores are

255 calculated. To learn more, call 1-877-693-5236 or visit

256 www.MyFloridaCFO.com." An insurer that makes an adverse decision

257 based, in whole or in part, upon a credit report must provide at

258 no charge, a copy of the credit report to the applicant or

259 insured or provide the applicant or insured with the name,

260 address, and telephone number of the consumer reporting agency

261 from which the insured or applicant may obtain the credit

262 report. The insurer must provide notification to the consumer

263 explaining the reasons for the adverse decision. The reasons

264 must be provided in sufficiently clear and specific language so

265 that a person can identify the basis for the insurer's adverse

266 decision. Such notification shall include a description of the

267 four primary reasons, or such fewer number as existed, which

268 were the primary influences of the adverse decision. The use of

269 generalized terms such as "poor credit history," "poor credit

270 rating," or "poor insurance score" does not meet the explanation

271 requirements of this subsection. A credit score may not be used



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272 in underwriting or rating insurance unless the scoring process
273 produces information in sufficient detail to permit compliance
274 with the requirements of this subsection. It shall not be deemed
275 an adverse decision if, due to the insured's credit report or
276 credit score, the insured continues to receive a less favorable
277 rate or placement in a less favorable tier or company at the
278 time of renewal except for renewals or reunderwriting required
279 by this section.

280 Section 14. Subsection (1) of section 626.9957, Florida
281 Statutes, is amended to read:

282 626.9957 Conduct prohibited; denial, revocation, or
283 suspension of registration.—

284 (1) As provided in s. 626.112, only a person licensed as an
285 insurance agent or customer representative may engage in the
286 solicitation of insurance. A person who engages in the
287 solicitation of insurance as described in s. 626.112(1) without
288 such license is subject to the penalties provided under s.
289 626.112(10) ~~s. 626.112(9)~~.

290 Section 15. Subsection (10) of section 627.062, Florida
291 Statutes, is amended to read:

292 627.062 Rate standards.—

293 (10) Any interest paid pursuant to s. 627.70131(7) ~~s.~~
294 ~~627.70131(5)~~ may not be included in the insurer's rate base and
295 may not be used to justify a rate or rate change.

296 Section 16. Effective January 1, 2021, subsection (6) is
297 added to section 627.421, Florida Statutes, to read:

298 627.421 Delivery of policy.—

299 (6) For personal lines residential property insurance
300 policies, the insurer shall, between March 1 and June 1 of each



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301 year, inclusive, deliver an outline of the hurricane coverage as
302 specified in s. 627.4143(3), along with a current policy
303 declarations page. This requirement shall apply only for those
304 insureds who have provided the insurer with a valid e-mail
305 address. This information shall be delivered directly to the
306 policyholder via email or by an e-mail notice of information
307 being posted to a secure web-based policy information page.

308 Section 17. Section 627.502, Florida Statutes, is amended
309 to read:

310 627.502 "Industrial life insurance" defined; reporting;
311 prohibition on new policies after a certain date.-

312 (1) For the purposes of this code, "industrial life
313 insurance" is that form of life insurance written under policies
314 under which premiums are payable monthly or more often, bearing
315 the words "industrial policy" or "weekly premium policy" or
316 words of similar import imprinted upon the policies as part of
317 the descriptive matter, and issued by an insurer that ~~which~~, as
318 to such industrial life insurance, is operating under a system
319 of collecting a debit by its agent.

320 (2) Every life insurer servicing existing ~~transacting~~
321 industrial life insurance shall report to the office all annual
322 statement data regarding the exhibit of life insurance,
323 including relevant information for industrial life insurance.

324 (3) Beginning July 1, 2020, a life insurer may not write a
325 new policy of industrial life insurance.

326 Section 18. Effective January 1, 2021, section 627.70131,
327 Florida Statutes, is amended to read:

328 627.70131 Insurer's duty to acknowledge communications
329 regarding claims; investigation.-



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330 (1) (a) Upon an insurer's receiving a communication with
331 respect to a claim, the insurer shall, within 14 calendar days,
332 review and acknowledge receipt of such communication unless
333 payment is made within that period of time or unless the failure
334 to acknowledge is caused by factors beyond the control of the
335 insurer which reasonably prevent such acknowledgment. If the
336 acknowledgment is not in writing, a notification indicating
337 acknowledgment shall be made in the insurer's claim file and
338 dated. A communication made to or by a representative ~~an agent~~
339 of an insurer with respect to a claim shall constitute
340 communication to or by the insurer.

341 (b) As used in this subsection, the term "representative"
342 ~~"agent"~~ means any person to whom an insurer has granted
343 authority or responsibility to receive or make such
344 communications with respect to claims on behalf of the insurer.

345 (c) This subsection shall not apply to claimants
346 represented by counsel beyond those communications necessary to
347 provide forms and instructions.

348 (2) Such acknowledgment shall be responsive to the
349 communication. If the communication constitutes a notification
350 of a claim, unless the acknowledgment reasonably advises the
351 claimant that the claim appears not to be covered by the
352 insurer, the acknowledgment shall provide necessary claim forms,
353 and instructions, including an appropriate telephone number.

354 (3) (a) Unless otherwise provided by the policy of insurance
355 or by law, within 10 business ~~working~~ days after an insurer
356 receives proof of loss statements, the insurer shall begin such
357 investigation as is reasonably necessary unless the failure to
358 begin such investigation is caused by factors beyond the control



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359 of the insurer which reasonably prevent the commencement of such
360 investigation.

361 (b) If such investigation involves a physical inspection of
362 the property, the licensed adjuster assigned by the insurer must
363 provide the policyholder with his or her name, license number,
364 and contact information.

365 (c) If an insurer assigns the claim to a different licensed
366 adjuster from the adjuster who performed the physical
367 inspection, the insurer must, within 14 days after changing the
368 licensed insurance adjuster assigned to a claim, provide the
369 name, license number, and contact information of the new
370 adjuster to the policyholder. The notification may be made
371 electronically or via mail. If the notification is a physical
372 letter, it must be postmarked within 14 days after the change in
373 adjuster. The policyholder must be provided notice of any
374 subsequent change to the assigned adjuster as set forth by this
375 paragraph.

376 (4) An insurer shall establish a process by which an agent
377 of record for an insurance policy receives the same notice as
378 the policyholder as provided in paragraphs (3)(b) and (3)(c) in
379 order to assist the agent of record in answering the
380 policyholder's questions regarding claims. As used in this
381 subsection, the term "agent of record" means the agent named on
382 the declarations page of the insurance policy or, if there is no
383 agent of record, another designated point of contact.

384 (5) For purposes of this section, the term "insurer" means
385 any residential property insurer.

386 (6) (a) When providing a preliminary or partial estimate of
387 damage regarding a claim, an insurer shall include with the



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388 estimate the following statement printed in at least 12-point
389 bold, uppercase type: THIS ESTIMATE REPRESENTS OUR CURRENT
390 EVALUATION OF THE COVERED DAMAGES TO YOUR INSURED PROPERTY AND
391 MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU
392 HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING
393 YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

394 (b) When providing a payment on a claim which is not the
395 full and final payment for the claim, an insurer shall include
396 with the payment the following statement printed in at least 12-
397 point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR
398 CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL
399 PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL
400 INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT
401 US.

402 (7)-(5)(a) Within 90 calendar days after an insurer receives
403 notice of an initial, reopened, or supplemental property
404 insurance claim from a policyholder, the insurer shall pay or
405 deny such claim or a portion of the claim unless the failure to
406 pay is caused by factors beyond the control of the insurer which
407 reasonably prevent such payment. Any payment of an initial or
408 supplemental claim or portion of such claim made 90 calendar
409 days after the insurer receives notice of the claim, or made
410 more than 15 days after there are no longer factors beyond the
411 control of the insurer which reasonably prevented such payment,
412 whichever is later, bears interest at the rate set forth in s.
413 55.03. Interest begins to accrue from the date the insurer
414 receives notice of the claim. The provisions of this subsection
415 may not be waived, voided, or nullified by the terms of the
416 insurance policy. If there is a right to prejudgment interest,



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417 the insured shall select whether to receive prejudgment interest
418 or interest under this subsection. Interest is payable when the
419 claim or portion of the claim is paid. Failure to comply with
420 this subsection constitutes a violation of this code. However,
421 failure to comply with this subsection does not form the sole
422 basis for a private cause of action.

423 (b) Notwithstanding subsection (5) ~~(4)~~, for purposes of
424 this subsection, the term "claim" means any of the following:

425 1. A claim under an insurance policy providing residential
426 coverage as defined in s. 627.4025(1);

427 2. A claim for structural or contents coverage under a
428 commercial property insurance policy if the insured structure is
429 10,000 square feet or less; or

430 3. A claim for contents coverage under a commercial tenant
431 policy if the insured premises is 10,000 square feet or less.

432 (c) This subsection shall not apply to claims under an
433 insurance policy covering nonresidential commercial structures
434 or contents in more than one state.

435 (8) This section also applies to surplus lines insurers and
436 surplus lines insurance authorized under ss. 626.913-626.937
437 providing residential coverage, where coverage on the primary
438 insured structure is less than \$700,000.

439 Section 19. Section 627.7031, Florida Statutes, is created
440 to read:

441 627.7031 Foreign venue clauses prohibited.—After July 1,
442 2020, a personal residential property insurance policy sold in
443 this state, insuring only real property located in this state,
444 may not require an insured to pursue dispute resolution through
445 litigation, arbitration, or mediation outside this state. This



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446 section also applies to surplus lines insurers and surplus lines
447 insurance authorized under ss. 626.913-626.937.

448 Section 20. Effective January 1, 2021, section 627.7142,
449 Florida Statutes, is amended to read:

450 627.7142 Homeowner Claims Bill of Rights.—An insurer
451 issuing a personal lines residential property insurance policy
452 in this state must provide a Homeowner Claims Bill of Rights to
453 a policyholder within 14 days after receiving an initial
454 communication with respect to a claim, ~~unless the claim follows~~
455 ~~an event that is the subject of a declaration of a state of~~
456 ~~emergency by the Governor.~~ The purpose of the bill of rights is
457 to summarize, in simple, nontechnical terms, existing Florida
458 law regarding the rights of a personal lines residential
459 property insurance policyholder who files a claim of loss. The
460 Homeowner Claims Bill of Rights is specific to the claims
461 process and does not represent all of a policyholder's rights
462 under Florida law regarding the insurance policy. The Homeowner
463 Claims Bill of Rights does not create a civil cause of action by
464 any individual policyholder or class of policyholders against an
465 insurer or insurers. The failure of an insurer to properly
466 deliver the Homeowner Claims Bill of Rights is subject to
467 administrative enforcement by the office but is not admissible
468 as evidence in a civil action against an insurer. The Homeowner
469 Claims Bill of Rights does not enlarge, modify, or contravene
470 statutory requirements, including, but not limited to, ss.
471 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does
472 not prohibit an insurer from exercising its right to repair
473 damaged property in compliance with the terms of an applicable
474 policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner



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475 Claims Bill of Rights must state:

476

477

HOMEOWNER CLAIMS

478

BILL OF RIGHTS

479

This Bill of Rights is specific to the claims process
480 and does not represent all of your rights under
481 Florida law regarding your policy. There are also
482 exceptions to the stated timelines when conditions are
483 beyond your insurance company's control. This document
484 does not create a civil cause of action by an
485 individual policyholder, or a class of policyholders,
486 against an insurer or insurers and does not prohibit
487 an insurer from exercising its right to repair damaged
488 property in compliance with the terms of an applicable
489 policy.

490

491

YOU HAVE THE RIGHT TO:

492

1. Receive from your insurance company an
493 acknowledgment of your reported claim within 14
494 calendar days after the time you communicated the
495 claim.

496

2. Upon written request, receive from your
497 insurance company within 30 days after you have
498 submitted a complete proof-of-loss statement to your
499 insurance company, confirmation that your claim is
500 covered in full, partially covered, or denied, or
501 receive a written statement that your claim is being
502 investigated.

503

3. Within 14 calendar days, receive notification



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504 from your insurance company if there has been a change
505 in the company adjuster who is assigned to your claim.
506 The notification must include the assigned adjuster's
507 contact information.

508 4. Within 90 calendar days, subject to any dual
509 interest noted in the policy, receive full settlement
510 payment for your claim or payment of the undisputed
511 portion of your claim, or your insurance company's
512 denial of your claim.

513 5. Receive payment of interest, as provided in s.
514 627.7031, from your insurance company, which begins
515 accruing from the date your claim is filed if your
516 insurance company does not pay full settlement of your
517 initial, reopened, or supplemental claim or the
518 undisputed portion of your claim or does not deny your
519 claim within 90 calendar days after your claim is
520 filed. The interest, if applicable, must be paid when
521 your claim or undisputed portion of your claim is
522 paid.

523 ~~6.4.~~ Free mediation of your disputed claim by the
524 Florida Department of Financial Services, Division of
525 Consumer Services, under most circumstances and
526 subject to certain restrictions.

527 ~~7.5.~~ Neutral evaluation of your disputed claim,
528 if your claim is for damage caused by a sinkhole and
529 is covered by your policy.

530 ~~8.6.~~ Contact the Florida Department of Financial
531 Services, Division of Consumer Services' toll-free
532 helpline for assistance with any insurance claim or



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533 questions pertaining to the handling of your claim.
534 You can reach the Helpline by phone at...(toll-free
535 phone number)..., or you can seek assistance online at
536 the Florida Department of Financial Services, Division
537 of Consumer Services' website at...(website
538 address)....

539
540 YOU ARE ADVISED TO:

541 1. Contact your insurance company before entering
542 into any contract for repairs to confirm any managed
543 repair policy provisions or optional preferred
544 vendors.

545 2. Make and document emergency repairs that are
546 necessary to prevent further damage. Keep the damaged
547 property, if feasible, keep all receipts, and take
548 photographs or video of damage before and after any
549 repairs to provide to your insurer.

550 3. Carefully read any contract that requires you
551 to pay out-of-pocket expenses or a fee that is based
552 on a percentage of the insurance proceeds that you
553 will receive for repairing or replacing your property.

554 4. Confirm that the contractor you choose is
555 licensed to do business in Florida. You can verify a
556 contractor's license and check to see if there are any
557 complaints against him or her by calling the Florida
558 Department of Business and Professional Regulation.
559 You should also ask the contractor for references from
560 previous work.

561 5. Require all contractors to provide proof of



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562 insurance before beginning repairs.

563 6. Take precautions if the damage requires you to
564 leave your home, including securing your property and
565 turning off your gas, water, and electricity, and
566 contacting your insurance company and provide a phone
567 number where you can be reached.

568 Section 21. Paragraph (a) of subsection (1) and subsection
569 (6) of section 631.57, Florida Statutes, are amended to read:

570 631.57 Powers and duties of the association.—

571 (1) The association shall:

572 (a)1. Be obligated to the extent of the covered claims
573 existing:

574 a. Prior to adjudication of insolvency and arising within
575 30 days after the determination of insolvency;

576 b. Before the policy expiration date if less than 30 days
577 after the determination; or

578 c. Before the insured replaces the policy or causes its
579 cancellation, if she or he does so within 30 days of the
580 determination.

581 2. The obligation under subparagraph 1. includes ~~only~~ the
582 amount of each covered claim which is ~~in excess of \$100 and is~~
583 less than \$300,000, except that policies providing coverage for
584 homeowner's insurance shall provide for an additional \$200,000
585 for the portion of a covered claim which relates only to the
586 damage to the structure and contents.

587 3.a. Notwithstanding subparagraph 2., the obligation under
588 subparagraph 1. for policies covering condominium associations
589 or homeowners' associations, which associations have a
590 responsibility to provide insurance coverage on residential



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591 units within the association, shall include that amount of each
592 covered property insurance claim which is less than \$100,000
593 multiplied by the number of condominium units or other
594 residential units; however, as to homeowners' associations, this
595 sub-subparagraph applies only to claims for damage or loss to
596 residential units and structures attached to residential units.

597 b. Notwithstanding sub-subparagraph a., the association has
598 no obligation to pay covered claims that are to be paid from the
599 proceeds of bonds issued under s. 631.695. However, the
600 association shall assign and pledge the first available moneys
601 from all or part of the assessments to be made under paragraph
602 (3) (a) to or on behalf of the issuer of such bonds for the
603 benefit of the holders of such bonds. The association shall
604 administer any such covered claims and present valid covered
605 claims for payment in accordance with the provisions of the
606 assistance program in connection with which such bonds have been
607 issued.

608 4. In no event shall the association be obligated to a
609 policyholder or claimant in an amount in excess of the
610 obligation of the insolvent insurer under the policy from which
611 the claim arises.

612 (6) The association may extend the time limits specified in
613 paragraph (1) (a) by up to an additional 60 days ~~or waive the~~
614 ~~applicability of the \$100 deductible specified in paragraph~~
615 ~~(1) (a)~~ if the board determines that either or both such actions
616 are necessary to facilitate the bulk assumption of obligations.

617 Section 22. Section 648.30, Florida Statutes, is amended to
618 read:

619 648.30 Licensure and appointment required; prohibited acts;



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620 penalties.—

621 (1) A person may not act in the capacity of a bail bond
622 agent or temporary bail bond agent or perform any of the
623 functions, duties, or powers prescribed for bail bond agents or
624 temporary bail bond agents under this chapter unless that person
625 is qualified, licensed, and appointed as provided in this
626 chapter.

627 (2) A person may not represent himself or herself to be a
628 bail enforcement agent, bounty hunter, or other similar title in
629 this state.

630 (3) A person, other than a certified law enforcement
631 officer, may not apprehend, detain, or arrest a principal on a
632 bond, wherever issued, unless that person is qualified,
633 licensed, and appointed as provided in this chapter or licensed
634 as a bail bond agent or bail bond enforcement agent, or holds an
635 equivalent license by the state where the bond was written.

636 (4) Any person who violates this section commits a felony
637 of the third degree, punishable as provided in s. 775.082, s.
638 775.083, or s. 775.084.

