

By Representatives Lippman, Barreiro, Gay and Rojas

1 A bill to be entitled
2 An act relating to insurance; creating s.
3 624.4015, F.S.; requiring certain insurers to
4 offer personal lines residential coverage;
5 creating s. 627.3516, F.S.; requiring the
6 placement of personal lines residential risks
7 from the Florida Residential Property and
8 Casualty Joint Underwriting Association
9 established under s. 627.351, F.S., to certain
10 property and casualty insurers under certain
11 circumstances; providing definitions and
12 formulas; providing a penalty; authorizing the
13 Department of Insurance to adopt rules for
14 certain purposes; providing an effective date.

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

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18 Section 1. Section 624.4015, Florida Statutes, is
19 created to read:
20 624.4015 Authorized property and casualty insurers;
21 required personal lines residential coverage.--If an insurer
22 is authorized to write property and casualty insurance in this
23 state and the insurer, or any member of its insurer group,
24 writes personal lines residential coverage, as described in s.
25 627.4025, in any other state, the insurer must offer such
26 coverage in this state using approved forms and rates as
27 provided by law. As used in this section, "insurer group"
28 means the group required to be reported in its holding company
29 registration statement as set forth in s. 628.801 and rules
30 adopted under such section.

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1 Section 2. Section 627.3516, Florida Statutes, is
2 created to read:

3 627.3516 Personal lines residential property
4 insurance; fair market share.--

5 (1) For the purposes of this section:

6 (a) "Association" means the Florida Residential
7 Property and Casualty Joint Underwriting Association created
8 under s. 627.351.

9 (b) "Insurer" means an insurer authorized to write
10 property and casualty insurance in this state, provided, if
11 the insurer is a member of an insurer group of which more than
12 one member is authorized to write property and casualty
13 insurance in this state, "insurer" means all authorized
14 members of the group, collectively or individually as the
15 group elects, which election shall be indicated in the reports
16 required under this section and, once made, may not be changed
17 for the reporting year and the group shall be bound by such
18 election. As used in this section, "insurer group" means the
19 insurer group as required to be reported in its holding
20 company registration statement as set forth in s. 628.801 and
21 rules adopted under such section.

22 (c) "Personal lines residential coverage" shall have
23 the meaning as provided in s. 627.4025.

24 (2) Each insurer which also writes personal lines
25 residential coverage in any other state must write a
26 percentage share of the personal lines residential insurance
27 market in this state at least as large as its percentage share
28 of the overall property and casualty insurance market in this
29 state, as provided in this section.

30 (3)(a) Each insurer shall calculate and report to the
31 department its available capacity to underwrite additional

1 personal lines residential coverage, together with supporting
2 data. The available capacity shall be based upon the calendar
3 year immediately preceding the reporting date.

4 (b) By March 1 of each year, each insurer shall
5 calculate and report for the calendar year ending December 31
6 of the year immediately preceding:

7 1. Its fair market share of premiums from personal
8 lines residential coverages.

9 2. Its actual market share of premiums from personal
10 lines residential coverages.

11 3. Its fair market share shortfall, if any.

12 (c) The report shall be filed together with supporting
13 data to the department no later than March 1 of each calendar
14 year using the form or reporting format prescribed by rule of
15 the department. The department may review the data and the
16 calculations contained in the reports and require the insurer
17 to correct any inaccuracies. If the data or the calculations
18 are challenged by the department, the insurer shall bear the
19 burden of proof.

20 (4)(a) An insurer's fair market share of premiums from
21 personal lines residential coverage is determined by dividing
22 the aggregate premium for property and casualty coverage for
23 risks in this state written by the insurer for the reporting
24 calendar year by the aggregate premium for property and
25 casualty coverage for risks in this state written by all
26 insurers.

27 (b) An insurer's actual market share is determined by
28 dividing the aggregate premium for personal lines residential
29 coverage for risks in this state written by the insurer for
30 the reporting calendar year by the aggregate premium for
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1 personal lines residential coverage for risks in this state
2 written by all insurers.

