

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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11 Representative(s) Tamargo offered the following:

12

13 **Amendment (with title amendment)**

14 On page 87, between lines 14 & 15 of the bill

15

16 insert:

17 Section 82. Paragraph (e) of subsection (4) of section
18 215.555, Florida Statutes, is amended to read:

19 215.555 Florida Hurricane Catastrophe Fund.--

20 (4) REIMBURSEMENT CONTRACTS.--

21 (e)1. Except as provided in subparagraphs 2. and 3.,
22 the contract shall provide that if an insurer demonstrates to
23 the board that it is likely to qualify for reimbursement under
24 the contract, and demonstrates to the board that the immediate
25 receipt of moneys from the board is likely to prevent the
26 insurer from becoming insolvent, the board shall advance the
27 insurer, at market interest rates, the amounts necessary to
28 maintain the solvency of the insurer, up to 50 percent of the
29 board's estimate of the reimbursement due the insurer. The
30 insurer's reimbursement shall be reduced by an amount equal to
31 the amount of the loan and interest thereon.

1 2. With respect only to an entity created under s.
2 627.351, the contract shall also provide that the board may,
3 upon application by such entity, advance to such entity, at
4 market interest rates, up to 90 percent of the lesser of:

5 a. The board's estimate of the amount of reimbursement
6 due to such entity; or

7 b. The entity's share of the actual reimbursement
8 premium paid for that contract year, multiplied by the
9 currently available liquid assets of the fund. In order for
10 the entity to qualify for an advance under this subparagraph,
11 the entity must demonstrate to the board that the advance is
12 essential to allow the entity to pay claims for a covered
13 event and the board must determine that the fund's assets are
14 sufficient and are sufficiently liquid to allow the board to
15 make an advance to the entity and still fulfill the board's
16 reimbursement obligations to other insurers. The entity's
17 final reimbursement for any contract year in which an advance
18 has been made under this subparagraph must be reduced by an
19 amount equal to the amount of the advance and any interest on
20 such advance. In order to determine what amounts, if any, are
21 due the entity, the board may require the entity to report its
22 exposure and its losses at any time to determine retention
23 levels and reimbursements payable.

24 3. The contract shall also provide specifically and
25 solely with respect to any limited apportionment company under
26 s. 627.351(2)(b)3. that the board may, upon application by
27 such company, advance to such company the amount of the
28 estimated reimbursement payable to such company as calculated
29 pursuant to paragraph (d), up to the lesser of:

30 ~~a. Ninety percent of the board's estimate of the~~
31 ~~reimbursement due to such company, or~~

1 ~~b. Ninety percent of the company's share of the total~~
2 ~~fund premiums applied to the board's currently available~~
3 ~~liquid assets,~~
4
5 ~~at market rates, if the company demonstrates to the board that~~
6 ~~the immediate receipt of such moneys is essential to permit it~~
7 ~~to pay claims for a covered event and if the board determines~~
8 ~~that the fund's assets are sufficient and are sufficiently~~
9 ~~liquid to permit the board to make an advance to such company~~
10 ~~and at the same time fulfill its reimbursement obligations to~~
11 ~~the insurers that are participants in the fund. Such~~
12 ~~company's final reimbursement for any contract year in which~~
13 ~~an advance pursuant to this subparagraph has been made shall~~
14 ~~be reduced by an amount equal to the amount of the advance and~~
15 ~~interest thereon. In order to determine what amounts, if any,~~
16 ~~are due to such company, the board may require such company to~~
17 ~~report its exposure and its losses at such times as may be~~
18 ~~required to determine retention levels and loss reimbursements~~
19 ~~payable.~~

20 Section 83. Paragraph (f) of subsection (2) of section
21 624.316, Florida Statutes, is amended to read:

22 624.316 Examination of insurers.--

23 (2)

24 (f)1.a. An examination under this section must be
25 conducted at least once every year with respect to a domestic
26 insurer that has continuously held a certificate of authority
27 for less than 3 years. The examination must cover the
28 preceding fiscal year or the period since the last examination
29 of the insurer. The department may limit the scope of the
30 examination ~~if the insurer has demonstrated sufficient~~
31 ~~compliance as determined under subparagraph 3.~~

1 b. The department may not accept an independent
2 certified public accountant's audit report in lieu of an
3 examination required by this subparagraph.

4 c. An insurer may not be required to pay more than
5 \$25,000 to cover the costs of any one examination under this
6 subparagraph.

7 2. An examination under this section must be conducted
8 not less frequently than once every 5 years with respect to an
9 insurer that has continuously held a certificate of authority,
10 without a change in ownership subject to s. 624.4245 or s.
11 628.461, for more than 15 years ~~and has demonstrated~~
12 ~~sufficient compliance as determined under subparagraph 3.~~ The
13 examination must cover the preceding 5 fiscal years of the
14 insurer or the period since the last examination of the
15 insurer. This subparagraph does not limit the ability of the
16 department to conduct more frequent examinations.