639 (5) Any licensee under this chapter who knowingly aids or
640 abets an unlicensed person in violating this section commits a
641 felony of the third degree, punishable as provided in s.
642 775.082, s. 775.083, or s. 775.084.

643 Section 23. Paragraphs (b) and (c) of subsection (4) and
644 subsections (1) and (10) of section 717.124, Florida Statutes,
645 are amended to read:

646 717.124 Unclaimed property claims.—

647 (1) Any person, excluding another state, claiming an
648 interest in any property paid or delivered to the department



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649 under this chapter may file with the department a claim on a
650 form prescribed by the department and verified by the claimant
651 or the claimant's representative. The claimant's representative
652 must be an attorney licensed to practice law in this state, a
653 licensed Florida-certified public accountant, or a private
654 investigator licensed under chapter 493. The claimant's
655 representative must be registered with the department under this
656 chapter. The claimant, or the claimant's representative, shall
657 provide the department with a legible copy of a valid driver
658 license of the claimant at the time the original claim form is
659 filed. If the claimant has not been issued a valid driver
660 license at the time the original claim form is filed, the
661 department shall be provided with a legible copy of a
662 photographic identification of the claimant issued by the United
663 States, a state or territory of the United States, a foreign
664 nation, or a political subdivision or agency thereof or other
665 evidence deemed acceptable by the department by rule. In lieu of
666 photographic identification, a notarized sworn statement by the
667 claimant may be provided which affirms the claimant's identity
668 and states the claimant's full name and address. The claimant
669 must produce to the notary photographic identification of the
670 claimant issued by the United States, a state or territory of
671 the United States, a foreign nation, or a political subdivision
672 or agency thereof or other evidence deemed acceptable by the
673 department by rule. The notary shall indicate the notary's full
674 address on the notarized sworn statement. Any claim filed
675 without the required identification or the sworn statement with
676 the original claim form and the original Florida Uniform
677 Unclaimed Property Recovery Agreement or Florida Uniform



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678 Property Purchase Agreement ~~power of attorney or purchase~~
679 ~~agreement~~, if applicable, is void.

680 (a) Within 90 days after receipt of a claim, the department
681 may return any claim that provides for the receipt of fees and
682 costs greater than that permitted under this chapter or that
683 contains any apparent errors or omissions. The department may
684 also request that the claimant or the claimant's representative
685 provide additional information. The department shall retain a
686 copy or electronic image of the claim.

687 (b) A claimant or the claimant's representative shall be
688 deemed to have withdrawn a claim if no response to the
689 department's request for additional information is received by
690 the department within 60 days after the notification of any
691 apparent errors or omissions.

692 (c) Within 90 days after receipt of the claim, or the
693 response of the claimant or the claimant's representative to the
694 department's request for additional information, whichever is
695 later, the department shall determine each claim. Such
696 determination shall contain a notice of rights provided by ss.
697 120.569 and 120.57. The 90-day period shall be extended by 60
698 days if the department has good cause to need additional time or
699 if the unclaimed property:

700 1. Is owned by a person who has been a debtor in
701 bankruptcy;

702 2. Was reported with an address outside of the United
703 States;

704 3. Is being claimed by a person outside of the United
705 States; or

706 4. Contains documents filed in support of the claim that



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707 are not in the English language and have not been accompanied by
708 an English language translation.

709 (d) The department shall deny any claim under which the
710 claimant's representative has refused to authorize the
711 department to reduce the fees and costs to the maximum permitted
712 under this chapter.

713 (4)

714 (b) If an owner authorizes an attorney licensed to practice
715 law in this state, Florida-certified public accountant, or
716 private investigator licensed under chapter 493, and registered
717 with the department under this chapter, to claim the unclaimed
718 property on the owner's behalf, the department is authorized to
719 make distribution of the property or money in accordance with
720 the Florida Uniform Unclaimed Property Recovery Agreement or
721 Florida Uniform Property Purchase Agreement under s. 717.135
722 ~~such power of attorney~~. The original Florida Uniform Unclaimed
723 Property Recovery Agreement or Florida Uniform Property Purchase
724 Agreement ~~power of attorney~~ must be executed by the claimant or
725 seller ~~owner~~ and must be filed with the department.

726 (c)1. Payments of approved claims for unclaimed cash
727 accounts shall be made to the owner after deducting any fees and
728 costs authorized pursuant to a Florida Uniform Unclaimed
729 Property Recovery Agreement ~~written power of attorney~~. The
730 contents of a safe-deposit box shall be delivered directly to
731 the claimant ~~notwithstanding any power of attorney or agreement~~
732 ~~to the contrary~~.

733 2. Payments of fees and costs authorized pursuant to a
734 Florida Uniform Unclaimed Property Recovery Agreement ~~written~~
735 ~~power of attorney~~ for approved claims must ~~shall~~ be made or



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736 issued to the law firm of the designated attorney licensed to
737 practice law in this state, the public accountancy firm of the
738 licensed Florida-certified public accountant, or the designated
739 employing private investigative agency licensed by this state.
740 Such payments shall be made by electronic funds transfer and may
741 be made on such periodic schedule as the department may define
742 by rule, provided the payment intervals do not exceed 31 days.
743 Payment made to an attorney licensed in this state, a Florida-
744 certified public accountant, or a private investigator licensed
745 under chapter 493, operating individually or as a sole
746 practitioner, shall be to the attorney, certified public
747 accountant, or private investigator.

748 (10) Notwithstanding any other provision of this chapter,
749 the department may develop a process by which a registered
750 claimant's representative or a buyer of unclaimed property may
751 electronically submit to the department an electronic image of a
752 completed claim and claims-related documents pursuant to this
753 chapter, including a Florida Uniform Unclaimed Property Recovery
754 Agreement or Florida Uniform Property Purchase Agreement ~~a~~
755 ~~limited power of attorney or purchase agreement~~ that has been
756 manually signed and dated by a claimant or seller pursuant to s.
757 717.135 ~~or s. 717.1351~~, after the claimant's representative or
758 the buyer of unclaimed property receives the original documents
759 provided by the claimant or the seller for any claim. Each claim
760 filed by a registered claimant's representative or a buyer of
761 unclaimed property must include a statement by the claimant's
762 representative or the buyer of unclaimed property attesting that
763 all documents are true copies of the original documents and that
764 all original documents are physically in the possession of the



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765 claimant's representative or the buyer of unclaimed property.
766 All original documents must be kept in the original form, by
767 claim number, under the secure control of the claimant's
768 representative or the buyer of unclaimed property and must be
769 available for inspection by the department in accordance with s.
770 717.1315. The department may adopt rules to implement this
771 subsection.

772 Section 24. Subsection (2) of section 717.12404, Florida
773 Statutes, is amended to read:

774 717.12404 Claims on behalf of a business entity or trust.—

775 (2) Claims on behalf of a dissolved corporation, a business
776 entity other than an active corporation, or a trust must include
777 a legible copy of a valid driver license of the person acting on
778 behalf of the dissolved corporation, business entity other than
779 an active corporation, or trust. If the person has not been
780 issued a valid driver license, the department shall be provided
781 with a legible copy of a photographic identification of the
782 person issued by the United States, a foreign nation, or a
783 political subdivision or agency thereof. In lieu of photographic
784 identification, a notarized sworn statement by the person may be
785 provided which affirms the person's identity and states the
786 person's full name and address. The person must produce his or
787 her photographic identification issued by the United States, a
788 state or territory of the United States, a foreign nation, or a
789 political subdivision or agency thereof or other evidence deemed
790 acceptable by the department by rule. The notary shall indicate
791 the notary's full address on the notarized sworn statement. Any
792 claim filed without the required identification or the sworn
793 statement with the original claim form and the original Florida



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794 Uniform Unclaimed Property Recovery Agreement or Florida Uniform
795 Property Purchase Agreement ~~power of attorney~~, if applicable, is
796 void.

797 Section 25. Subsection (1) of section 717.1315, Florida
798 Statutes, is amended to read:

799 717.1315 Retention of records by claimant's representatives
800 and buyers of unclaimed property.-

801 (1) Every claimant's representative and buyer of unclaimed
802 property shall keep and use in his or her business such books,
803 accounts, and records of the business conducted under this
804 chapter to enable the department to determine whether such
805 person is complying with this chapter and the rules adopted by
806 the department under this chapter. Every claimant's
807 representative and buyer of unclaimed property shall preserve
808 such books, accounts, and records, including every Florida
809 Uniform Unclaimed Property Recovery Agreement or Florida Uniform
810 Property Purchase Agreement ~~power of attorney or agreement~~
811 between the owner and such claimant's representative or buyer,
812 for at least 3 years after the date of the initial ~~power of~~
813 ~~attorney or~~ agreement.

814 Section 26. Paragraph (j) of subsection (1) of section
815 717.1322, Florida Statutes, is amended to read:

816 717.1322 Administrative and civil enforcement.-

817 (1) The following acts are violations of this chapter and
818 constitute grounds for an administrative enforcement action by
819 the department in accordance with the requirements of chapter
820 120 and for civil enforcement by the department in a court of
821 competent jurisdiction:

822 (j) Requesting or receiving compensation for notifying a



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823 person of his or her unclaimed property or assisting another
824 person in filing a claim for unclaimed property, unless the
825 person is an attorney licensed to practice law in this state, a
826 Florida-certified public accountant, or a private investigator
827 licensed under chapter 493, or entering into, or making a
828 solicitation to enter into, an agreement ~~a power of attorney~~ to
829 file a claim for unclaimed property owned by another, or a
830 contract or agreement to purchase unclaimed property, unless
831 such person is registered with the department pursuant to this
832 chapter and an attorney licensed to practice law in this state
833 in the regular practice of her or his profession, a Florida-
834 certified public accountant who is acting within the scope of
835 the practice of public accounting as defined in chapter 473, or
836 a private investigator licensed under chapter 493. This
837 subsection does not apply to a person who has been granted a
838 durable power of attorney to convey and receive all of the real
839 and personal property of the owner, is the court-appointed
840 guardian of the owner, has been employed as an attorney or
841 qualified representative to contest the department's denial of a
842 claim, or has been employed as an attorney to probate the estate
843 of the owner or an heir or legatee of the owner.

844 Section 27. Section 717.135, Florida Statutes, is amended
845 to read:

846 (Substantial rewording of section. See
847 s. 717.135, F.S., for present text.)

848 717.135 Recovery agreements and purchase agreements for
849 claims filed by claimant's representative; fees and costs.-

850 (1) In order to protect the interests of owners of
851 unclaimed property, the department shall adopt by rule a form



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852 entitled "Florida Uniform Unclaimed Property Recovery Agreement"
853 and a form entitled "Florida Uniform Property Purchase
854 Agreement."

855 (2) The Florida Uniform Unclaimed Property Recovery
856 Agreement form and the Florida Uniform Property Purchase
857 Agreement form must include and disclose:

858 (a) The total dollar amount of unclaimed property accounts
859 claimed or sold.

860 (b) Either the total percentage of all authorized fees and
861 costs to be paid to the claimant's representative or the
862 percentage of the value of the property to be paid as net gain
863 to the purchasing registered claimant's representative.

864 (c) Either the total dollar amount to be deducted and
865 received from the claimant as fees and costs by the claimant's
866 representative or the total net dollar amount to be received by
867 the purchasing registered claimant's representative.

868 (d) The net dollar amount to be received by the claimant or
869 seller.

870 (e) For each account claimed, the unclaimed property
871 account number and name of the apparent owner, as listed on the
872 department's database.

873 (f) For the Florida Uniform Property Purchase Agreement, a
874 statement that the purchase price will be remitted to the seller
875 within 30 days after the execution of the form by the seller.

876 (g) The name, address, e-mail address, phone number, and
877 license number of the registered claimant's representative.

878 (h) The manual signature of the claimant or seller and the
879 date signed.

880 (i) The social security number or taxpayer identification



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881 number of the claimant or seller, if available. A number is
882 available if one has been issued to the claimant or seller.

883 (j) A limit of total fees and costs, or the total discount
884 amount in the case of a purchase agreement, to no more than 20
885 percent of the claimed amount.

886 (3) For a Florida Uniform Property Purchase Agreement form,
887 proof that the seller has received payment must be filed with
888 the department along with the claim. If proof of payment is not
889 provided, the claim is void.

890 (4) A registered claimant's representative shall use the
891 Florida Uniform Unclaimed Property Recovery Agreement form or
892 the Florida Uniform Property Purchase Agreement form as the
893 exclusive means of engaging with a claimant or seller to file a
894 claim with the department.

895 (5) Fees and costs may be owed or paid to a registered
896 claimant's representative only pursuant to the forms authorized
897 by this section and upon approval of the claim filed thereby.

898 (6) A claimant's representative may not use or distribute
899 any other agreement of any type with respect to the claimant or
900 seller which relates to unclaimed property accounts held by the
901 department or the Chief Financial Officer other than the
902 agreements authorized by this section. Any agreement that is not
903 authorized by this section is null and void.

904 (7) The forms under subsection (1):

905 (a) May not contain language that makes the agreement
906 irrevocable; and

907 (b) May not contain language that creates an assignment of
908 any unclaimed property held by the department.

909 (8) This section does not supersede the conflicting claims



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910 provisions of s. 717.1241.

911 (9) At the time a claim is approved, the department may pay
912 any additional account that is owned by the claimant but has not
913 been claimed at the time of approval, provided that no
914 subsequent claim has been filed and is pending for the claimant
915 at the time of approval.

916 Section 28. Section 717.1351, Florida Statutes, is
917 repealed.

918 Section 29. Except as otherwise expressly provided in this
919 act, this act shall take effect upon becoming a law.

920

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

922 And the title is amended as follows:

923 Delete everything before the enacting clause
924 and insert:

925 A bill to be entitled

926 An act relating to consumer protection; amending s.
927 501.0051, F.S.; prohibiting consumer reporting
928 agencies from charging to reissue or provide a new
929 unique personal identifier to a consumer for the
930 removal of a security freeze; amending s. 624.307,
931 F.S.; revising a requirement for entities licensed or
932 authorized by the Department of Financial Services or
933 the Office of Insurance Regulation to respond to the
934 department's Division of Consumer Services regarding
935 consumer complaints; revising administrative penalties
936 the division may impose for failure to comply;
937 amending s. 626.112, F.S.; prohibiting unlicensed
938 activity by an adjusting firm; providing an exemption;



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939 providing an exemption from licensure for branch firms
940 that meet certain criteria; providing an
941 administrative penalty for failing to apply for
942 certain licensure; providing a criminal penalty for
943 aiding or abetting unlicensed activity; deleting an
944 obsolete provision; amending s. 626.602, F.S.;

945 authorizing the department to disapprove the use of
946 insurance agency names containing the words "Medicare"
947 or "Medicaid"; providing an exception for certain
948 insurance agencies; amending s. 626.621, F.S.; adding
949 grounds on which the department may take certain
950 actions against a license, appointment, or application
951 of certain insurance representatives; amending ss.
952 626.782 and 626.783, F.S.; revising the definitions of
953 the terms "industrial class insurer" and "ordinary-
954 combination class insurer," respectively, to conform
955 to changes made by the act; repealing s. 626.796,
956 F.S., relating to the representation of multiple
957 insurers in the same industrial debit territory;
958 amending s. 626.8443, F.S.; increasing the maximum
959 period of suspension of a title insurance agent's or
960 agency's license; amending s. 626.854, F.S.; revising
961 the timeframes in which an insured or claimant may
962 cancel a public adjuster's contract to adjust a claim
963 without penalty or obligation; amending s. 626.916,
964 F.S.; revising the classes of insurance subject to a
965 disclosure requirement before being eligible for
966 export under the Surplus Lines Law; amending s.
967 626.9541, F.S.; adding certain acts or practices to



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968 the definition of sliding; amending s. 626.9741, F.S.;
969 requiring an insurer to include certain additional
970 information when providing an applicant or insured
971 with certain credit report or score information;
972 amending ss. 626.9957 and 627.062, F.S.; conforming
973 cross-references; amending s. 627.421, F.S.; requiring
974 personal lines residential property insurers to
975 annually deliver a certain notification to certain
976 policyholders within a specified timeframe; amending
977 s. 627.502, F.S.; prohibiting life insurers from
978 writing new policies of industrial life insurance
979 beginning on a certain date; amending s. 627.70131,
980 F.S.; providing that communication made to or by an
981 insurer's representative, rather than to or by an
982 insurer's agent, constitutes communication to or by
983 the insurer; requiring an insurer-assigned licensed
984 adjuster to provide the policyholder with certain
985 information in certain investigations; specifying
986 requirements for insurers in notifying policyholders
987 for certain changes in assigned adjusters; requiring
988 an insurer to establish a process to provide the agent
989 of record access to claim status information for a
990 certain purpose; defining the term "agent of record";
991 requiring insurers to include specified notices when
992 providing preliminary or partial damage estimates or
993 claim payments; specifying the timeframe in which an
994 insurer must pay or deny property insurance claims
995 under certain circumstances; providing applicability;
996 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 | . | |
| | . | |
| | . | |
| | . | |

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

1 **Senate Amendment to Amendment (957714) (with title**
2 **amendment)**

3
4 Delete lines 146 - 176.

5
6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete lines 960 - 963

9 and insert:

10 agency's license; amending s. 626.916,



269288

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 02/04/2020 | . | |
| | . | |
| | . | |
| | . | |

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

- 1 **Senate Amendment to Amendment (957714)**
- 2
- 3 Delete lines 436 - 438
- 4 and insert:
- 5 surplus lines insurance authorized under ss. 626.913-626.937.