3 (c) An insurer's fair market share shortfall is
4 determined by subtracting the insurer's actual market share
5 from its fair market share and multiplying the result by the
6 aggregate premium for personal lines residential coverage for
7 risks in this state written by all insurers.

8 (d) An insurer's available capacity shall be the
9 difference between the amount of property and casualty
10 insurance written during the reporting calendar year and the
11 maximum allowable amount of property and casualty insurance
12 such insurer could write based on the provisions of s.
13 624.4095.

14 (5) If an insurer has available capacity to underwrite
15 property and casualty insurance coverage and if the insurer
16 has a fair market share shortfall, the insurer shall be
17 subject to the placement of risks from the association. If an
18 insurer believes that the placement of risks will endanger or
19 impair its solvency, the insurer may petition the department
20 for a deferment or revision, in whole or in part, of the
21 placement or selection of such risks. The insurer shall bear
22 the burden of proving the endangerment or impairment of its
23 solvency. If a deferment or waiver of placement of risks is
24 granted, the insurer shall remain subject to placement of
25 risks in response to subsequent annual filings.

26 (6) The association shall select the personal lines
27 residential policies which are to be placed with each insurer.
28 The selection must be accomplished by May 1 of the reporting
29 year and the actual placement must be accomplished as soon
30 thereafter as reasonably possible. However, the failure of the
31 association to meet the May 1 deadline shall not constitute a

1 defense to acceptance of the placement by the insurer. The
2 association must place as many personal lines residential
3 policies as necessary to depopulate the association of such
4 policies. The total premium from all placements under this
5 section to an insurer shall not exceed its fair market
6 shortfall or 90 percent of its available capacity. The
7 placements shall be coordinated by the association among the
8 various insurers to allocate, as much as is reasonably
9 feasible, the equitable distribution of the removed policies
10 among such insurers, including geographic location of the
11 risks and the individual insurer's probable maximum loss after
12 the proposed placement. If more than one insurer within an
13 insurer group is authorized to write property and casualty
14 insurance in this state, the group may distribute the
15 placements among its authorized members as it deems
16 appropriate, subject to this section. No insurer receiving
17 placements under this section shall be eligible for
18 association assessment credits or bonuses authorized under s.
19 627.351(6) or under s. 627.3511 with respect to placed
20 policies.

21 (7) If an insurer fails to accept the personal lines
22 residential policies selected and placed by the association,
23 the failure shall be treated as willful. Each policy refused
24 or rejected by an insurer shall constitute a separate
25 violation.

26 (8)(a) The department shall adopt rules to implement
27 the provisions of this section. In adopting such rules, the
28 department may adopt any reasonable methods to accomplish the
29 essential purpose of this section, which is to depopulate the
30 association of personal lines residential risks by requiring
31 insurers to underwrite their fair market share with respect to

1 such risks. The rules may provide for the method of placement,
2 including, but not limited to, take-outs, assumptions, and
3 other methods, as appropriate.

4 (b) The department may require revision or amendment
5 of the plan of operation or bylaws of the association as
6 necessary to implement this section or to accomplish the
7 purpose of this section.

8 (c) The department may require revision or amendment
9 of the plan of operation or bylaws, if any, of the market
10 assistance plan established under s. 627.3515, as necessary to
11 implement this section or to accomplish the purpose of this
12 section.

13 Section 3. This act shall take effect October 1, 1997.

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16 HOUSE SUMMARY

17 Requires insurers writing property and casualty insurance
18 in this state to offer personal lines residential
19 coverage as well. Requires the placement of personal
20 lines residential risks from the Florida Residential
21 Property and Casualty Joint Underwriting Association with
22 property and casualty insurers which have available
23 capacity to underwrite property and casualty insurance
24 coverage and whose actual market share of personal lines
25 residential insurance is less than their fair market
26 share of personal lines residential insurance, determined
27 by formulas. See bill for details.
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