17 ~~3. The department must, by rule, adopt procedures and~~
18 ~~criteria for determining if an insurer has demonstrated~~
19 ~~sufficient compliance with this code and cooperation with the~~
20 ~~department. The rules must include consideration of such~~
21 ~~factors as financial strength, timeliness, consumer service,~~
22 ~~economic and community contributions and support,~~
23 ~~responsiveness to department requests, and any other relevant~~
24 ~~factors. The department must annually publish and disseminate~~
25 ~~a listing of those insurers found to demonstrate sufficient~~
26 ~~compliance under the rules, including special recognition for~~
27 ~~community contributions and support.~~

28 Section 84. Subsection (4) is added to section
29 624.426, Florida Statutes, to read:

30 624.426 Exceptions to resident agent and
31 countersignature law.--Section 624.425 does not apply to:

1 (4) Policies of insurance issued by insurers whose
2 agents represent only one company or group of companies under
3 common ownership if a company within one group is transferring
4 policies to another company within the same group and the
5 agent of record remains the same.

6 Section 85. Subsections (1)-(12) of section 624.610,
7 Florida Statutes, are renumbered as subsections (2)-(13) of
8 said section, respectively, new subsection (1) is added to
9 said section, and renumbered subsection (2) of said section is
10 amended, to read:

11 624.610 Reinsurance.--

12 (1) The purpose of this section is to protect the
13 interests of insureds, claimants, ceding insurers, assuming
14 insurers, and the public. It is the intent of the Legislature
15 to ensure adequate regulation of insurers and reinsurers and
16 adequate protection for those to whom they owe obligations.
17 In furtherance of that state interest, the Legislature
18 requires that upon the insolvency of a non-United States
19 insurer or reinsurer which provides security to fund its
20 United States obligations in accordance with this section,
21 such security shall be maintained in the United States and
22 claims shall be filed with and valued by the State Insurance
23 Commissioner with regulatory oversight, and the assets shall
24 be distributed in accordance with the insurance laws of the
25 state in which the trust is domiciled that are applicable to
26 the liquidation of domestic United States insurance companies.
27 The Legislature declares that the matters contained in this
28 section are fundamental to the business of insurance in
29 accordance with 15 U.S.C. ss. 1011-1012.

30 (3)+(2)

31 (b) Credit in accounting and financial statements on

1 account of reinsurance ceded to a nonapproved reinsurer may be
2 allowed only:

3 1. When it is demonstrated by the ceding insurer to
4 the satisfaction of the department that such reinsurer
5 maintains the standards and meets the financial requirements
6 applicable to an authorized insurer;

7 2. To the extent of deposits by, or funds withheld
8 from, such reinsurer pursuant to express provision therefor in
9 the reinsurance contract as security for the payment of the
10 obligations thereunder if such deposits or funds are held
11 subject to withdrawal by, and under the control of, the ceding
12 insurer or such deposits or funds are placed in trust for such
13 purposes in a bank which is a member of the Federal Reserve
14 System if withdrawals from the trust cannot be made without
15 the consent of the ceding insurer. The funds withheld may be
16 cash or securities which are qualified as admitted assets
17 under part II of chapter 625 and which have a market value
18 equal to or greater than the credit taken; or

19 3. To the extent that the amount of a clean,
20 unconditional, evergreen, and irrevocable letter of credit,
21 issued for a term of not less than 1 year and in conformity
22 with the requirements set forth in this subparagraph, equals
23 or exceeds the liability of an unauthorized or unapproved
24 reinsurer for unearned premiums, outstanding losses, and an
25 adequate reserve for incurred but not reported losses under a
26 specific reinsurance agreement. The requirements are that such
27 a clean and irrevocable letter of credit be issued under
28 arrangements satisfactory to the department as constituting
29 security to the ceding insurer substantially equal to that of
30 a deposit under subparagraph 2. and that the letter be issued
31 by a banking institution which is a member of the Federal

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1 Reserve System and which has financial standing satisfactory
2 to the commissioner. The department may adopt rules requiring
3 that the letter adhere in its wording to a format for letters
4 of credit as the format has been or may be adopted or approved
5 by the National Association of Insurance Commissioners.