278986

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: WD | . | |
| 02/04/2020 | . | |
| | . | |
| | . | |
| | . | |

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

- 1 **Senate Amendment to Amendment (957714)**
- 2
- 3 Delete lines 442 - 443
- 4 and insert:
- 5 2020, a property insurance policy sold in this state



241560

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



241560

11 loss, an insured or claimant may cancel a public adjuster's
12 contract to adjust a claim without penalty or obligation within
13 10 calendar days after the date on which the contract is
14 executed or within 10 calendar days after the date on which the
15 insured or claimant has notified the insurer of the claim,
16 whichever is later. The public adjuster's contract must disclose
17 to the insured or claimant his or her right to cancel the
18 contract and advise the insured or claimant that notice of
19 cancellation must be submitted in writing and sent by certified
20 mail, return receipt requested, or other form of mailing that
21 provides proof thereof, to the public adjuster at the address
22 specified in the contract; ~~provided, during any state of~~
23 ~~emergency as declared by the Governor and for 1 year after the~~
24 ~~date of loss, the insured or claimant has 5 business days after~~
25 ~~the date on which the contract is executed to cancel a public~~
26 ~~adjuster's contract.~~ An insurer, insurance representative, or
27 insurance agent may not advise against the employment of a
28 public adjuster or encourage the insured to rescind an executed
29 public adjuster agreement.

30
31 ===== T I T L E A M E N D M E N T =====

32 And the title is amended as follows:

33 Delete line 39

34 and insert:

35 without penalty; deleting a provision that insureds or
36 claimants may cancel a public adjuster's contract
37 without obligation under certain circumstances;
38 prohibiting certain actions by an insurer, insurance
39 representative, or insurance agent; amending s.



241560

40

626.916,



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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



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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



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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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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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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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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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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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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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233 Statutes, is amended to read:

234 626.8443 Duration of suspension or revocation.—

235 (1) The department shall, in its order suspending a title
236 insurance agent's or agency's license or appointment or in its
237 order suspending the eligibility of a person to hold or apply
238 for such license or appointment, specify the period during which
239 the suspension is to be in effect, but such period shall not
240 exceed 2 years ~~1 year~~. The license, ~~or~~ appointment, or
241 eligibility shall remain suspended during the period so
242 specified, subject, however, to any rescission or modification
243 of the order by the department, or modification or reversal
244 thereof by the court, prior to expiration of the suspension
245 period. A license, appointment, or eligibility that which has
246 been suspended may not be reinstated except upon request for
247 such reinstatement, but the department shall not grant such
248 reinstatement if it finds that the circumstance or circumstances
249 for which the license, appointment, and eligibility was
250 suspended still exist or are likely to recur.

251 Section 10. Subsection (6) of section 626.854, Florida
252 Statutes, is amended to read:

253 626.854 "Public adjuster" defined; prohibitions.—The
254 Legislature finds that it is necessary for the protection of the
255 public to regulate public insurance adjusters and to prevent the
256 unauthorized practice of law.

257 (6) Except during a state of emergency declared by the
258 Governor and except during the 1-year period after the date of
259 loss, an insured or claimant may cancel a public adjuster's
260 contract to adjust a claim without penalty or obligation within
261 7 calendar ~~3 business~~ days after the date on which the contract

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262 is executed or within 7 calendar ~~3 business~~ days after the date
263 on which the insured or claimant has notified the insurer of the
264 claim, whichever is later. During a state of emergency declared
265 by the Governor or during the 1-year period after the date of
266 loss, an insured or claimant may cancel a public adjuster's
267 contract to adjust a claim without penalty or obligation within
268 30 calendar days after the date on which the contract is
269 executed or within 30 calendar days after the date on which the
270 insured or claimant has notified the insurer of the claim,
271 whichever is later. The public adjuster's contract must disclose
272 to the insured or claimant his or her right to cancel the
273 contract and advise the insured or claimant that notice of
274 cancellation must be submitted in writing and sent by certified
275 mail, return receipt requested, or other form of mailing that
276 provides proof thereof, to the public adjuster at the address
277 specified in the contract; ~~provided, during any state of~~
278 ~~emergency as declared by the Governor and for 1 year after the~~
279 ~~date of loss, the insured or claimant has 5 business days after~~
280 ~~the date on which the contract is executed to cancel a public~~
281 ~~adjuster's contract.~~

282 Section 11. Subsection (3) of section 626.916, Florida
283 Statutes, is amended, and paragraph (f) is added to subsection
284 (1) of that section, to read:

285 626.916 Eligibility for export.—

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

288 (f) The insured has signed a disclosure in substantially
289 the following form: "You are agreeing to place coverage in the
290 surplus lines market. Superior coverage may be available in the

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291 admitted market and at a lesser cost. Persons insured by surplus
 292 lines carriers are not protected under the Florida Insurance
 293 Guaranty Act with respect to any right of recovery for the
 294 obligation of an insolvent unlicensed insurer."

295 (3) (a) Subsection (1) does not apply to wet marine and
 296 transportation or aviation risks that ~~which~~ are subject to s.
 297 626.917.

298 (b) Paragraphs (1) (a)-(d) do not apply to classes of
 299 insurance which are subject to s. 627.062(3) (d)1. These classes
 300 may be exportable under the following conditions:

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

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

304 3. The insured has signed ~~must sign~~ a disclosure as
 305 required under paragraph (1) (f) that substantially provides the
 306 following: "You are agreeing to place coverage in the surplus
 307 lines market. Superior coverage may be available in the admitted
 308 market and at a lesser cost. Persons insured by surplus lines
 309 carriers are not protected under the Florida Insurance Guaranty
 310 Act with respect to any right of recovery for the obligation of
 311 an insolvent unlicensed insurer." If the disclosure notice is
 312 signed by the insured, the insured is presumed to have been
 313 informed and to know that other coverage may be available, and,
 314 with respect to the diligent-effort requirement under subsection
 315 (1), there is no liability on the part of, and no cause of
 316 action arises against, the retail agent presenting the form.

317 Section 12. Paragraph (z) of subsection (1) of section
 318 626.9541, Florida Statutes, is amended to read:

319 626.9541 Unfair methods of competition and unfair or

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320 deceptive acts or practices defined.—

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

324 (z) Sliding.—Sliding is the act or practice of any of the
 325 following:

326 1. Representing to the applicant that a specific ancillary
 327 coverage or product is required by law in conjunction with the
 328 purchase of insurance when such coverage or product is not
 329 required.†

330 2. Representing to the applicant that a specific ancillary
 331 coverage or product is included in the policy applied for
 332 without an additional charge when such charge is required.† ~~or~~

333 3. Charging an applicant for a specific ancillary coverage
 334 or product, in addition to the cost of the insurance coverage
 335 applied for, without the informed consent of the applicant.

336 4. Initiating, effectuating, binding, or otherwise issuing
 337 a policy of insurance without the prior informed consent of the
 338 owner of the property to be insured.

339 5. Mailing, transmitting, or otherwise submitting by any
 340 means an invoice for premium payment to a mortgagee or escrow
 341 agent, for the purpose of effectuating an insurance policy,
 342 without the prior informed consent of the owner of the property
 343 to be insured.

344 Section 13. Subsection (3) of section 626.9741, Florida
 345 Statutes, is amended to read:

346 626.9741 Use of credit reports and credit scores by
 347 insurers.—

348 (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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407 policy, including the hurricane deductible and the coverages and
 408 exclusions.

409 Section 17. Section 627.502, Florida Statutes, is amended
 410 to read:

411 627.502 "Industrial life insurance" defined; reporting;
 412 prohibition on new policies after a certain date.—

413 (1) For the purposes of this code, "industrial life
 414 insurance" is that form of life insurance written under policies
 415 under which premiums are payable monthly or more often, bearing
 416 the words "industrial policy" or "weekly premium policy" or
 417 words of similar import imprinted upon the policies as part of
 418 the descriptive matter, and issued by an insurer that ~~which~~, as
 419 to such industrial life insurance, is operating under a system
 420 of collecting a debit by its agent.

421 (2) Every life insurer servicing existing ~~transacting~~
 422 industrial life insurance shall report to the office all annual
 423 statement data regarding the exhibit of life insurance,
 424 including relevant information for industrial life insurance.

425 (3) Beginning July 1, 2020, a life insurer may not write a
 426 new policy of industrial life insurance.

427 Section 18. Section 627.70131, Florida Statutes, is amended
 428 to read:

429 627.70131 Insurer's duty to acknowledge communications
 430 regarding claims; investigation.—

431 (1) (a) Upon an insurer's receiving a communication with
 432 respect to a claim, the insurer shall, within 14 calendar days,
 433 review and acknowledge receipt of such communication unless
 434 payment is made within that period of time or unless the failure
 435 to acknowledge is caused by factors beyond the control of the

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436 insurer which reasonably prevent such acknowledgment. If the
 437 acknowledgment is not in writing, a notification indicating
 438 acknowledgment shall be made in the insurer's claim file and
 439 dated. A communication made to or by a representative ~~an agent~~
 440 of an insurer with respect to a claim shall constitute
 441 communication to or by the insurer.

442 (b) As used in this subsection, the term "representative"
 443 ~~"agent"~~ means any person to whom an insurer has granted
 444 authority or responsibility to receive or make such
 445 communications with respect to claims on behalf of the insurer.

446 (c) This subsection shall not apply to claimants
 447 represented by counsel beyond those communications necessary to
 448 provide forms and instructions.

449 (2) Such acknowledgment shall be responsive to the
 450 communication. If the communication constitutes a notification
 451 of a claim, unless the acknowledgment reasonably advises the
 452 claimant that the claim appears not to be covered by the
 453 insurer, the acknowledgment shall provide necessary claim forms,
 454 and instructions, including an appropriate telephone number.

455 (3) (a) Unless otherwise provided by the policy of insurance
 456 or by law, within 10 business ~~working~~ days after an insurer
 457 receives proof of loss statements, the insurer shall begin such
 458 investigation as is reasonably necessary unless the failure to
 459 begin such investigation is caused by factors beyond the control
 460 of the insurer which reasonably prevent the commencement of such
 461 investigation.

462 (b) If such investigation involves a physical inspection of
 463 the property, the licensed adjuster assigned by the insurer must
 464 provide the policyholder with his or her name, license number,

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465 and contact information.

466 (c) An unedited copy of any report received by the insurer,
 467 which was produced by the licensed adjuster based upon the
 468 physical inspection of the property, must be provided to the
 469 policyholder electronically or as a physical copy within 7 days
 470 after receipt by the insurer.

471 (d) If an insurer assigns the claim to a different licensed
 472 adjuster after receipt of a report from the adjuster who
 473 performed the physical inspection, the insurer must, within 7
 474 days after changing the licensed insurance adjuster assigned to
 475 a claim, provide the name, license number, and contact
 476 information of the new adjuster to the policyholder. The
 477 notification may be sent electronically or via mail. If the
 478 notification is a physical letter, it must be postmarked within
 479 7 days after the change in adjuster. Any subsequent change to
 480 the assigned adjuster must be handled in accordance with this
 481 paragraph.

482 (4) An insurer shall establish a process by which the agent
 483 of record for an insurance policy is provided access to
 484 information provided to the policyholder under subsection (3) in
 485 order to assist the agent of record in answering the
 486 policyholder's questions regarding claims. As used in this
 487 subsection, the term "agent of record" means the agent named on
 488 the declarations page of the insurance policy.

489 (5) For purposes of this section, the term "insurer" means
 490 any residential property insurer.

491 (6) (a) When providing a preliminary or partial estimate of
 492 damage regarding a claim, an insurer shall include with the
 493 estimate the following statement printed in at least 12-point

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494 bold, uppercase type: THIS ESTIMATE REPRESENTS OUR CURRENT
 495 EVALUATION OF THE LOSS TO YOUR INSURED PROPERTY AND MAY BE
 496 REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU HAVE
 497 QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR
 498 CLAIM, WE ENCOURAGE YOU TO CONTACT US.

499 (b) When providing a preliminary or partial payment on a
 500 claim, an insurer shall include with the payment the following
 501 statement printed in at least 12-point bold, uppercase type: WE
 502 ARE CONTINUING TO EVALUATE YOUR CLAIM INVOLVING YOUR INSURED
 503 PROPERTY AND MAY ISSUE ADDITIONAL PAYMENTS. IF YOU HAVE
 504 QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR
 505 CLAIM, WE ENCOURAGE YOU TO CONTACT US.

506 (7) ~~(5)~~ (a) Within 90 calendar days after an insurer receives
 507 notice of an initial, reopened, or supplemental property
 508 insurance claim from a policyholder, the insurer shall pay or
 509 deny such claim or a portion of the claim unless the failure to
 510 pay is caused by factors beyond the control of the insurer which
 511 reasonably prevent such payment. Any payment of an initial or
 512 supplemental claim or portion of such claim made 90 calendar
 513 days after the insurer receives notice of the claim, or made
 514 more than 15 days after there are no longer factors beyond the
 515 control of the insurer which reasonably prevented such payment,
 516 whichever is later, bears interest at the rate set forth in s.
 517 55.03. Interest begins to accrue from the date the insurer
 518 receives notice of the claim. The provisions of this subsection
 519 may not be waived, voided, or nullified by the terms of the
 520 insurance policy. If there is a right to prejudgment interest,
 521 the insured shall select whether to receive prejudgment interest
 522 or interest under this subsection. Interest is payable when the

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523 claim or portion of the claim is paid. Failure to comply with
 524 this subsection constitutes a violation of this code. However,
 525 failure to comply with this subsection does not form the sole
 526 basis for a private cause of action.

527 (b) Notwithstanding subsection (5) ~~(4)~~, for purposes of
 528 this subsection, the term "claim" means any of the following:

529 1. A claim under an insurance policy providing residential
 530 coverage as defined in s. 627.4025(1);

531 2. A claim for structural or contents coverage under a
 532 commercial property insurance policy if the insured structure is
 533 10,000 square feet or less; or

534 3. A claim for contents coverage under a commercial tenant
 535 policy if the insured premises is 10,000 square feet or less.

536 (c) This subsection shall not apply to claims under an
 537 insurance policy covering nonresidential commercial structures
 538 or contents in more than one state.

539 (8) This section applies to surplus lines insurers and
 540 surplus lines insurance authorized under ss. 626.913-626.937.

541 Section 19. Section 627.7031, Florida Statutes, is created
 542 to read:

543 627.7031 Foreign venue clauses prohibited.—A property
 544 insurance policy sold in this state after July 1, 2020, may not
 545 require an insured to pursue dispute resolution through
 546 litigation, arbitration, or mediation outside this state. This
 547 section applies to surplus lines insurers and surplus lines
 548 insurance authorized under ss. 626.913-626.937.

549 Section 20. Section 627.7142, Florida Statutes, is amended
 550 to read:

551 627.7142 Homeowner Claims Bill of Rights.—An insurer

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552 issuing a personal lines residential property insurance policy
 553 in this state must provide a Homeowner Claims Bill of Rights to
 554 a policyholder within 14 days after receiving an initial
 555 communication with respect to a claim, unless the claim follows
 556 an event that is the subject of a declaration of a state of
 557 emergency by the Governor. The purpose of the bill of rights is
 558 to summarize, in simple, nontechnical terms, existing Florida
 559 law regarding the rights of a personal lines residential
 560 property insurance policyholder who files a claim of loss. The
 561 Homeowner Claims Bill of Rights is specific to the claims
 562 process and does not represent all of a policyholder's rights
 563 under Florida law regarding the insurance policy. The Homeowner
 564 Claims Bill of Rights does not create a civil cause of action by
 565 any individual policyholder or class of policyholders against an
 566 insurer or insurers. The failure of an insurer to properly
 567 deliver the Homeowner Claims Bill of Rights is subject to
 568 administrative enforcement by the office but is not admissible
 569 as evidence in a civil action against an insurer. The Homeowner
 570 Claims Bill of Rights does not enlarge, modify, or contravene
 571 statutory requirements, including, but not limited to, ss.
 572 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does
 573 not prohibit an insurer from exercising its right to repair
 574 damaged property in compliance with the terms of an applicable
 575 policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner
 576 Claims Bill of Rights must state:

HOMEOWNER CLAIMS

BILL OF RIGHTS

580 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.

591
 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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697 no obligation to pay covered claims that are to be paid from the
 698 proceeds of bonds issued under s. 631.695. However, the
 699 association shall assign and pledge the first available moneys
 700 from all or part of the assessments to be made under paragraph
 701 (3) (a) to or on behalf of the issuer of such bonds for the
 702 benefit of the holders of such bonds. The association shall
 703 administer any such covered claims and present valid covered
 704 claims for payment in accordance with the provisions of the
 705 assistance program in connection with which such bonds have been
 706 issued.

707 4. In no event shall the association be obligated to a
 708 policyholder or claimant in an amount in excess of the
 709 obligation of the insolvent insurer under the policy from which
 710 the claim arises.

711 (6) The association may extend the time limits specified in
 712 paragraph (1) (a) by up to an additional 60 days ~~or waive the~~
 713 ~~applicability of the \$100 deductible specified in paragraph~~
 714 ~~(1) (a)~~ if the board determines that either or both such actions
 715 are necessary to facilitate the bulk assumption of obligations.

716 Section 22. Section 648.30, Florida Statutes, is amended to
 717 read:

718 648.30 Licensure and appointment required; prohibited acts;
 719 penalties.-

720 (1) A person may not act in the capacity of a bail bond
 721 agent or temporary bail bond agent or perform any of the
 722 functions, duties, or powers prescribed for bail bond agents or
 723 temporary bail bond agents under this chapter unless that person
 724 is qualified, licensed, and appointed as provided in this
 725 chapter.

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726 (2) A person may not represent himself or herself to be a
 727 bail enforcement agent, bounty hunter, or other similar title in
 728 this state.

729 (3) A person, other than a certified law enforcement
 730 officer, may not apprehend, detain, or arrest a principal on a
 731 bond, wherever issued, unless that person is qualified,
 732 licensed, and appointed as provided in this chapter or licensed
 733 as a bail bond agent or bail bond enforcement agent, or holds an
 734 equivalent license by the state where the bond was written.

735 (4) Any person who violates this section commits a felony
 736 of the third degree, punishable as provided in s. 775.082, s.
 737 775.083, or s. 775.084.

738 (5) Any licensee under this chapter who knowingly aids or
 739 abets an unlicensed person in violating this section commits a
 740 felony of the third degree, punishable as provided in s.
 741 775.082, s. 775.083, or s. 775.084.

742 Section 23. Paragraphs (b) and (c) of subsection (4) and
 743 subsections (1) and (10) of section 717.124, Florida Statutes,
 744 are amended to read:

745 717.124 Unclaimed property claims.-

746 (1) Any person, excluding another state, claiming an
 747 interest in any property paid or delivered to the department
 748 under this chapter may file with the department a claim on a
 749 form prescribed by the department and verified by the claimant
 750 or the claimant's representative. The claimant's representative
 751 must be an attorney licensed to practice law in this state, a
 752 licensed Florida-certified public accountant, or a private
 753 investigator licensed under chapter 493. The claimant's
 754 representative must be registered with the department under this

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755 chapter. The claimant, or the claimant's representative, shall
 756 provide the department with a legible copy of a valid driver
 757 license of the claimant at the time the original claim form is
 758 filed. If the claimant has not been issued a valid driver
 759 license at the time the original claim form is filed, the
 760 department shall be provided with a legible copy of a
 761 photographic identification of the claimant issued by the United
 762 States, a state or territory of the United States, a foreign
 763 nation, or a political subdivision or agency thereof or other
 764 evidence deemed acceptable by the department by rule. In lieu of
 765 photographic identification, a notarized sworn statement by the
 766 claimant may be provided which affirms the claimant's identity
 767 and states the claimant's full name and address. The claimant
 768 must produce to the notary photographic identification of the
 769 claimant issued by the United States, a state or territory of
 770 the United States, a foreign nation, or a political subdivision
 771 or agency thereof or other evidence deemed acceptable by the
 772 department by rule. The notary shall indicate the notary's full
 773 address on the notarized sworn statement. Any claim filed
 774 without the required identification or the sworn statement with
 775 the original claim form and the original Florida Uniform
 776 Unclaimed Property Recovery Agreement or Florida Uniform
 777 Property Purchase Agreement ~~power of attorney or purchase~~
 778 ~~agreement~~, if applicable, is void.

779 (a) Within 90 days after receipt of a claim, the department
 780 may return any claim that provides for the receipt of fees and
 781 costs greater than that permitted under this chapter or that
 782 contains any apparent errors or omissions. The department may
 783 also request that the claimant or the claimant's representative

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784 provide additional information. The department shall retain a
 785 copy or electronic image of the claim.

786 (b) A claimant or the claimant's representative shall be
 787 deemed to have withdrawn a claim if no response to the
 788 department's request for additional information is received by
 789 the department within 60 days after the notification of any
 790 apparent errors or omissions.

791 (c) Within 90 days after receipt of the claim, or the
 792 response of the claimant or the claimant's representative to the
 793 department's request for additional information, whichever is
 794 later, the department shall determine each claim. Such
 795 determination shall contain a notice of rights provided by ss.
 796 120.569 and 120.57. The 90-day period shall be extended by 60
 797 days if the department has good cause to need additional time or
 798 if the unclaimed property:

799 1. Is owned by a person who has been a debtor in
 800 bankruptcy;

801 2. Was reported with an address outside of the United
 802 States;

803 3. Is being claimed by a person outside of the United
 804 States; or

805 4. Contains documents filed in support of the claim that
 806 are not in the English language and have not been accompanied by
 807 an English language translation.

808 (d) The department shall deny any claim under which the
 809 claimant's representative has refused to authorize the
 810 department to reduce the fees and costs to the maximum permitted
 811 under this chapter.

812 (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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929 contract or agreement to purchase unclaimed property, unless
 930 such person is registered with the department pursuant to this
 931 chapter and an attorney licensed to practice law in this state
 932 in the regular practice of her or his profession, a Florida-
 933 certified public accountant who is acting within the scope of
 934 the practice of public accounting as defined in chapter 473, or
 935 a private investigator licensed under chapter 493. This
 936 subsection does not apply to a person who has been granted a
 937 durable power of attorney to convey and receive all of the real
 938 and personal property of the owner, is the court-appointed
 939 guardian of the owner, has been employed as an attorney or
 940 qualified representative to contest the department's denial of a
 941 claim, or has been employed as an attorney to probate the estate
 942 of the owner or an heir or legatee of the owner.

943 Section 27. Section 717.135, Florida Statutes, is amended
 944 to read:

945 (Substantial rewording of section. See
 946 s. 717.135, F.S., for present text.)

947 717.135 Recovery agreements and purchase agreements for
 948 claims filed by claimant's representative; fees and costs.-

949 (1) In order to protect the interests of owners of
 950 unclaimed property, the department shall adopt by rule a form
 951 entitled "Florida Uniform Unclaimed Property Recovery Agreement"
 952 and a form entitled "Florida Uniform Property Purchase
 953 Agreement."

954 (2) The Florida Uniform Unclaimed Property Recovery
 955 Agreement form and the Florida Uniform Property Purchase
 956 Agreement form must include and disclose:

957 (a) The total dollar amount of unclaimed property accounts

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958 claimed or sold.

959 (b) Either the total percentage of all authorized fees and
 960 costs to be paid to the claimant's representative or the
 961 percentage of the value of the property to be paid as net gain
 962 to the purchasing registered claimant's representative.

963 (c) Either the total dollar amount to be deducted and
 964 received from the claimant as fees and costs by the claimant's
 965 representative or the total net dollar amount to be received by
 966 the purchasing registered claimant's representative.

967 (d) The net dollar amount to be received by the claimant or
 968 seller.

969 (e) For each account claimed, the unclaimed property
 970 account number and name of the apparent owner, as listed on the
 971 department's database.

972 (f) For the Florida Uniform Property Purchase Agreement, a
 973 statement that the purchase price will be remitted to the seller
 974 within 30 days after the execution of the form by the seller.

975 (g) The name, address, e-mail address, phone number, and
 976 license number of the registered claimant's representative.

977 (h) The manual signature of the claimant or seller and the
 978 date signed.

979 (i) The social security number or taxpayer identification
 980 number of the claimant or seller, if available. A number is
 981 available if one has been issued to the claimant or seller.

982 (j) A limit of total fees and costs, or the total discount
 983 amount in the case of a purchase agreement, to no more than 20
 984 percent of the claimed amount.

985 (3) For a Florida Uniform Property Purchase Agreement form,
 986 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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CODING: Words ~~stricken~~ are deletions; words underlined are additions.



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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: FAV | . | |
| 02/04/2020 | . | |
| | . | |
| | . | |
| | . | |

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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11 ~~to retain the original unique personal identifier provided by~~
12 ~~the consumer reporting agency and the agency must~~ reissue the
13 unique personal identifier or provide a new unique personal
14 identifier to the consumer representative.

15 Section 2. Paragraph (b) of subsection (10) of section
16 624.307, Florida Statutes, is amended to read:

17 624.307 General powers; duties.-

18 (10)

19 (b) Any entity ~~person~~ licensed or issued a certificate of
20 authority by the department or the office shall respond, in
21 writing, to the division within 20 days after receipt of a
22 written request for documents and information from the division
23 concerning a consumer complaint. The response must address the
24 issues and allegations raised in the complaint and include any
25 requested documents concerning the consumer complaint not
26 subject to attorney-client or work-product privilege. The
27 division may impose an administrative penalty for failure to
28 comply with this paragraph of up to \$2,500 per violation upon
29 any entity licensed by the department or the office ~~and \$250 for~~
30 ~~the first violation, \$500 for the second violation, and up to~~
31 ~~\$1,000 for the third or subsequent violation upon any individual~~
32 ~~licensed by the department or the office.~~

33 Section 3. Present subsection (9) of section 626.112,
34 Florida Statutes, is redesignated as subsection (10), a new
35 subsection (9) is added to that section, and paragraph (d) of
36 subsection (7) and present subsection (9) of that section are
37 amended, to read:

38 626.112 License and appointment required; agents, customer
39 representatives, adjusters, insurance agencies, service



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40 representatives, managing general agents, insurance adjusting
41 firms.-

42 (7)

43 ~~(d) Effective October 1, 2015, the department must~~
44 ~~automatically convert the registration of an approved registered~~
45 ~~insurance agency to an insurance agency license.~~

46 (9) (a) An individual, firm, partnership, corporation,
47 association, or other entity may not act in its own name or
48 under a trade name, directly or indirectly, as an adjusting firm
49 unless it complies with s. 626.8696 with respect to possessing
50 an adjusting firm license for each place of business at which it
51 engages in an activity that may be performed only by a licensed
52 insurance adjuster. However, an adjusting firm that is owned and
53 operated by a single licensed adjuster conducting business in
54 his or her individual name and not employing or otherwise using
55 the services of or appointing other licensees is exempt from the
56 adjusting firm licensing requirements of this subsection.

57 (b) A branch place of business that is established by a
58 licensed adjusting firm is considered a branch firm and is not
59 required to be licensed if:

60 1. It transacts business under the same name and federal
61 tax identification number as the licensed adjusting firm;

62 2. It has designated with the department a primary adjuster
63 operating the location as required by s. 626.8695; and

64 3. The address and telephone number of the branch location
65 have been submitted to the department for inclusion in the
66 licensing record of the licensed adjusting firm within 30 days
67 after insurance transactions begin at the branch location.

68 (c) If an adjusting firm is required to be licensed but



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69 fails to file an application for licensure in accordance with
70 this section, the department shall impose on the firm an
71 administrative penalty of up to \$10,000.

72 (10)-(9) Any person who knowingly transacts insurance or
73 otherwise engages in insurance activities in this state without
74 a license in violation of this section or who knowingly aids or
75 abets an unlicensed person in transacting insurance or otherwise
76 engaging in insurance activities in this state without a license
77 commits a felony of the third degree, punishable as provided in
78 s. 775.082, s. 775.083, or s. 775.084.

79 Section 4. Subsection (4) is added to section 626.602,
80 Florida Statutes, to read:

81 626.602 Insurance agency names; disapproval.—The department
82 may disapprove the use of any true or fictitious name, other
83 than the bona fide natural name of an individual, by any
84 insurance agency on any of the following grounds:

85 (4) The name contains the word "Medicare" or "Medicaid." An
86 insurance agency whose name contains the word "Medicare" or
87 "Medicaid" but which is licensed as of July 1, 2020, may
88 continue to use that name as long as the agency's license is
89 valid. If the agency's license expires or is suspended or
90 revoked, the agency may not be relicensed using that name.

91 Section 5. Subsections (16) and (17) are added to section
92 626.621, Florida Statutes, to read:

93 626.621 Grounds for discretionary refusal, suspension, or
94 revocation of agent's, adjuster's, customer representative's,
95 service representative's, or managing general agent's license or
96 appointment.—The department may, in its discretion, deny an
97 application for, suspend, revoke, or refuse to renew or continue



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98 the license or appointment of any applicant, agent, adjuster,
99 customer representative, service representative, or managing
100 general agent, and it may suspend or revoke the eligibility to
101 hold a license or appointment of any such person, if it finds
102 that as to the applicant, licensee, or appointee any one or more
103 of the following applicable grounds exist under circumstances
104 for which such denial, suspension, revocation, or refusal is not
105 mandatory under s. 626.611:

106 (16) Taking an action that allows the personal financial or
107 medical information of a consumer or customer to be made
108 available or accessible to the general public, regardless of the
109 format in which the record is stored.

110 (17) Initiating in-person or telephone solicitation after 9
111 p.m. or before 8 a.m. local time of the prospective customer
112 unless requested by the prospective customer.

113 Section 6. Section 626.782, Florida Statutes, is amended to
114 read:

115 626.782 "Industrial class insurer" defined.—An "industrial
116 class insurer" is an insurer collecting premiums on policies of
117 ~~writing~~ industrial life insurance, as defined in s. 627.502,
118 written before July 1, 2020, and as to such insurance, operates
119 under a system of collecting a debit by its agent.

120 Section 7. Section 626.783, Florida Statutes, is amended to
121 read:

122 626.783 "Ordinary-combination class insurer" defined.—An
123 "ordinary-combination class insurer" is an insurer writing ~~both~~
124 ordinary class insurance and collecting premiums on existing
125 industrial life ~~class~~ insurance under s. 626.782.

126 Section 8. Section 626.796, Florida Statutes, is repealed.



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127 Section 9. Subsection (1) of section 626.8443, Florida
128 Statutes, is amended to read:

129 626.8443 Duration of suspension or revocation.—

130 (1) The department shall, in its order suspending a title
131 insurance agent's or agency's license or appointment or in its
132 order suspending the eligibility of a person to hold or apply
133 for such license or appointment, specify the period during which
134 the suspension is to be in effect, but such period shall not
135 exceed 2 years ~~1 year~~. The license, ~~or~~ appointment, or
136 eligibility shall remain suspended during the period so
137 specified, subject, however, to any rescission or modification
138 of the order by the department, or modification or reversal
139 thereof by the court, prior to expiration of the suspension
140 period. A license, appointment, or eligibility that ~~which~~ has
141 been suspended may not be reinstated except upon request for
142 such reinstatement, but the department shall not grant such
143 reinstatement if it finds that the circumstance or circumstances
144 for which the license, appointment, and eligibility was
145 suspended still exist or are likely to recur.

146 Section 10. Subsection (6) of section 626.854, Florida
147 Statutes, is amended to read:

148 626.854 "Public adjuster" defined; prohibitions.—The
149 Legislature finds that it is necessary for the protection of the
150 public to regulate public insurance adjusters and to prevent the
151 unauthorized practice of law.

152 (6) Except during a state of emergency declared by the
153 Governor and except during the 1-year period after the date of
154 loss, an insured or claimant may cancel a public adjuster's
155 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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185 form: "You are agreeing to place coverage in the surplus lines
186 market. Coverage may be available in the admitted market.
187 Persons insured by surplus lines carriers are not protected
188 under the Florida Insurance Guaranty Act with respect to any
189 right of recovery for the obligation of an insolvent unlicensed
190 insurer."

191 (3) (a) Subsection (1) does not apply to wet marine and
192 transportation or aviation risks that ~~which~~ are subject to s.
193 626.917.

194 (b) Paragraphs (1) (a)-(d) do not apply to classes of
195 insurance which are subject to s. 627.062(3) (d)1. These classes
196 may be exportable under the following conditions:

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

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

200 3. The insured has complied with ~~must sign a disclosure~~
201 paragraph (1) (f) that substantially provides the following: "You
202 are agreeing to place coverage in the surplus lines market.
203 Superior coverage may be available in the admitted market and at
204 a lesser cost. Persons insured by surplus lines carriers are not
205 protected under the Florida Insurance Guaranty Act with respect
206 to any right of recovery for the obligation of an insolvent
207 unlicensed insurer." If the disclosure ~~notice~~ is signed by the
208 insured, the insured is presumed to have been informed and to
209 know that other coverage may be available, and, with respect to
210 the diligent-effort requirement under subsection (1), there is
211 no liability on the part of, and no cause of action arises
212 against, the retail agent presenting the form.

213 Section 12. Paragraph (z) of subsection (1) of section



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214 626.9541, Florida Statutes, is amended to read:

215 626.9541 Unfair methods of competition and unfair or
216 deceptive acts or practices defined.—

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

220 (z) *Sliding*.—Sliding is the act or practice of any of the
221 following:

222 1. Representing to the applicant that a specific ancillary
223 coverage or product is required by law in conjunction with the
224 purchase of insurance when such coverage or product is not
225 required.†

226 2. Representing to the applicant that a specific ancillary
227 coverage or product is included in the policy applied for
228 without an additional charge when such charge is required.† ~~or~~

229 3. Charging an applicant for a specific ancillary coverage
230 or product, in addition to the cost of the insurance coverage
231 applied for, without the informed consent of the applicant.

232 4. Initiating, effectuating, binding, or otherwise issuing
233 a policy of insurance without the prior informed consent of the
234 owner of the property to be insured.

235 5. Mailing, transmitting, or otherwise submitting by any
236 means an invoice for premium payment to a mortgagee or escrow
237 agent, for the purpose of effectuating an insurance policy,
238 without the prior informed consent of the owner of the property
239 to be insured. However, this subparagraph does not apply in
240 cases where the mortgagee or escrow is renewing insurance or
241 issuing collateral protection insurance, as defined in s.
242 624.6085, pursuant to the mortgage or other pertinent loan



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243 documents or communications regarding the property.

244 Section 13. Effective January 1, 2021, subsection (3) of
245 section 626.9741, Florida Statutes, is amended to read:

246 626.9741 Use of credit reports and credit scores by
247 insurers.-

248 (3) An insurer must inform an applicant or insured, in the
249 same medium as the application is taken, that a credit report or
250 score is being requested for underwriting or rating purposes.

251 The notification to the consumer must include the following
252 language: "The Department of Financial Services offers free
253 financial literacy programs to assist you with insurance-related
254 questions, including how credit works and how credit scores are
255 calculated. To learn more, call 1-877-693-5236 or visit

256 www.MyFloridaCFO.com." An insurer that makes an adverse decision
257 based, in whole or in part, upon a credit report must provide at
258 no charge, a copy of the credit report to the applicant or
259 insured or provide the applicant or insured with the name,
260 address, and telephone number of the consumer reporting agency
261 from which the insured or applicant may obtain the credit
262 report. The insurer must provide notification to the consumer
263 explaining the reasons for the adverse decision. The reasons
264 must be provided in sufficiently clear and specific language so
265 that a person can identify the basis for the insurer's adverse
266 decision. Such notification shall include a description of the
267 four primary reasons, or such fewer number as existed, which
268 were the primary influences of the adverse decision. The use of
269 generalized terms such as "poor credit history," "poor credit
270 rating," or "poor insurance score" does not meet the explanation
271 requirements of this subsection. A credit score may not be used



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272 in underwriting or rating insurance unless the scoring process
273 produces information in sufficient detail to permit compliance
274 with the requirements of this subsection. It shall not be deemed
275 an adverse decision if, due to the insured's credit report or
276 credit score, the insured continues to receive a less favorable
277 rate or placement in a less favorable tier or company at the
278 time of renewal except for renewals or reunderwriting required
279 by this section.

280 Section 14. Subsection (1) of section 626.9957, Florida
281 Statutes, is amended to read:

282 626.9957 Conduct prohibited; denial, revocation, or
283 suspension of registration.—

284 (1) As provided in s. 626.112, only a person licensed as an
285 insurance agent or customer representative may engage in the
286 solicitation of insurance. A person who engages in the
287 solicitation of insurance as described in s. 626.112(1) without
288 such license is subject to the penalties provided under s.
289 626.112(10) ~~s. 626.112(9)~~.