6 4. When the reinsurance is ceded to a reinsurer which
7 maintains a trust fund, in a bank or trust company that is
8 subject to supervision by any state of the United States or
9 that is a member of the Federal Reserve System, for the
10 payment of the valid claims for business written in the United
11 States. The trust shall consist of a trusteed account in an
12 amount not less than the reinsurer's liabilities attributable
13 to reinsurance by ceding insurers for business written in the
14 United States and, in addition, the reinsurer shall maintain a
15 trusteed surplus of not less than \$20 million. Such trust
16 shall be established in a form approved, and any amendments to
17 the trust approved, by the insurance commissioner where the
18 trust is domiciled, or the insurance commissioner of another
19 state who, pursuant to the terms of the trust agreement, has
20 accepted principal regulatory oversight of the trust. The
21 trust shall remain in effect for as long as the reinsurer has
22 outstanding obligations due under the reinsurance agreements
23 subject to the trust. The trust assets must be in cash or
24 securities which are qualified as admitted assets under part
25 II of chapter 625 and which have a market value of the
26 required liabilities and trusteed surplus. The reinsurer shall
27 report quarterly to the insurance commissioner information
28 substantially the same as that required to be reported on the
29 National Association of Insurance Commissioners Annual
30 Statement form by licensed insurers to enable the insurance
31 commissioner to determine the sufficiency of the trust fund.

1 The trust and the reinsurer shall be subject to examination as
2 determined by the commissioner.

3 5. The credit permitted by subparagraph(a)4. and the
4 credit permitted by subparagraph(b)2. shall not be allowed
5 unless the assuming insurer in substance agrees in the trust
6 agreement to the following conditions:

7 a. Notwithstanding any other provisions in the trust
8 instrument, if the trust fund is inadequate because it
9 contains an amount less than the amount required by the
10 department or, if the grantor of the trust has been declared
11 insolvent or placed into receivership, rehabilitation,
12 liquidation, or similar proceedings under the laws of its
13 state or country of domicile, the trustee shall comply with an
14 order of the commissioner ~~superintendent~~ with regulatory
15 oversight over the trust or with an order of a court of
16 competent jurisdiction directing the trustee to transfer to
17 the commissioner ~~superintendent~~ with regulatory oversight all
18 of the assets of United States trust beneficiaries.

19 b. The assets shall be distributed by, and claims of
20 United States trust beneficiaries shall be filed with and
21 valued by, the commissioner ~~superintendent~~ with regulatory
22 oversight in accordance with the laws of the state in which
23 the trust is domiciled that are applicable to the liquidation
24 of domestic insurance companies.

25 c. If the commissioner ~~superintendent~~ with regulatory
26 oversight determines that the assets of the trust fund or any
27 part thereof are not necessary to satisfy the claims for
28 business written in the United States, the assets or any part
29 thereof shall be returned by the commissioner ~~superintendent~~
30 with regulatory oversight to the trustee for distribution in
31 accordance with the trust agreement.

1 d. The grantor shall waive any right otherwise
2 available to it under United States law that is inconsistent
3 with this provision.

4 (c) For the purposes of this subsection only, the term
5 "ceding insurer" shall include any health maintenance
6 organization operating under a certificate of authority issued
7 under part I of chapter 641.

8 Section 86. Paragraph (a) of subsection (2) of section
9 627.7275, Florida Statutes, is amended to read:

10 627.7275 Motor vehicle property damage liability.--

11 (2)(a) Insurers writing motor vehicle insurance in
12 this state shall make available, subject to the insurers'
13 usual underwriting restrictions, coverage under policies as
14 described in subsection (1) of this section to any applicant
15 for private passenger motor vehicle insurance coverage who is
16 seeking the coverage in order to reinstate the applicant's
17 driving privileges in this state when the driving privileges
18 were revoked or suspended pursuant to s. 316.646 or s. 627.733
19 due to the failure of the applicant to maintain required
20 security. The policy shall be issued for a period of at least
21 6 months and as to the minimum coverages required under this
22 section shall not be cancelable by the insured for any reason
23 or by the insurer after a period not to exceed 30 days during
24 which the insurer must complete underwriting of the policy.
25 After the insurer has completed underwriting the policy within
26 the 30-day period, the insurer shall notify the Department of
27 Highway Safety and Motor Vehicles that the policy is in full
28 force and effect and the policy shall not be cancelable for
29 the remainder of the policy period. A premium shall be
30 collected and coverage shall be in effect for the 30-day
31 period during which the insurer is completing the underwriting

1 of the policy whether or not the person's driver license,
2 motor vehicle tag, and motor vehicle registration are in
3 effect. Once the noncancelable provisions of the policy
4 become effective, the coverage or risk shall not be changed
5 during the policy period and the premium shall be
6 nonrefundable fully earned. If, during the pendency of the
7 2-year proof of insurance period required under s. 627.733(7),
8 the insured obtains additional coverage or coverage for an
9 additional risk or changes territories, the insured then she
10 ~~or he~~ must obtain a new 6-month noncancelable policy in
11 accordance with the provisions of this section. However, if
12 the insured must obtain a new 6-month policy and obtains the
13 policy from the same insurer, the policyholder shall receive
14 credit on the new policy for any premium paid on the
15 previously issued policy.