290 Section 15. Subsection (10) of section 627.062, Florida
291 Statutes, is amended to read:

292 627.062 Rate standards.—

293 (10) Any interest paid pursuant to s. 627.70131(7) ~~s.~~
294 ~~627.70131(5)~~ may not be included in the insurer's rate base and
295 may not be used to justify a rate or rate change.

296 Section 16. Effective January 1, 2021, subsection (6) is
297 added to section 627.421, Florida Statutes, to read:

298 627.421 Delivery of policy.—

299 (6) For personal lines residential property insurance
300 policies, the insurer shall, between March 1 and June 1 of each



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301 year, inclusive, deliver an outline of the hurricane coverage as
302 specified in s. 627.4143(3), along with a current policy
303 declarations page. This requirement shall apply only for those
304 insureds who have provided the insurer with a valid e-mail
305 address. This information shall be delivered directly to the
306 policyholder via email or by an e-mail notice of information
307 being posted to a secure web-based policy information page.

308 Section 17. Section 627.502, Florida Statutes, is amended
309 to read:

310 627.502 "Industrial life insurance" defined; reporting;
311 prohibition on new policies after a certain date.-

312 (1) For the purposes of this code, "industrial life
313 insurance" is that form of life insurance written under policies
314 under which premiums are payable monthly or more often, bearing
315 the words "industrial policy" or "weekly premium policy" or
316 words of similar import imprinted upon the policies as part of
317 the descriptive matter, and issued by an insurer that ~~which~~, as
318 to such industrial life insurance, is operating under a system
319 of collecting a debit by its agent.

320 (2) Every life insurer servicing existing ~~transacting~~
321 industrial life insurance shall report to the office all annual
322 statement data regarding the exhibit of life insurance,
323 including relevant information for industrial life insurance.

324 (3) Beginning July 1, 2020, a life insurer may not write a
325 new policy of industrial life insurance.

326 Section 18. Effective January 1, 2021, section 627.70131,
327 Florida Statutes, is amended to read:

328 627.70131 Insurer's duty to acknowledge communications
329 regarding claims; investigation.-



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330 (1) (a) Upon an insurer's receiving a communication with
331 respect to a claim, the insurer shall, within 14 calendar days,
332 review and acknowledge receipt of such communication unless
333 payment is made within that period of time or unless the failure
334 to acknowledge is caused by factors beyond the control of the
335 insurer which reasonably prevent such acknowledgment. If the
336 acknowledgment is not in writing, a notification indicating
337 acknowledgment shall be made in the insurer's claim file and
338 dated. A communication made to or by a representative ~~an agent~~
339 of an insurer with respect to a claim shall constitute
340 communication to or by the insurer.

341 (b) As used in this subsection, the term "representative"
342 ~~"agent"~~ means any person to whom an insurer has granted
343 authority or responsibility to receive or make such
344 communications with respect to claims on behalf of the insurer.

345 (c) This subsection shall not apply to claimants
346 represented by counsel beyond those communications necessary to
347 provide forms and instructions.

348 (2) Such acknowledgment shall be responsive to the
349 communication. If the communication constitutes a notification
350 of a claim, unless the acknowledgment reasonably advises the
351 claimant that the claim appears not to be covered by the
352 insurer, the acknowledgment shall provide necessary claim forms,
353 and instructions, including an appropriate telephone number.

354 (3) (a) Unless otherwise provided by the policy of insurance
355 or by law, within 10 business ~~working~~ days after an insurer
356 receives proof of loss statements, the insurer shall begin such
357 investigation as is reasonably necessary unless the failure to
358 begin such investigation is caused by factors beyond the control



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359 of the insurer which reasonably prevent the commencement of such
360 investigation.

361 (b) If such investigation involves a physical inspection of
362 the property, the licensed adjuster assigned by the insurer must
363 provide the policyholder with his or her name, license number,
364 and contact information.

365 (c) If an insurer assigns the claim to a different licensed
366 adjuster from the adjuster who performed the physical
367 inspection, the insurer must, within 14 days after changing the
368 licensed insurance adjuster assigned to a claim, provide the
369 name, license number, and contact information of the new
370 adjuster to the policyholder. The notification may be made
371 electronically or via mail. If the notification is a physical
372 letter, it must be postmarked within 14 days after the change in
373 adjuster. The policyholder must be provided notice of any
374 subsequent change to the assigned adjuster as set forth by this
375 paragraph.

376 (4) An insurer shall establish a process by which an agent
377 of record for an insurance policy receives the same notice as
378 the policyholder as provided in paragraphs (3)(b) and (3)(c) in
379 order to assist the agent of record in answering the
380 policyholder's questions regarding claims. As used in this
381 subsection, the term "agent of record" means the agent named on
382 the declarations page of the insurance policy or, if there is no
383 agent of record, another designated point of contact.

384 (5) For purposes of this section, the term "insurer" means
385 any residential property insurer.

386 (6) (a) When providing a preliminary or partial estimate of
387 damage regarding a claim, an insurer shall include with the



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388 estimate the following statement printed in at least 12-point
389 bold, uppercase type: THIS ESTIMATE REPRESENTS OUR CURRENT
390 EVALUATION OF THE COVERED DAMAGES TO YOUR INSURED PROPERTY AND
391 MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU
392 HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING
393 YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

394 (b) When providing a payment on a claim which is not the
395 full and final payment for the claim, an insurer shall include
396 with the payment the following statement printed in at least 12-
397 point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR
398 CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL
399 PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL
400 INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT
401 US.

402 (7)-(5)(a) Within 90 calendar days after an insurer receives
403 notice of an initial, reopened, or supplemental property
404 insurance claim from a policyholder, the insurer shall pay or
405 deny such claim or a portion of the claim unless the failure to
406 pay is caused by factors beyond the control of the insurer which
407 reasonably prevent such payment. Any payment of an initial or
408 supplemental claim or portion of such claim made 90 calendar
409 days after the insurer receives notice of the claim, or made
410 more than 15 days after there are no longer factors beyond the
411 control of the insurer which reasonably prevented such payment,
412 whichever is later, bears interest at the rate set forth in s.
413 55.03. Interest begins to accrue from the date the insurer
414 receives notice of the claim. The provisions of this subsection
415 may not be waived, voided, or nullified by the terms of the
416 insurance policy. If there is a right to prejudgment interest,



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417 the insured shall select whether to receive prejudgment interest
418 or interest under this subsection. Interest is payable when the
419 claim or portion of the claim is paid. Failure to comply with
420 this subsection constitutes a violation of this code. However,
421 failure to comply with this subsection does not form the sole
422 basis for a private cause of action.

423 (b) Notwithstanding subsection (5) ~~(4)~~, for purposes of
424 this subsection, the term "claim" means any of the following:

425 1. A claim under an insurance policy providing residential
426 coverage as defined in s. 627.4025(1);

427 2. A claim for structural or contents coverage under a
428 commercial property insurance policy if the insured structure is
429 10,000 square feet or less; or

430 3. A claim for contents coverage under a commercial tenant
431 policy if the insured premises is 10,000 square feet or less.

432 (c) This subsection shall not apply to claims under an
433 insurance policy covering nonresidential commercial structures
434 or contents in more than one state.

435 (8) This section also applies to surplus lines insurers and
436 surplus lines insurance authorized under ss. 626.913-626.937
437 providing residential coverage, where coverage on the primary
438 insured structure is less than \$700,000.

439 Section 19. Section 627.7031, Florida Statutes, is created
440 to read:

441 627.7031 Foreign venue clauses prohibited.—After July 1,
442 2020, a personal residential property insurance policy sold in
443 this state, insuring only real property located in this state,
444 may not require an insured to pursue dispute resolution through
445 litigation, arbitration, or mediation outside this state. This



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446 section also applies to surplus lines insurers and surplus lines
447 insurance authorized under ss. 626.913-626.937.

448 Section 20. Effective January 1, 2021, section 627.7142,
449 Florida Statutes, is amended to read:

450 627.7142 Homeowner Claims Bill of Rights.—An insurer
451 issuing a personal lines residential property insurance policy
452 in this state must provide a Homeowner Claims Bill of Rights to
453 a policyholder within 14 days after receiving an initial
454 communication with respect to a claim, ~~unless the claim follows~~
455 ~~an event that is the subject of a declaration of a state of~~
456 ~~emergency by the Governor.~~ The purpose of the bill of rights is
457 to summarize, in simple, nontechnical terms, existing Florida
458 law regarding the rights of a personal lines residential
459 property insurance policyholder who files a claim of loss. The
460 Homeowner Claims Bill of Rights is specific to the claims
461 process and does not represent all of a policyholder's rights
462 under Florida law regarding the insurance policy. The Homeowner
463 Claims Bill of Rights does not create a civil cause of action by
464 any individual policyholder or class of policyholders against an
465 insurer or insurers. The failure of an insurer to properly
466 deliver the Homeowner Claims Bill of Rights is subject to
467 administrative enforcement by the office but is not admissible
468 as evidence in a civil action against an insurer. The Homeowner
469 Claims Bill of Rights does not enlarge, modify, or contravene
470 statutory requirements, including, but not limited to, ss.
471 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does
472 not prohibit an insurer from exercising its right to repair
473 damaged property in compliance with the terms of an applicable
474 policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner



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475 Claims Bill of Rights must state:

476

477

HOMEOWNER CLAIMS

478

BILL OF RIGHTS

479

This Bill of Rights is specific to the claims process
480 and does not represent all of your rights under
481 Florida law regarding your policy. There are also
482 exceptions to the stated timelines when conditions are
483 beyond your insurance company's control. This document
484 does not create a civil cause of action by an
485 individual policyholder, or a class of policyholders,
486 against an insurer or insurers and does not prohibit
487 an insurer from exercising its right to repair damaged
488 property in compliance with the terms of an applicable
489 policy.

490

491

YOU HAVE THE RIGHT TO:

492

1. Receive from your insurance company an
493 acknowledgment of your reported claim within 14
494 calendar days after the time you communicated the
495 claim.

496

2. Upon written request, receive from your
497 insurance company within 30 days after you have
498 submitted a complete proof-of-loss statement to your
499 insurance company, confirmation that your claim is
500 covered in full, partially covered, or denied, or
501 receive a written statement that your claim is being
502 investigated.

503

3. Within 14 calendar days, receive notification



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504 from your insurance company if there has been a change
505 in the company adjuster who is assigned to your claim.
506 The notification must include the assigned adjuster's
507 contact information.

508 4. Within 90 calendar days, subject to any dual
509 interest noted in the policy, receive full settlement
510 payment for your claim or payment of the undisputed
511 portion of your claim, or your insurance company's
512 denial of your claim.

513 5. Receive payment of interest, as provided in s.
514 627.7031, from your insurance company, which begins
515 accruing from the date your claim is filed if your
516 insurance company does not pay full settlement of your
517 initial, reopened, or supplemental claim or the
518 undisputed portion of your claim or does not deny your
519 claim within 90 calendar days after your claim is
520 filed. The interest, if applicable, must be paid when
521 your claim or undisputed portion of your claim is
522 paid.

523 ~~6.4.~~ Free mediation of your disputed claim by the
524 Florida Department of Financial Services, Division of
525 Consumer Services, under most circumstances and
526 subject to certain restrictions.

527 ~~7.5.~~ Neutral evaluation of your disputed claim,
528 if your claim is for damage caused by a sinkhole and
529 is covered by your policy.

530 ~~8.6.~~ Contact the Florida Department of Financial
531 Services, Division of Consumer Services' toll-free
532 helpline for assistance with any insurance claim or



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533 questions pertaining to the handling of your claim.
534 You can reach the Helpline by phone at...(toll-free
535 phone number)..., or you can seek assistance online at
536 the Florida Department of Financial Services, Division
537 of Consumer Services' website at...(website
538 address)....

539
540 YOU ARE ADVISED TO:

541 1. Contact your insurance company before entering
542 into any contract for repairs to confirm any managed
543 repair policy provisions or optional preferred
544 vendors.

545 2. Make and document emergency repairs that are
546 necessary to prevent further damage. Keep the damaged
547 property, if feasible, keep all receipts, and take
548 photographs or video of damage before and after any
549 repairs to provide to your insurer.

550 3. Carefully read any contract that requires you
551 to pay out-of-pocket expenses or a fee that is based
552 on a percentage of the insurance proceeds that you
553 will receive for repairing or replacing your property.

554 4. Confirm that the contractor you choose is
555 licensed to do business in Florida. You can verify a
556 contractor's license and check to see if there are any
557 complaints against him or her by calling the Florida
558 Department of Business and Professional Regulation.
559 You should also ask the contractor for references from
560 previous work.

561 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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591 units within the association, shall include that amount of each
592 covered property insurance claim which is less than \$100,000
593 multiplied by the number of condominium units or other
594 residential units; however, as to homeowners' associations, this
595 sub-subparagraph applies only to claims for damage or loss to
596 residential units and structures attached to residential units.

597 b. Notwithstanding sub-subparagraph a., the association has
598 no obligation to pay covered claims that are to be paid from the
599 proceeds of bonds issued under s. 631.695. However, the
600 association shall assign and pledge the first available moneys
601 from all or part of the assessments to be made under paragraph
602 (3) (a) to or on behalf of the issuer of such bonds for the
603 benefit of the holders of such bonds. The association shall
604 administer any such covered claims and present valid covered
605 claims for payment in accordance with the provisions of the
606 assistance program in connection with which such bonds have been
607 issued.

608 4. In no event shall the association be obligated to a
609 policyholder or claimant in an amount in excess of the
610 obligation of the insolvent insurer under the policy from which
611 the claim arises.

612 (6) The association may extend the time limits specified in
613 paragraph (1) (a) by up to an additional 60 days ~~or waive the~~
614 ~~applicability of the \$100 deductible specified in paragraph~~
615 ~~(1) (a)~~ if the board determines that either or both such actions
616 are necessary to facilitate the bulk assumption of obligations.

617 Section 22. Section 648.30, Florida Statutes, is amended to
618 read:

619 648.30 Licensure and appointment required; prohibited acts;



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620 penalties.—

621 (1) A person may not act in the capacity of a bail bond
622 agent or temporary bail bond agent or perform any of the
623 functions, duties, or powers prescribed for bail bond agents or
624 temporary bail bond agents under this chapter unless that person
625 is qualified, licensed, and appointed as provided in this
626 chapter.

627 (2) A person may not represent himself or herself to be a
628 bail enforcement agent, bounty hunter, or other similar title in
629 this state.

630 (3) A person, other than a certified law enforcement
631 officer, may not apprehend, detain, or arrest a principal on a
632 bond, wherever issued, unless that person is qualified,
633 licensed, and appointed as provided in this chapter or licensed
634 as a bail bond agent or bail bond enforcement agent, or holds an
635 equivalent license by the state where the bond was written.

636 (4) Any person who violates this section commits a felony
637 of the third degree, punishable as provided in s. 775.082, s.
638 775.083, or s. 775.084.

639 (5) Any licensee under this chapter who knowingly aids or
640 abets an unlicensed person in violating this section commits a
641 felony of the third degree, punishable as provided in s.
642 775.082, s. 775.083, or s. 775.084.

643 Section 23. Paragraphs (b) and (c) of subsection (4) and
644 subsections (1) and (10) of section 717.124, Florida Statutes,
645 are amended to read:

646 717.124 Unclaimed property claims.—

647 (1) Any person, excluding another state, claiming an
648 interest in any property paid or delivered to the department



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649 under this chapter may file with the department a claim on a
650 form prescribed by the department and verified by the claimant
651 or the claimant's representative. The claimant's representative
652 must be an attorney licensed to practice law in this state, a
653 licensed Florida-certified public accountant, or a private
654 investigator licensed under chapter 493. The claimant's
655 representative must be registered with the department under this
656 chapter. The claimant, or the claimant's representative, shall
657 provide the department with a legible copy of a valid driver
658 license of the claimant at the time the original claim form is
659 filed. If the claimant has not been issued a valid driver
660 license at the time the original claim form is filed, the
661 department shall be provided with a legible copy of a
662 photographic identification of the claimant issued by the United
663 States, a state or territory of the United States, a foreign
664 nation, or a political subdivision or agency thereof or other
665 evidence deemed acceptable by the department by rule. In lieu of
666 photographic identification, a notarized sworn statement by the
667 claimant may be provided which affirms the claimant's identity
668 and states the claimant's full name and address. The claimant
669 must produce to the notary photographic identification of the
670 claimant issued by the United States, a state or territory of
671 the United States, a foreign nation, or a political subdivision
672 or agency thereof or other evidence deemed acceptable by the
673 department by rule. The notary shall indicate the notary's full
674 address on the notarized sworn statement. Any claim filed
675 without the required identification or the sworn statement with
676 the original claim form and the original Florida Uniform
677 Unclaimed Property Recovery Agreement or Florida Uniform



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678 Property Purchase Agreement ~~power of attorney or purchase~~
679 ~~agreement~~, if applicable, is void.

680 (a) Within 90 days after receipt of a claim, the department
681 may return any claim that provides for the receipt of fees and
682 costs greater than that permitted under this chapter or that
683 contains any apparent errors or omissions. The department may
684 also request that the claimant or the claimant's representative
685 provide additional information. The department shall retain a
686 copy or electronic image of the claim.

687 (b) A claimant or the claimant's representative shall be
688 deemed to have withdrawn a claim if no response to the
689 department's request for additional information is received by
690 the department within 60 days after the notification of any
691 apparent errors or omissions.

692 (c) Within 90 days after receipt of the claim, or the
693 response of the claimant or the claimant's representative to the
694 department's request for additional information, whichever is
695 later, the department shall determine each claim. Such
696 determination shall contain a notice of rights provided by ss.
697 120.569 and 120.57. The 90-day period shall be extended by 60
698 days if the department has good cause to need additional time or
699 if the unclaimed property:

700 1. Is owned by a person who has been a debtor in
701 bankruptcy;

702 2. Was reported with an address outside of the United
703 States;

704 3. Is being claimed by a person outside of the United
705 States; or

706 4. Contains documents filed in support of the claim that



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707 are not in the English language and have not been accompanied by
708 an English language translation.

709 (d) The department shall deny any claim under which the
710 claimant's representative has refused to authorize the
711 department to reduce the fees and costs to the maximum permitted
712 under this chapter.

713 (4)

714 (b) If an owner authorizes an attorney licensed to practice
715 law in this state, Florida-certified public accountant, or
716 private investigator licensed under chapter 493, and registered
717 with the department under this chapter, to claim the unclaimed
718 property on the owner's behalf, the department is authorized to
719 make distribution of the property or money in accordance with
720 the Florida Uniform Unclaimed Property Recovery Agreement or
721 Florida Uniform Property Purchase Agreement under s. 717.135
722 ~~such power of attorney~~. The original Florida Uniform Unclaimed
723 Property Recovery Agreement or Florida Uniform Property Purchase
724 Agreement ~~power of attorney~~ must be executed by the claimant or
725 seller ~~owner~~ and must be filed with the department.

726 (c)1. Payments of approved claims for unclaimed cash
727 accounts shall be made to the owner after deducting any fees and
728 costs authorized pursuant to a Florida Uniform Unclaimed
729 Property Recovery Agreement ~~written power of attorney~~. The
730 contents of a safe-deposit box shall be delivered directly to
731 the claimant ~~notwithstanding any power of attorney or agreement~~
732 ~~to the contrary~~.

733 2. Payments of fees and costs authorized pursuant to a
734 Florida Uniform Unclaimed Property Recovery Agreement ~~written~~
735 ~~power of attorney~~ for approved claims must ~~shall~~ be made or



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736 issued to the law firm of the designated attorney licensed to
737 practice law in this state, the public accountancy firm of the
738 licensed Florida-certified public accountant, or the designated
739 employing private investigative agency licensed by this state.
740 Such payments shall be made by electronic funds transfer and may
741 be made on such periodic schedule as the department may define
742 by rule, provided the payment intervals do not exceed 31 days.
743 Payment made to an attorney licensed in this state, a Florida-
744 certified public accountant, or a private investigator licensed
745 under chapter 493, operating individually or as a sole
746 practitioner, shall be to the attorney, certified public
747 accountant, or private investigator.

748 (10) Notwithstanding any other provision of this chapter,
749 the department may develop a process by which a registered
750 claimant's representative or a buyer of unclaimed property may
751 electronically submit to the department an electronic image of a
752 completed claim and claims-related documents pursuant to this
753 chapter, including a Florida Uniform Unclaimed Property Recovery
754 Agreement or Florida Uniform Property Purchase Agreement ~~a~~
755 ~~limited power of attorney or purchase agreement~~ that has been
756 manually signed and dated by a claimant or seller pursuant to s.
757 717.135 ~~or s. 717.1351~~, after the claimant's representative or
758 the buyer of unclaimed property receives the original documents
759 provided by the claimant or the seller for any claim. Each claim
760 filed by a registered claimant's representative or a buyer of
761 unclaimed property must include a statement by the claimant's
762 representative or the buyer of unclaimed property attesting that
763 all documents are true copies of the original documents and that
764 all original documents are physically in the possession of the



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765 claimant's representative or the buyer of unclaimed property.
766 All original documents must be kept in the original form, by
767 claim number, under the secure control of the claimant's
768 representative or the buyer of unclaimed property and must be
769 available for inspection by the department in accordance with s.
770 717.1315. The department may adopt rules to implement this
771 subsection.

772 Section 24. Subsection (2) of section 717.12404, Florida
773 Statutes, is amended to read:

774 717.12404 Claims on behalf of a business entity or trust.—

775 (2) Claims on behalf of a dissolved corporation, a business
776 entity other than an active corporation, or a trust must include
777 a legible copy of a valid driver license of the person acting on
778 behalf of the dissolved corporation, business entity other than
779 an active corporation, or trust. If the person has not been
780 issued a valid driver license, the department shall be provided
781 with a legible copy of a photographic identification of the
782 person issued by the United States, a foreign nation, or a
783 political subdivision or agency thereof. In lieu of photographic
784 identification, a notarized sworn statement by the person may be
785 provided which affirms the person's identity and states the
786 person's full name and address. The person must produce his or
787 her photographic identification issued by the United States, a
788 state or territory of the United States, a foreign nation, or a
789 political subdivision or agency thereof or other evidence deemed
790 acceptable by the department by rule. The notary shall indicate
791 the notary's full address on the notarized sworn statement. Any
792 claim filed without the required identification or the sworn
793 statement with the original claim form and the original Florida



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794 Uniform Unclaimed Property Recovery Agreement or Florida Uniform
795 Property Purchase Agreement ~~power of attorney~~, if applicable, is
796 void.

797 Section 25. Subsection (1) of section 717.1315, Florida
798 Statutes, is amended to read:

799 717.1315 Retention of records by claimant's representatives
800 and buyers of unclaimed property.—

801 (1) Every claimant's representative and buyer of unclaimed
802 property shall keep and use in his or her business such books,
803 accounts, and records of the business conducted under this
804 chapter to enable the department to determine whether such
805 person is complying with this chapter and the rules adopted by
806 the department under this chapter. Every claimant's
807 representative and buyer of unclaimed property shall preserve
808 such books, accounts, and records, including every Florida
809 Uniform Unclaimed Property Recovery Agreement or Florida Uniform
810 Property Purchase Agreement ~~power of attorney or agreement~~
811 between the owner and such claimant's representative or buyer,
812 for at least 3 years after the date of the initial ~~power of~~
813 ~~attorney or~~ agreement.

814 Section 26. Paragraph (j) of subsection (1) of section
815 717.1322, Florida Statutes, is amended to read:

816 717.1322 Administrative and civil enforcement.—

817 (1) The following acts are violations of this chapter and
818 constitute grounds for an administrative enforcement action by
819 the department in accordance with the requirements of chapter
820 120 and for civil enforcement by the department in a court of
821 competent jurisdiction:

822 (j) Requesting or receiving compensation for notifying a



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823 person of his or her unclaimed property or assisting another
824 person in filing a claim for unclaimed property, unless the
825 person is an attorney licensed to practice law in this state, a
826 Florida-certified public accountant, or a private investigator
827 licensed under chapter 493, or entering into, or making a
828 solicitation to enter into, an agreement ~~a power of attorney~~ to
829 file a claim for unclaimed property owned by another, or a
830 contract or agreement to purchase unclaimed property, unless
831 such person is registered with the department pursuant to this
832 chapter and an attorney licensed to practice law in this state
833 in the regular practice of her or his profession, a Florida-
834 certified public accountant who is acting within the scope of
835 the practice of public accounting as defined in chapter 473, or
836 a private investigator licensed under chapter 493. This
837 subsection does not apply to a person who has been granted a
838 durable power of attorney to convey and receive all of the real
839 and personal property of the owner, is the court-appointed
840 guardian of the owner, has been employed as an attorney or
841 qualified representative to contest the department's denial of a
842 claim, or has been employed as an attorney to probate the estate
843 of the owner or an heir or legatee of the owner.

844 Section 27. Section 717.135, Florida Statutes, is amended
845 to read:

846 (Substantial rewording of section. See
847 s. 717.135, F.S., for present text.)

848 717.135 Recovery agreements and purchase agreements for
849 claims filed by claimant's representative; fees and costs.-

850 (1) In order to protect the interests of owners of
851 unclaimed property, the department shall adopt by rule a form



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852 entitled "Florida Uniform Unclaimed Property Recovery Agreement"
853 and a form entitled "Florida Uniform Property Purchase
854 Agreement."

855 (2) The Florida Uniform Unclaimed Property Recovery
856 Agreement form and the Florida Uniform Property Purchase
857 Agreement form must include and disclose:

858 (a) The total dollar amount of unclaimed property accounts
859 claimed or sold.

860 (b) Either the total percentage of all authorized fees and
861 costs to be paid to the claimant's representative or the
862 percentage of the value of the property to be paid as net gain
863 to the purchasing registered claimant's representative.

864 (c) Either the total dollar amount to be deducted and
865 received from the claimant as fees and costs by the claimant's
866 representative or the total net dollar amount to be received by
867 the purchasing registered claimant's representative.

868 (d) The net dollar amount to be received by the claimant or
869 seller.

870 (e) For each account claimed, the unclaimed property
871 account number and name of the apparent owner, as listed on the
872 department's database.

873 (f) For the Florida Uniform Property Purchase Agreement, a
874 statement that the purchase price will be remitted to the seller
875 within 30 days after the execution of the form by the seller.

876 (g) The name, address, e-mail address, phone number, and
877 license number of the registered claimant's representative.

878 (h) The manual signature of the claimant or seller and the
879 date signed.

880 (i) The social security number or taxpayer identification



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881 number of the claimant or seller, if available. A number is
882 available if one has been issued to the claimant or seller.

883 (j) A limit of total fees and costs, or the total discount
884 amount in the case of a purchase agreement, to no more than 20
885 percent of the claimed amount.

886 (3) For a Florida Uniform Property Purchase Agreement form,
887 proof that the seller has received payment must be filed with
888 the department along with the claim. If proof of payment is not
889 provided, the claim is void.

890 (4) A registered claimant's representative shall use the
891 Florida Uniform Unclaimed Property Recovery Agreement form or
892 the Florida Uniform Property Purchase Agreement form as the
893 exclusive means of engaging with a claimant or seller to file a
894 claim with the department.

895 (5) Fees and costs may be owed or paid to a registered
896 claimant's representative only pursuant to the forms authorized
897 by this section and upon approval of the claim filed thereby.

898 (6) A claimant's representative may not use or distribute
899 any other agreement of any type with respect to the claimant or
900 seller which relates to unclaimed property accounts held by the
901 department or the Chief Financial Officer other than the
902 agreements authorized by this section. Any agreement that is not
903 authorized by this section is null and void.

904 (7) The forms under subsection (1):

905 (a) May not contain language that makes the agreement
906 irrevocable; and

907 (b) May not contain language that creates an assignment of
908 any unclaimed property held by the department.

909 (8) This section does not supersede the conflicting claims



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910 provisions of s. 717.1241.

911 (9) At the time a claim is approved, the department may pay
912 any additional account that is owned by the claimant but has not
913 been claimed at the time of approval, provided that no
914 subsequent claim has been filed and is pending for the claimant
915 at the time of approval.

916 Section 28. Section 717.1351, Florida Statutes, is
917 repealed.

918 Section 29. Except as otherwise expressly provided in this
919 act, this act shall take effect upon becoming a law.

920

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

922 And the title is amended as follows:

923 Delete everything before the enacting clause
924 and insert:

925 A bill to be entitled

926 An act relating to consumer protection; amending s.
927 501.0051, F.S.; prohibiting consumer reporting
928 agencies from charging to reissue or provide a new
929 unique personal identifier to a consumer for the
930 removal of a security freeze; amending s. 624.307,
931 F.S.; revising a requirement for entities licensed or
932 authorized by the Department of Financial Services or
933 the Office of Insurance Regulation to respond to the
934 department's Division of Consumer Services regarding
935 consumer complaints; revising administrative penalties
936 the division may impose for failure to comply;
937 amending s. 626.112, F.S.; prohibiting unlicensed
938 activity by an adjusting firm; providing an exemption;



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939 providing an exemption from licensure for branch firms
940 that meet certain criteria; providing an
941 administrative penalty for failing to apply for
942 certain licensure; providing a criminal penalty for
943 aiding or abetting unlicensed activity; deleting an
944 obsolete provision; amending s. 626.602, F.S.;

945 authorizing the department to disapprove the use of
946 insurance agency names containing the words "Medicare"
947 or "Medicaid"; providing an exception for certain
948 insurance agencies; amending s. 626.621, F.S.; adding
949 grounds on which the department may take certain
950 actions against a license, appointment, or application
951 of certain insurance representatives; amending ss.
952 626.782 and 626.783, F.S.; revising the definitions of
953 the terms "industrial class insurer" and "ordinary-
954 combination class insurer," respectively, to conform
955 to changes made by the act; repealing s. 626.796,
956 F.S., relating to the representation of multiple
957 insurers in the same industrial debit territory;
958 amending s. 626.8443, F.S.; increasing the maximum
959 period of suspension of a title insurance agent's or
960 agency's license; amending s. 626.854, F.S.; revising
961 the timeframes in which an insured or claimant may
962 cancel a public adjuster's contract to adjust a claim
963 without penalty or obligation; amending s. 626.916,
964 F.S.; revising the classes of insurance subject to a
965 disclosure requirement before being eligible for
966 export under the Surplus Lines Law; amending s.
967 626.9541, F.S.; adding certain acts or practices to



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968 the definition of sliding; amending s. 626.9741, F.S.;
969 requiring an insurer to include certain additional
970 information when providing an applicant or insured
971 with certain credit report or score information;
972 amending ss. 626.9957 and 627.062, F.S.; conforming
973 cross-references; amending s. 627.421, F.S.; requiring
974 personal lines residential property insurers to
975 annually deliver a certain notification to certain
976 policyholders within a specified timeframe; amending
977 s. 627.502, F.S.; prohibiting life insurers from
978 writing new policies of industrial life insurance
979 beginning on a certain date; amending s. 627.70131,
980 F.S.; providing that communication made to or by an
981 insurer's representative, rather than to or by an
982 insurer's agent, constitutes communication to or by
983 the insurer; requiring an insurer-assigned licensed
984 adjuster to provide the policyholder with certain
985 information in certain investigations; specifying
986 requirements for insurers in notifying policyholders
987 for certain changes in assigned adjusters; requiring
988 an insurer to establish a process to provide the agent
989 of record access to claim status information for a
990 certain purpose; defining the term "agent of record";
991 requiring insurers to include specified notices when
992 providing preliminary or partial damage estimates or
993 claim payments; specifying the timeframe in which an
994 insurer must pay or deny property insurance claims
995 under certain circumstances; providing applicability;
996 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.



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

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 land - 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 Land 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.

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)

24.20

Meeting Date

1492

Bill Number (if applicable)

2109288

Amendment Barcode (if applicable)

Topic surplus iris - adjusly

Name Amly Kalifeh

Job Title lobbyist

Address 124 W Jefferson St.

Street

Phone 222-9075

Tallahassee

City

FL

State

32307

Zip

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.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/14/20
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 FL 32399
City State 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

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.

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

Phone (850) 413-2890

Tallahassee FL 32399

Email meredith.stanfield@myfloridacfo.com

Speaking: [] For [] Against [] Information

Waive Speaking: [X] 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: [X] 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.

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 Lair

Phone 850-681-6788

Street

Tallahassee

City

FL

State

32312

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

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)

1092 2/4/20
Meeting Date

1492
Bill Number (if applicable)

Topic Consumer Protection

Amendment Barcode (if applicable)

Name Anthony DiMarco

Job Title VP of Govt. Relations

Address 1001 Donasville Rd

Phone 228-2265

Tallahassee FL 32303
City State Zip

Email admarco@floridabankers.com

Speaking: For Against Information

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

Representing Florida Bankers 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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THE FLORIDA SENATE

APPEARANCE RECORD

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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

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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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

Phone 954-315-3926

Ft Lauderdale FL 33301

City

State

Zip

Email Steve@GellerLaw.com

Speaking: For Against Information

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

Representing FARFA

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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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@myfloridachoice.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

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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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

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

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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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@360eslaw.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

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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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

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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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 FL

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

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)

Meeting Date _____

Topic Public Adjusting

Name Steve Geller

Job Title _____

Address _____ Phone _____
Street

City _____ State _____ Zip _____ Email _____

1492
Bill Number (if applicable)

957714
Amendment Barcode (if applicable)

Speaking: For Against Information

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

Representing FAPA

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)

2/20

Meeting Date

1292

Bill Number (if applicable)

957714

Amendment Barcode (if applicable)

Topic Supers hr

Name Ashley Kalituk

Job Title _____

Address 724 W Jefferson A.

Street

Phone 228-9078

Tallahassee FL 32303

City

State

Zip

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)

957714
Amendment Barcode (if applicable)

Topic Consumer Protection Bill

Name Anthony DiMarco

Job Title VP of Govt. Relations

Address 1001 Thomasville Rd

Phone _____

Wellborn FL 32303
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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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 1955.¹ 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

¹ Section 324.251, F.S.

damages in future accidents as a requisite to his or her future exercise of operating a motor vehicle.²

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 \$10.³

Section 320.02, F.S., requires the registration of motor vehicles. Proof of purchase of personal injury protection⁴ and property damage insurance must be provided in order to register a motor vehicle.⁵ 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.⁶

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.⁷ 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 15th day from the date of the postmarked letter.⁸

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.⁹

Several industry advisory and trade groups have highlighted the ineffectiveness of the current insurance data reporting process. The Insurance Industry Committee on Motor Vehicle

² Section 324.011, F.S.

³ Section 318.18(2)(b)3, F.S.

⁴ Personal injury protection insurance is not necessary to register a taxi, limousine, or school bus. *See* s. 627.733(1), F.S.

⁵ Section 320.02(5)(a), F.S.

⁶ *Id.* *See also* s. 324.023, F.S.

⁷ Section 324.0221(1)(a), F.S.

⁸ Section 322.251(2), F.S.

⁹ *See* s. 324.011, F.S.

Administration (IICMVA),¹⁰ 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.¹¹

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.¹²

A number of states have implemented online motor vehicle insurance verification programs including Alabama,¹³ Oklahoma,¹⁴ Texas,¹⁵ and Tennessee.¹⁶ 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)¹⁷ to 18.4 percent (2015)¹⁸ following its adoption of a motor vehicle insurance verification program. Texas's uninsured motorist rate dropped from 15 percent (2007)¹⁹ to 14.1 percent (2015)²⁰ following its adoption of a motor vehicle insurance verification

¹⁰ 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).

¹¹ 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).

¹² 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 (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).

¹³ Alabama Act 2011-688.

¹⁴ Okla. Stat. tit. 47, s. 7-600.2.

¹⁵ Tex. Transp. Code Ann. Ss.601.053(c) and 601.191.

¹⁶ Tenn. Code Ann. Ss. 55-12-201 – 55-12-215.