16 Section 87. Subsections (1) and (2) of section
17 627.9126, Florida Statutes, are amended to read:

18 627.9126 Annual reports of information by liability
19 insurers required.--

20 (1) Each insurer transacting commercial multiperil,
21 products liability, commercial automobile liability, private
22 passenger automobile liability, or other line of liability
23 insurance shall maintain information as specified in this
24 section. Such information shall be maintained for each line of
25 insurance and for direct Florida business only. The department
26 ~~may shall annually~~ conduct a sampling of claims or actions for
27 damages for personal injury or property damage claimed to have
28 been caused by error, omission, or negligence of insureds if
29 the claim resulted in:

30 (a) A final judgment in any amount.

31 (b) A settlement in any amount.

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1 (c) A final disposition not resulting in payment on
2 behalf of the insured.

3 (2) Upon request of the department, an insurer shall,
4 within 60 days, submit to the department a report that ~~which~~
5 contains:

6 (a) A final judgment in any amount.

7 (b) A settlement in any amount.

8 (c) A final disposition not resulting in payment on
9 behalf of the insured.

10 Section 88. Section 627.913, Florida Statutes, is
11 amended to read:

12 627.913 Reports of information by products liability
13 insurers required.--

14 ~~(1)~~ The department may require any insurer authorized
15 to write a policy of products liability insurance in the state
16 to shall transmit the following information, based on its
17 statewide products liability insurance writings. Upon the
18 request of, to the department, an each year in the annual
19 report of such insurer shall, within 60 days, submit to the
20 department a report that contains:

21 (1)~~(a)~~ Premiums written;

22 (2)~~(b)~~ Premiums earned;

23 (3)~~(c)~~ Unearned premiums;

24 (4)~~(d)~~ The dollar amount of claims paid;

25 (5)~~(e)~~ Incurred claims, not including claims incurred
26 but not reported;

27 (6)~~(f)~~ Claims closed without payment, and the amount
28 reserved for such claims;

29 (7)~~(g)~~ Loss reserves for all claims except claims
30 incurred but not reported;

31 (8)~~(h)~~ Reserves for claims incurred but not reported;

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- 1 (9)~~(i)~~ Losses paid as a percentage of the amount
- 2 reserved for such losses;
- 3 (10)~~(j)~~ Net investment gain or loss and other income
- 4 gain or loss allocated to products liability lines according
- 5 to the allocation formula used in the annual insurance expense
- 6 exhibit;
- 7 (11)~~(k)~~ Underwriting income or loss;
- 8 (12)~~(l)~~ Actual expenses in detail, including, but not
- 9 limited to, loss adjustment expense; commissions; general
- 10 expense; and advertising, home office, and defense costs;
- 11 (13)~~(m)~~ Claims settled after a suit was filed;
- 12 (14)~~(n)~~ Claims paid based on a judgment; and
- 13 (15)~~(o)~~ Judgments appealed by the insurer, together
- 14 with the total results of such appeals.

15 ~~(2) The department shall provide a summary of~~
16 ~~information provided pursuant to subsection (1) in its annual~~
17 ~~report.~~

18 ~~(3) In the first year that an insurer makes a report~~
19 ~~pursuant to subsection (1), the insurer shall provide only the~~
20 ~~information required by paragraphs (a) through (1) of~~
21 ~~subsection (1) and shall provide such information for the~~
22 ~~current year and the 3 previous years.~~

23 Section 89. Section 624.22, Florida Statutes, is
24 repealed.

25
26
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 On page 6, line 10
30
31 after the semicolon, insert:

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1 amending s. 215.555, F.S.; revising the method
2 of reimbursement to insurers under the Florida
3 Hurricane Catastrophe Fund; amending s.
4 624.316, F.S.; deleting certain rulemaking
5 authority of the Department of Insurance
6 relating to insurer compliance; amending s.
7 624.426, F.S.; providing that certain
8 transferred policies are exempt from the
9 resident agent and countersignature law;
10 amending s. 624.610, F.S.; specifying purposes
11 of regulation of reinsurance; correcting cross
12 references; amending s. 627.7275, F.S.;
13 modifying coverage requirements and premiums
14 relating to motor vehicle property damage
15 liability; amending s. 627.9126, F.S.;
16 authorizing the Department of Insurance to
17 sample claims or actions for damages; amending
18 s. 627.913, F.S.; revising requirements for
19 annual reports by products liability insurers;
20 repealing s. 624.22, F.S., relating to purposes
21 of regulation of reinsurance;

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