¹⁷ 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 (last visited January 29, 2020).

¹⁸ 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).

¹⁹ See *supra* at Note 24.

²⁰ 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)²¹ to 10.5 percent (2015)²² 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 Act²³ 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.²⁴

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

²¹ See *supra* at Note 24.

²² See *supra* at Note 25.

²³ 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).

²⁴ 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 DSHMV 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.²⁵

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

²⁵ 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 | . | |
| | . | |
| | . | |
| | . | |

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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11 vehicle insurance online verification system established in s.
12 324.252, a law enforcement officer, during a traffic stop or
13 crash investigation, shall access information from the online
14 verification system to establish compliance with this chapter
15 and chapter 324.

16 Section 2. Paragraph (f) is added to subsection (5) of
17 section 320.02, Florida Statutes, to read:

18 320.02 Registration required; application for registration;
19 forms.—

20 (5)

21 (f) Upon implementation of the motor vehicle insurance
22 online verification system established in s. 324.252, the online
23 verification may be used in lieu of the verification procedures
24 in this subsection.

25 Section 3. Section 324.252, Florida Statutes, is created to
26 read:

27 324.252 Insurance online verification system.—The
28 department shall establish an online verification system for
29 motor vehicle insurance. The goal of the system is to identify
30 uninsured motorists and aid the department in the enforcement of
31 the financial responsibility law.

32 (1) The online verification system must:

33 (a) Be accessible through electronic means for use by any
34 government agency, including any court or law enforcement
35 agency, in carrying out its functions; by any private person or
36 entity acting on behalf of a federal, state, or local agency in
37 carrying out its functions; by any other entity authorized by
38 the department; and by any insurer authorized by the Office of
39 Insurance Regulation to provide motor vehicle insurance. The



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40 department may also establish a web portal or other mechanism
41 that provides the general public with the ability to confirm
42 whether a particular motor vehicle is currently insured.

43 (b) In real time, send requests to insurers for
44 verification of evidence of insurance for motor vehicles
45 registered in this state, and receive confirmation in real time
46 from insurers via electronic means consistent with the
47 specifications and standards of the Insurance Industry Committee
48 on Motor Vehicle Administration (IICMVA), with enhancements,
49 additions, and modifications as required by the department.
50 However, the enhancements, additions, and modifications may not
51 conflict with, nullify, or add requirements that are materially
52 inconsistent with the specifications or standards of the IICMVA.

53 (c) Be operational by July 1, 2023. The Motor Vehicle
54 Insurance Online Verification Task Force established in s.
55 324.255 must conduct a pilot program for at least 9 months to
56 test the system before statewide use. The system may not be used
57 in any enforcement action until successful completion of the
58 pilot program.

59 (d) Be available 24 hours a day, except as provided in
60 paragraph (2)(a), to verify the insurance status of any vehicle
61 registered in this state through the insurer's National
62 Association of Insurance Commissioners (NAIC) company code or
63 Florida company code, in combination with other identifiers,
64 including vehicle identification number, car make, car model,
65 year, registered owner's name, policy number, levels or types of
66 coverage, or other characteristics or markers as specified by
67 the Motor Vehicle Insurance Online Verification Task Force.

68 (e) Include appropriate safeguards and controls to prevent



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69 misuse or unauthorized access.

70 (f) Include a disaster recovery plan to ensure service
71 continuity in the event of a disaster.

72 (g) Include information that enables the department to make
73 inquiries of evidence of insurance by using multiple data
74 elements for greater matching accuracy, specifically the
75 insurer's NAIC company code, in combination with other
76 identifiers, such as vehicle identification number, policy
77 number, or other characteristics or markers as specified by the
78 Motor Vehicle Insurance Online Verification Task Force or the
79 department.

80 (h) Include a self-reporting mechanism for insurers with
81 fewer than 2,000 vehicles insured within this state or for
82 individual entities that are self-insured.

83 (2) The department has the following powers and duties:

84 (a) Upon an insurer's advance notice to the department, the
85 department shall allow online services established by the
86 insurer to have reasonable downtime for system maintenance and
87 other work, as needed. An insurer is not subject to
88 administrative penalties or disciplinary actions when its online
89 services are not available under such circumstances or when an
90 outage is unplanned by the insurer and is reasonably outside its
91 control.

92 (b) Upon recommendation of the Motor Vehicle Insurance
93 Online Verification Task Force, the department may develop and
94 operate its own system or competitively procure a private vendor
95 that has personnel with extensive operational and management
96 experience in the development, deployment, and operation of
97 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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127 provided to an insured under a commercial coverage form and
128 rated from a commercial manual approved by the Office of
129 Insurance Regulation. However, insurers of such vehicles may
130 participate in the online verification system on a voluntary
131 basis.

132 (6) The department may adopt rules to administer this
133 section.

134 Section 4. Section 324.255, Florida Statutes, is created to
135 read:

136 324.255 Motor Vehicle Insurance Online Verification Task
137 Force.—There is created the Motor Vehicle Insurance Online
138 Verification Task Force within the department.

139 (1) The task force shall:

140 (a) Facilitate the implementation of the motor vehicle
141 insurance online verification system established in s. 324.252.

142 (b) Assist in the development of a detailed guide for
143 insurers by providing data fields and other information
144 necessary for compliance with the online verification system.

145 (c) Coordinate a pilot program and conduct the program for
146 at least 9 months to test the online verification system and
147 identify necessary changes to be implemented before statewide
148 use.

149 (d) Issue recommendations based on periodic reviews of the
150 online verification system.

151 (2) The task force shall consist of 10 voting members and 1
152 nonvoting member.

153 (a) By July 31 of the year this section becomes effective,
154 the 10 voting members shall be appointed in the following
155 manner:



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156 1. Three representatives of the department, representing
157 the Florida Highway Patrol, the Division of Motorist Services,
158 and the Information Systems Administration, appointed by the
159 executive director of the department.

160 2. One representative of the Office of Insurance
161 Regulation, appointed by the Commissioner of Insurance
162 Regulation.

163 3. Three representatives of the motor vehicle insurance
164 industry, appointed by the Chief Financial Officer as follows:

165 a. One member must represent the motor vehicle insurer with
166 the largest national market share as of December 31 of the year
167 before the appointment.

168 b. One member must represent the motor vehicle insurer with
169 the largest Florida market share as of December 31 of the year
170 before the appointment.

171 c. One member must be selected from a list of
172 representatives recommended by the Insurance Industry Committee
173 on Motor Vehicle Administration.

174 4. One representative of the Department of Financial
175 Services, appointed by the Chief Financial Officer.

176 5. One representative of the Division of State Technology,
177 appointed by the Secretary of the Department of Management
178 Services.

179 6. One member who must be a member of local law
180 enforcement, appointed by the executive director of the
181 department.

182 (b) The executive director of the department, who shall be
183 a nonvoting member, shall serve as chair of the task force.

184 (3) By September 30 of the year this section becomes



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185 effective, the task force shall meet to establish procedures for
186 the conduct of its business, and the voting members shall elect
187 a vice chair at that meeting. The task force shall meet at the
188 call of the chair, who shall prepare the agenda for each meeting
189 with the consent of the task force. A majority of the voting
190 members of the task force constitutes a quorum, and a quorum is
191 necessary for the purpose of voting on any action or
192 recommendation of the task force. All meetings shall be held in
193 Tallahassee.

194 (4) The department shall provide the task force members
195 with administrative and technical support. Task force members
196 shall serve without compensation and are not entitled to
197 reimbursement for per diem or travel expenses.

198 (5) By July 1 of the third year after this section becomes
199 effective, the task force shall complete its work and submit its
200 final report evaluating the online verification system's
201 effectiveness and making recommendations for system enhancements
202 to the department, the President of the Senate, and the Speaker
203 of the House of Representatives. Upon submission of the report,
204 the task force shall expire.

205 Section 5. The amendments made by this act to ss. 316.646
206 and 320.02, Florida Statutes, and the creation of ss. 324.252
207 and 324.255, Florida Statutes, by this act shall take effect
208 upon a specific appropriation.

209 Section 6. This act shall take effect July 1, 2020.

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

212 And the title is amended as follows:

213 Delete everything before the enacting clause



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214 and insert:

215 A bill to be entitled
216 An act relating to insurance; amending s. 316.646,
217 F.S.; requiring law enforcement officers, after a
218 certain timeframe and under certain circumstances, to
219 access information from the motor vehicle insurance
220 online verification system for certain purposes;
221 amending s. 320.02, F.S.; authorizing the use of the
222 online verification of insurance for motor vehicle
223 registration purposes; creating s. 324.252, F.S.;
224 requiring the Department of Highway Safety and Motor
225 Vehicles to establish an online verification system
226 for motor vehicle insurance; providing system
227 requirements; providing powers and duties of the
228 department; providing requirements for insurers and
229 law enforcement officers; providing immunity from
230 civil liability to insurers for certain good faith
231 efforts; providing applicability; defining the term
232 "commercial motor vehicle coverage"; authorizing the
233 department to adopt rules; creating s. 324.255, F.S.;
234 creating the Motor Vehicle Insurance Online
235 Verification Task Force within the department;
236 providing duties of the task force; specifying the
237 composition of the task force; providing meeting
238 requirements; requiring the department to provide
239 certain support to the task force; providing that task
240 force members shall serve without compensation and are
241 not entitled to certain reimbursement; providing the
242 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

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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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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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175 operator of a motor vehicle.

176 Section 3. Paragraph (f) is added to subsection (5) of
177 section 320.02, Florida Statutes, to read:

178 320.02 Registration required; application for registration;
179 forms.-

180 (5)

181 (f) Upon implementation of the motor vehicle insurance
182 online verification system established in s. 324.252, the online
183 verification may be used in lieu of the verification procedures
184 in this subsection.

185 Section 4. Section 324.252, Florida Statutes, is created to
186 read:

187 324.252 Insurance online verification system.—The
188 department shall establish an online verification system for
189 motor vehicle insurance. The goal of the system is to identify
190 uninsured motorists and aid the department in the enforcement of
191 the financial responsibility law.

192 (1) The online verification system must:

193 (a) Be accessible through the Internet by authorized
194 personnel of the department, the courts, law enforcement
195 personnel, any other entities authorized by the department, and
196 insurers authorized by the Office of Insurance Regulation to
197 offer motor vehicle insurance.

198 (b) Send requests to insurers for verification of evidence
199 of insurance for motor vehicles registered in this state via
200 online services established by the insurers in compliance with
201 the specifications and standards of the Insurance Industry
202 Committee on Motor Vehicle Administration (IICMVA), with
203 enhancements, additions, and modifications as required by the

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204 department. However, the enhancements, additions, and
205 modifications may not conflict with, nullify, or add
206 requirements that are inconsistent with the specifications or
207 standards of the IICMVA.

208 (c) Be operational by July 1, 2023. The Motor Vehicle
209 Insurance Online Verification Task Force established in s.
210 324.255 must conduct a pilot program for at least 9 months to
211 test the system before statewide use. The system may not be used
212 in any enforcement action until successful completion of the
213 pilot program.

214 (d) Be available 24 hours a day, except as provided in
215 paragraph (2) (a), to verify the insurance status of any vehicle
216 registered in this state through the insurer's National
217 Association of Insurance Commissioners (NAIC) company code, in
218 combination with other identifiers such as vehicle
219 identification number, policy number, or other characteristics
220 or markers as specified by the Motor Vehicle Insurance Online
221 Verification Task Force.

222 (e) Include appropriate provisions, consistent with
223 industry standards as specified by the Motor Vehicle Insurance
224 Online Verification Task Force, to secure the system's data
225 against unauthorized access.

226 (f) Include a disaster recovery plan to ensure service
227 continuity in the event of a disaster.

228 (g) Include information that enables the department to make
229 inquiries of evidence of insurance by using multiple data
230 elements for greater matching accuracy, specifically the
231 insurer's NAIC company code, in combination with other
232 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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291 Force.—There is created the Motor Vehicle Insurance Online
 292 Verification Task Force within the department.

293 (1) The task force shall:

294 (a) Facilitate the implementation of the motor vehicle
 295 insurance online verification system established in s. 324.252,
 296 including recommending data and cybersecurity processes and
 297 protocols.

298 (b) Assist in the development of a detailed guide for
 299 insurers by providing data fields and other information
 300 necessary for compliance with the online verification system.

301 (c) Coordinate a pilot program and conduct the program for
 302 at least 9 months to test the online verification system and
 303 identify necessary changes to be implemented before statewide
 304 use.

305 (d) Issue recommendations based on periodic reviews of the
 306 online verification system.

307 (2) The task force shall consist of nine voting members and
 308 one nonvoting member.

309 (a) The nine voting members shall be appointed by July 31,
 310 2020, in the following manner:

311 1. Three representatives of the department, representing
 312 the Florida Highway Patrol, the Division of Motorist Services,
 313 and the Information Systems Administration, appointed by the
 314 executive director of the department.

315 2. One representative of the Office of Insurance
 316 Regulation, appointed by the Commissioner of Insurance.

317 3. Three representatives of the motor vehicle insurance
 318 industry, appointed by the Chief Financial Officer as follows:

319 a. One member must represent the motor vehicle insurer with

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320 the largest national market share as of December 31, 2019.

321 b. One member must represent the motor vehicle insurer with
 322 the largest Florida market share as of December 31, 2019.

323 c. One member must be selected from a list of
 324 representatives recommended by the Insurance Industry Committee
 325 on Motor Vehicle Administration.

326 4. One representative of the Department of Financial
 327 Services, appointed by the Chief Financial Officer.

328 5. One representative of the Division of State Technology
 329 within the Department of Management Services, appointed by the
 330 Secretary of Management Services.

331 (b) The executive director of the department, who shall be
 332 a nonvoting member, shall serve as chair of the task force.

333 (3) By September 30, 2020, the task force shall meet to
 334 establish procedures for the conduct of its business, and the
 335 voting members shall elect a vice chair at that meeting. The
 336 task force shall meet at the call of the chair, who shall
 337 prepare the agenda for each meeting with the consent of the task
 338 force. A majority of the voting members of the task force
 339 constitutes a quorum, and a quorum is necessary for the purpose
 340 of voting on any action or recommendation of the task force. All
 341 meetings shall be held in Tallahassee.

342 (4) The department shall provide the task force members
 343 with administrative and technical support. Task force members
 344 shall serve without compensation and are not entitled to
 345 reimbursement for per diem or travel expenses.

346 (5) The task force shall issue a report to the department,
 347 the President of the Senate, and the Speaker of the House of
 348 Representatives no later than 6 months after the pilot program

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349 concludes. The report must evaluate the online verification
 350 system's effectiveness in identifying uninsured motorists. The
 351 task force may also make recommendations for system enhancements
 352 in the report or at any time before the task force's completion
 353 of its work.

354 (6) By July 1, 2023, the task force shall complete its work
 355 and submit its final report evaluating the online verification
 356 system's effectiveness and making recommendations for system
 357 enhancements to the department, the President of the Senate, and
 358 the Speaker of the House of Representatives. Upon submission of
 359 the report, the task force shall expire.

360 Section 6. Subsection (2) of section 494.0026, Florida
 361 Statutes, is amended to read:

362 494.0026 Disposition of insurance proceeds.—The following
 363 provisions apply to mortgage loans held by a mortgagee or
 364 assignee that is subject to part II or part III of this chapter.

365 (2) (a) 1. Insurance proceeds received by a mortgagee or
 366 assignee that relate to compensation for damage to property or
 367 contents insurance coverage in which the mortgagee or assignee
 368 has a security interest must be promptly deposited into a
 369 segregated account of a federally insured financial institution.

370 2. Pending completion of all or part of damage repairs,
 371 insurance proceeds received by a mortgagee or assignee under
 372 subparagraph 1. must be deposited into a segregated, interest-
 373 bearing account of a federally insured financial institution for
 374 the benefit of the insured. The account must bear interest no
 375 less than the insured could expect to obtain from a savings or
 376 money market account. The interest must begin to accrue on the
 377 date the mortgagee or assignee endorses the check, draft, or

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378 other negotiable instrument for proceeds.

379 (b) A mortgagee or assignee holding insurance proceeds
 380 under paragraph (a) must notify the insured of each requirement
 381 that the insured must fulfill for the mortgagee or assignee to
 382 release the proceeds. Notice required under this paragraph must
 383 be in writing and delivered by mail or electronic transmission
 384 within 10 business day after the date the mortgagee or assignee
 385 endorses the check, draft, or other negotiable instrument for
 386 proceeds.

387 (c) A mortgagee or assignee holding insurance proceeds
 388 under paragraph (a) must distribute all accrued interest in the
 389 account to the insured no later than upon the final disbursement
 390 of proceeds.

391
 392 This section may not be construed to prevent an insurance
 393 company from paying the insured directly for additional living
 394 expenses or paying the insured directly for contents insurance
 395 coverage if the mortgagee or assignee does not have a security
 396 interest in the contents.

397 Section 7. Paragraph (c) of subsection (1) of section
 398 626.321, Florida Statutes, is amended to read:

399 626.321 Limited licenses and registration.—

400 (1) The department shall issue to a qualified applicant a
 401 license as agent authorized to transact a limited class of
 402 business in any of the following categories of limited lines
 403 insurance:

404 (c) Travel insurance.—License covering only policies and
 405 certificates of travel insurance which are subject to review by
 406 the department office. Policies and certificates of travel

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407 insurance may provide coverage for travel insurance, as defined
 408 in s. 647.02 risks incidental to travel, planned travel, or
 409 accommodations while traveling, including, but not limited to,
 410 accidental death and dismemberment of a traveler; trip or event
 411 cancellation, interruption, or delay; loss of or damage to
 412 personal effects or travel documents; damages to travel
 413 accommodations; baggage delay; emergency medical travel or
 414 evacuation of a traveler; or medical, surgical, and hospital
 415 expenses related to an illness or emergency of a traveler. Such
 416 policy or certificate may be issued for terms longer than 90
 417 days, but, other than a policy or certificate providing coverage
 418 for air ambulatory services only, each policy or certificate
 419 must be limited to coverage for travel or use of accommodations
 420 of no longer than 90 days. The license may be issued only to an
 421 individual or business entity that has filed with the department
 422 an application for a license in a form and manner prescribed by
 423 the department.+

424 1. A limited lines travel insurance producer, as defined in
 425 s. 647.02, shall be licensed to sell, solicit, or negotiate
 426 travel insurance through a licensed insurer.

427 2. A person may not act as a limited lines travel insurance
 428 producer or travel retailer unless properly licensed or
 429 registered, respectively. As used in this paragraph, the term
 430 "travel retailer" means a business entity that:

431 a. Makes, arranges, or offers planned travel.

432 b. May, under subparagraph 3., offer and disseminate travel
 433 insurance as a service to its customers on behalf of and under
 434 the direction of a limited lines travel insurance producer.

435 3. A travel retailer may offer and disseminate travel

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436 insurance under a limited lines travel insurance producer
 437 business entity license only if all of the following
 438 requirements are met:

439 a. The limited lines travel insurance producer or travel
 440 retailer provides to purchasers of travel insurance:

441 (I) A description of the material terms or the actual
 442 material terms of the insurance coverage.

443 (II) A description of the process for filing a claim.

444 (III) A description of the review or cancellation process
 445 for the travel insurance policy.

446 (IV) The identity and contact information of the insurer
 447 and limited lines travel insurance producer.

448 b. At the time of licensure, the limited lines travel
 449 insurance producer establishes and maintains a register, on a
 450 form prescribed by the department, of each travel retailer that
 451 offers travel insurance on behalf of the limited lines travel
 452 insurance producer. The limited lines travel insurance producer
 453 must maintain and update the register, which must include the
 454 travel retailer's federal tax identification number and the
 455 name, address, and contact information of the travel retailer
 456 and an officer or person who directs or controls the travel
 457 retailer's operations. The limited lines travel insurance
 458 producer shall submit the register to the department upon
 459 reasonable request. The limited lines travel insurance producer
 460 shall also certify that the travel retailer register complies
 461 with 18 U.S.C. s. 1033. The grounds for the suspension and
 462 revocation and the penalties applicable to resident insurance
 463 producers under this section apply to the limited lines travel
 464 insurance producers and travel retailers.

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465 c. The limited lines travel insurance producer has
 466 designated one of its employees as the designated responsible
 467 producer. The designated responsible producer, who must be a
 468 licensed insurance producer, is responsible for the compliance
 469 with the travel insurance laws and regulations applicable to the
 470 limited lines travel insurance producer and its registrants. The
 471 designated responsible producer and the president, secretary,
 472 treasurer, and any other officer or person who directs or
 473 controls the limited lines travel insurance producer's insurance
 474 operations must comply with the fingerprinting requirements
 475 applicable to insurance producers in the resident state of the
 476 limited lines travel insurance producer.

477 d. The limited lines travel insurance producer has paid all
 478 applicable licensing fees as set forth in applicable general
 479 law.

480 e. The limited lines travel insurance producer requires
 481 each employee and each authorized representative of the travel
 482 retailer whose duties include offering and disseminating travel
 483 insurance to receive a program of instruction or training, which
 484 is subject, at the discretion of the department, to review and
 485 approval. The training material must, at a minimum, contain
 486 adequate instructions on the types of insurance offered, ethical
 487 sales practices, and required disclosures to prospective
 488 purchasers.

489 As used in this paragraph, the term "offer and disseminate"
 490 means to provide general information, including a description of
 491 the coverage and price, as well as processing the application
 492 and collecting premiums.
 493

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494 4. A travel retailer offering or disseminating travel
 495 insurance shall make available to prospective purchasers
 496 brochures or other written materials that have been approved by
 497 the travel insurer. Such materials must include information
 498 that, at a minimum:

499 a. Provides the identity and contact information of the
 500 insurer and the limited lines travel insurance producer.

501 b. Explains that the purchase of travel insurance is not
 502 required in order to purchase any other product or service from
 503 the travel retailer.

504 c. Explains that a travel retailer is authorized to provide
 505 only general information about the insurance offered by the
 506 travel retailer, including a description of the coverage and
 507 price, but is not qualified or authorized to answer technical
 508 questions about the terms and conditions of the insurance
 509 offered by the travel retailer or to evaluate the adequacy of
 510 the customer's existing insurance coverage.

511 5. A travel retailer employee or authorized representative
 512 who is not licensed as an insurance producer may not:

513 a. Evaluate or interpret the technical terms, benefits, and
 514 conditions of the offered travel insurance coverage;

515 b. Evaluate or provide advice concerning a prospective
 516 purchaser's existing insurance coverage; or

517 c. Hold himself or herself or the travel retailer out as a
 518 licensed insurer, licensed producer, or insurance expert.

519 Notwithstanding any other provision of law, a travel retailer
 520 whose insurance-related activities, and those of its employees
 521 and authorized representatives, are limited to offering and
 522

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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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581 ~~initial training from a general lines agent or an insurer~~
 582 ~~authorized under chapter 624 to transact insurance within this~~
 583 ~~state. For an entity applying for a license as a travel~~
 584 ~~insurance agent, the fingerprinting requirement of this section~~
 585 ~~applies only to the president, secretary, and treasurer and to~~
 586 ~~any other officer or person who directs or controls the travel~~
 587 ~~insurance operations of the entity.~~

588 Section 8. Section 626.931, Florida Statutes, is amended to
 589 read:

590 626.931 Agent affidavit and Insurer reporting
 591 requirements.—

592 ~~(1) Each surplus lines agent that has transacted business~~
 593 ~~during a calendar quarter shall on or before the 45th day~~
 594 ~~following the calendar quarter file with the Florida Surplus~~
 595 ~~Lines Service Office an affidavit, on forms as prescribed and~~
 596 ~~furnished by the Florida Surplus Lines Service Office, stating~~
 597 ~~that all surplus lines insurance transacted by him or her during~~
 598 ~~such calendar quarter has been submitted to the Florida Surplus~~
 599 ~~Lines Service Office as required.~~

600 ~~(2) The affidavit of the surplus lines agent shall include~~
 601 ~~efforts made to place coverages with authorized insurers and the~~
 602 ~~results thereof.~~

603 ~~(1)(3) Each foreign insurer accepting premiums shall, on or~~
 604 ~~before the end of the month following each calendar quarter,~~
 605 ~~file with the Florida Surplus Lines Service Office a verified~~
 606 ~~report of all surplus lines insurance transacted by such insurer~~
 607 ~~for insurance risks located in this state during such calendar~~
 608 ~~quarter.~~

609 ~~(2)(4) Each alien insurer accepting premiums shall, on or~~

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610 before June 30 of each year, file with the Florida Surplus Lines
 611 Service Office a verified report of all surplus lines insurance
 612 transacted by such insurer for insurance risks located in this
 613 state during the preceding calendar year.

614 ~~(3)(5)~~ The department may waive the filing requirements
 615 described in subsections (1) ~~(3)~~ and (2) ~~(4)~~.

616 ~~(4)(6)~~ Each insurer's report and supporting information
 617 shall be in a computer-readable format as determined by the
 618 Florida Surplus Lines Service Office or shall be submitted on
 619 forms prescribed by the Florida Surplus Lines Service Office and
 620 shall show for each applicable agent:

621 (a) A listing of all policies, certificates, cover notes,
 622 or other forms of confirmation of insurance coverage or any
 623 substitutions thereof or endorsements thereto and the
 624 identifying number; and

625 (b) Any additional information required by the department
 626 or Florida Surplus Lines Service Office.

627 Section 9. Paragraph (a) of subsection (2) of section
 628 626.932, Florida Statutes, is amended to read:

629 626.932 Surplus lines tax.—

630 (2) (a) The surplus lines agent shall make payable to the
 631 department the tax related to each calendar quarter's business
 632 as reported to the Florida Surplus Lines Service Office, and
 633 remit the tax to the Florida Surplus Lines Service Office at the
 634 same time as the fee payment required provided for the filing of
 635 ~~the quarterly affidavit,~~ under s. 626.9325 ~~s. 626.931~~. The
 636 Florida Surplus Lines Service Office shall forward to the
 637 department the taxes and any interest collected pursuant to
 638 paragraph (b), within 10 days of receipt.

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639 Section 10. Paragraph (d) of subsection (1) of section
640 626.935, Florida Statutes, is amended to read:
641 626.935 Suspension, revocation, or refusal of surplus lines
642 agent's license.—

643 (1) The department shall deny an application for, suspend,
644 revoke, or refuse to renew the appointment of a surplus lines
645 agent and all other licenses and appointments held by the
646 licensee under this code, on any of the following grounds:

647 ~~(d) Failure to make and file his or her affidavit or~~
648 ~~reports when due as required by s. 626.931.~~

649 Section 11. Subsection (4) of section 627.7295, Florida
650 Statutes, is amended to read:

651 627.7295 Motor vehicle insurance contracts.—

652 (4) The insurer may cancel the policy in accordance with
653 this code except that, notwithstanding s. 627.728, an insurer
654 may not cancel a new policy or binder during the first 30 ~~60~~
655 days immediately following the effective date of the policy or
656 binder for nonpayment of premium unless the reason for the
657 cancellation is the issuance of a check for the premium that is
658 dishonored for any reason or any other type of premium payment
659 that was subsequently determined to be rejected or invalid.

660 Section 12. Subsection (4) of section 627.914, Florida
661 Statutes, is redesignated as subsection (5), a new subsection
662 (4) is added to that section, and subsections (2) and (3) of
663 that section are amended, to read:

664 627.914 Reports of information by workers' compensation
665 insurers required.—

666 (2) (a) Each insurer and self-insurance fund authorized to
667 write a policy of workers' compensation insurance shall report

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668 ~~transmit~~ the following information annually on both Florida
669 experience and nationwide experience separately:

- 670 1. ~~(a)~~ Payrolls by classification.
- 671 2. ~~(b)~~ Manual premiums by classification.
- 672 3. ~~(c)~~ Standard premiums by classification.
- 673 4. ~~(d)~~ Losses by classification and injury type.
- 674 5. ~~(e)~~ Expenses.

675
676 An insurer or self-insurance fund that is placed in receivership
677 pursuant to part I of chapter 631 must continue to report the
678 information required under this paragraph. At the discretion of
679 the receiver, the insurer or self-insurance fund may outsource
680 the reporting of such information to a third-party reporting
681 vendor. The office shall approve a modified reporting plan that
682 is limited in terms of data elements.

683 (b) A report of the ~~this~~ information required under
684 paragraph (a) shall be filed no later than July 1 of each year.
685 All reports shall be filed in accordance with standard reporting
686 procedures for insurers, which procedures have received approval
687 by the office, and shall contain data for the most recent policy
688 period available. A statistical or rating organization may be
689 used by insurers and self-insurance funds to report the data
690 required by this section. The statistical or rating organization
691 shall report each data element in the aggregate only for
692 insurers and self-insurance funds required to report under this
693 section who elect to have the organization report on their
694 behalf. Such insurers and self-insurance funds shall be named in
695 the report.

696 (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 ~~Ne~~ 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 ~~Ne~~ 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 ~~Ne~~ 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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755 shall not be required to be licensed and appointed as a sales
756 representative to solicit, negotiate, advertise, or effectuate
757 its products. A licensed personal lines or general lines agent
758 is not required to be licensed as a sale representative under
759 this section to advertise, solicit, negotiate, or sell service
760 warranties.

761 Section 16. The Division of Law Revision is directed to
762 create chapter 647, Florida Statutes, consisting of ss. 647.01-
763 647.08, Florida Statutes, to be entitled "Travel Insurance."

764 Section 17. Section 647.01, Florida Statutes, is created to
765 read:

766 647.01 Purpose and scope.-

767 (1) The purpose of this chapter is to promote the public
768 welfare by creating a comprehensive legal framework within which
769 travel insurance may be sold in this state.

770 (2) This chapter applies to:

771 (a) Travel insurance that covers any resident of this state
772 and that is sold, solicited, negotiated, or offered in this
773 state.

774 (b) Policies and certificates that are delivered or issued
775 for delivery in this state.

776
777 This chapter does not apply to cancellation fee waivers or
778 travel assistance services, except as expressly provided in this
779 chapter.

780 (3) All other applicable provisions of the insurance laws
781 of this state continue to apply to travel insurance, except that
782 the specific provisions of this chapter shall supersede any
783 general provisions of law that would otherwise be applicable to

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784 travel insurance.

785 Section 18. Section 647.02, Florida Statutes, is created to
786 read:

787 647.02 Definitions.-As used in this chapter, the term:

788 (1) "Aggregator site" means a website that provides access
789 to information regarding insurance products from more than one
790 insurer, including product and insurer information, for use in
791 comparison shopping.

792 (2) "Blanket travel insurance" means a policy of travel
793 insurance issued to an eligible group providing coverage to all
794 members of the eligible group without a separate charge to
795 individual members of the eligible group.

796 (3) "Cancellation fee waiver" means a contractual agreement
797 between a supplier of travel services and its customer to waive
798 some or all of the nonrefundable cancellation fee provisions of
799 the supplier's underlying travel contract with or without regard
800 to the reason for the cancellation or form of reimbursement. A
801 cancellation fee waiver is not insurance.

802 (4) "Department" means the Department of Financial
803 Services.

804 (5) "Eligible group," solely for the purposes of travel
805 insurance, means two or more persons who are engaged in a common
806 enterprise or who have an economic, educational, or social
807 affinity or relationship, including, but not limited to, any of
808 the following:

809 (a) An entity engaged in the business of providing travel
810 or travel services, including, but not limited to:

811 1. A tour operator, lodging provider, vacation property
812 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; or

884 (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; or

905 (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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929 (d) Sickness, accident, disability, or death occurring
 930 during travel;
 931 (e) Emergency evacuation;
 932 (f) Repatriation of remains; or
 933 (g) Any other contractual obligations to indemnify or pay a
 934 specified amount to the traveler upon determinable contingencies
 935 related to travel as approved by the Commissioner of Insurance
 936 Regulation.

937
 938 The term does not include major medical plans that provide
 939 comprehensive medical protection for travelers with trips
 940 lasting longer than 6 months, including major medical plans for
 941 those working or residing overseas as expatriates, or any other
 942 product that requires a specific insurance producer license.

943 (12) "Travel protection plan" means a plan that provides
 944 one or more of the following: travel insurance, travel
 945 assistance services, and cancellation fee waivers.

946 Section 19. Section 647.03, Florida Statutes, is created to
 947 read:

948 647.03 Premium tax.—

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

950 (a) "Primary certificateholder" means an individual who
 951 purchases travel insurance under a group policy.

952 (b) "Primary policyholder" means an individual who
 953 purchases individual travel insurance.

954 (2) A travel insurer shall pay the premium tax, as required
 955 under s. 624.509, on travel insurance premiums paid by any of
 956 the following:

957 (a) A primary policyholder who is a resident of this state.

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958 (b) A primary certificateholder who is a resident of this
 959 state.

960 (c) A blanket travel insurance policyholder:

961 1. Who is a resident in this state;

962 2. Who has his or her principal place of business in this
 963 state; or

964 3. Whose affiliate or subsidiary who has purchased blanket
 965 travel insurance for eligible blanket group members has his or
 966 her principal place of business in this state.

967
 968 The premium tax under this subsection is subject to any
 969 apportionment rules that apply to an insurer across multiple
 970 taxing jurisdictions or that authorize an insurer to allocate
 971 premium on an apportioned basis in a reasonable and equitable
 972 manner in those jurisdictions.

973 (3) A travel insurer shall:

974 (a) Document the state of residence or principal place of
 975 business of the policyholder or certificateholder, or an
 976 affiliate or subsidiary thereof, as required under subsection
 977 (2).

978 (b) Report as premium only the amount allocable to travel
 979 insurance and not any amounts received for travel assistance
 980 services or cancellation fee waivers.

981 Section 20. Section 647.04, Florida Statutes, is created to
 982 read:

983 647.04 Travel protection plans.—A travel protection plan
 984 may be offered for one price for the combined features that the
 985 travel protection plan offers in this state if the travel
 986 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
 1033 For the purposes of this paragraph, the term "delivery" means
 1034 handing fulfillment materials to the policyholder or
 1035 certificateholder or sending fulfillment materials by postal
 1036 mail or electronic means to the policyholder or
 1037 certificateholder.

1038 (d) An insurer shall disclose in the policy documentation
 1039 and fulfillment materials whether the travel insurance is
 1040 primary or secondary to other applicable coverage.

1041 (e) If travel insurance is marketed directly to a consumer
 1042 through an insurer's website or by others through an aggregator
 1043 site, it is not an unfair trade practice or other violation of
 1044 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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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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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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1161 by mail or electronic transmission within 10 business day after
1162 the date the financial institution or subsidiary endorses the
1163 check, draft, or other negotiable instrument for proceeds.

1164 (c) A financial institution or subsidiary holding insurance
1165 proceeds under paragraph (a) must distribute all accrued
1166 interest in the account to the insured no later than upon the
1167 final disbursement of proceeds.

1168 (3) Insurance proceeds received by a financial institution
1169 or subsidiary that relate to contents insurance coverage in
1170 which the financial institution or subsidiary does not have a
1171 security interest in the contents must be promptly distributed
1172 to the insured.

1173 (4) Insurance proceeds received by a financial institution
1174 or subsidiary that relate to additional living expenses must be
1175 promptly distributed to the insured.

1176 (5) The financial institution or subsidiary is not required
1177 to remit the portion of the proceeds relating to additional
1178 living expenses and contents insurance if the financial
1179 institution or subsidiary cannot determine which part of the
1180 proceeds relates to additional living expenses and contents
1181 insurance.

1182

1183 This section does not prevent an insurance company from paying
1184 the insured directly for additional living expenses or paying
1185 the insured directly for contents insurance coverage if the
1186 financial institution or subsidiary does not have a security
1187 interest in the contents.

1188 Section 26. This act shall take effect July 1, 2020.

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

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

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City

State

Zip

Email Scott.Matiyow@PTFF.net

Speaking: [] For [] Against [] Information

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

Representing Personal Insurance Federation of Florida

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] 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.

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.