

By the Committee on Financial Services and Representative
Tamargo

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

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

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28 Section 1. Paragraph (e) of subsection (4) of section
29 215.555, Florida Statutes, is amended to read:
30 215.555 Florida Hurricane Catastrophe Fund.--
31 (4) REIMBURSEMENT CONTRACTS.--

1 (e)1. Except as provided in subparagraphs 2. and 3.,
2 the contract shall provide that if an insurer demonstrates to
3 the board that it is likely to qualify for reimbursement under
4 the contract, and demonstrates to the board that the immediate
5 receipt of moneys from the board is likely to prevent the
6 insurer from becoming insolvent, the board shall advance the
7 insurer, at market interest rates, the amounts necessary to
8 maintain the solvency of the insurer, up to 50 percent of the
9 board's estimate of the reimbursement due the insurer. The
10 insurer's reimbursement shall be reduced by an amount equal to
11 the amount of the loan and interest thereon.

12 2. With respect only to an entity created under s.
13 627.351, the contract shall also provide that the board may,
14 upon application by such entity, advance to such entity, at
15 market interest rates, up to 90 percent of the lesser of:

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

18 b. The entity's share of the actual reimbursement
19 premium paid for that contract year, multiplied by the
20 currently available liquid assets of the fund. In order for
21 the entity to qualify for an advance under this subparagraph,
22 the entity must demonstrate to the board that the advance is
23 essential to allow the entity to pay claims for a covered
24 event and the board must determine that the fund's assets are
25 sufficient and are sufficiently liquid to allow the board to
26 make an advance to the entity and still fulfill the board's
27 reimbursement obligations to other insurers. The entity's
28 final reimbursement for any contract year in which an advance
29 has been made under this subparagraph must be reduced by an
30 amount equal to the amount of the advance and any interest on
31 such advance. In order to determine what amounts, if any, are

1 due the entity, the board may require the entity to report its
2 exposure and its losses at any time to determine retention
3 levels and reimbursements payable.

4 3. The contract shall also provide specifically and
5 solely with respect to any limited apportionment company under
6 s. 627.351(2)(b)3. that the board may, upon application by
7 such company, advance to such company the amount of the
8 estimated reimbursement payable to such company as calculated
9 pursuant to paragraph (d), up to the lesser of:

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

12 b. ~~Ninety percent of the company's share of the total~~
13 ~~fund premiums applied to the board's currently available~~
14 ~~liquid assets,~~

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16 at market rates, ~~if the company demonstrates to the board that~~
17 ~~the immediate receipt of such moneys is essential to permit it~~
18 ~~to pay claims for a covered event and if the board determines~~
19 ~~that the fund's assets are sufficient and are sufficiently~~
20 ~~liquid to permit the board to make an advance to such company~~
21 ~~and at the same time fulfill its reimbursement obligations to~~
22 ~~the insurers that are participants in the fund. Such~~
23 ~~company's final reimbursement for any contract year in which~~
24 ~~an advance pursuant to this subparagraph has been made shall~~
25 ~~be reduced by an amount equal to the amount of the advance and~~
26 ~~interest thereon. In order to determine what amounts, if any,~~
27 ~~are due to such company, the board may require such company to~~
28 ~~report its exposure and its losses at such times as may be~~
29 ~~required to determine retention levels and loss reimbursements~~
30 ~~payable.~~

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

3 624.316 Examination of insurers.--

4 (2)

5 (f)1.a. An examination under this section must be
6 conducted at least once every year with respect to a domestic
7 insurer that has continuously held a certificate of authority
8 for less than 3 years. The examination must cover the
9 preceding fiscal year or the period since the last examination
10 of the insurer. The department may limit the scope of the
11 examination ~~if the insurer has demonstrated sufficient~~
12 ~~compliance as determined under subparagraph 3.~~

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

16 c. An insurer may not be required to pay more than
17 \$25,000 to cover the costs of any one examination under this
18 subparagraph.

19 2. An examination under this section must be conducted
20 not less frequently than once every 5 years with respect to an
21 insurer that has continuously held a certificate of authority,
22 without a change in ownership subject to s. 624.4245 or s.
23 628.461, for more than 15 years ~~and has demonstrated~~
24 ~~sufficient compliance as determined under subparagraph 3.~~ The
25 examination must cover the preceding 5 fiscal years of the
26 insurer or the period since the last examination of the
27 insurer. This subparagraph does not limit the ability of the
28 department to conduct more frequent examinations.

29 ~~3. The department must, by rule, adopt procedures and~~
30 ~~criteria for determining if an insurer has demonstrated~~
31 ~~sufficient compliance with this code and cooperation with the~~

1 ~~department. The rules must include consideration of such~~
2 ~~factors as financial strength, timeliness, consumer service,~~
3 ~~economic and community contributions and support,~~
4 ~~responsiveness to department requests, and any other relevant~~
5 ~~factors. The department must annually publish and disseminate~~
6 ~~a listing of those insurers found to demonstrate sufficient~~
7 ~~compliance under the rules, including special recognition for~~
8 ~~community contributions and support.~~

9 Section 3. Subsection (4) is added to section 624.426,
10 Florida Statutes, to read:

11 624.426 Exceptions to resident agent and
12 countersignature law.--Section 624.425 does not apply to:

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

18 Section 4. Subsections (1)-(12) of section 624.610,
19 Florida Statutes, are renumbered as subsections (2)-(13) of
20 said section, respectively, new subsection (1) is added to
21 said section, and renumbered subsection (2) of said section is
22 amended, to read:

23 624.610 Reinsurance.--

24 (1) The purpose of this section is to protect the
25 interests of insureds, claimants, ceding insurers, assuming
26 insurers, and the public. It is the intent of the Legislature
27 to ensure adequate regulation of insurers and reinsurers and
28 adequate protection for those to whom they owe obligations.
29 In furtherance of that state interest, the Legislature
30 requires that upon the insolvency of a non-United States
31 insurer or reinsurer which provides security to fund its

1 United States obligations in accordance with this section,
2 such security shall be maintained in the United States and
3 claims shall be filed with and valued by the State Insurance
4 Commissioner with regulatory oversight, and the assets shall
5 be distributed in accordance with the insurance laws of the
6 state in which the trust is domiciled that are applicable to
7 the liquidation of domestic United States insurance companies.
8 The Legislature declares that the matters contained in this
9 section are fundamental to the business of insurance in
10 accordance with 15 U.S.C. ss. 1011-1012.

11 (3)(2)

12 (b) Credit in accounting and financial statements on
13 account of reinsurance ceded to a nonapproved reinsurer may be
14 allowed only:

15 1. When it is demonstrated by the ceding insurer to
16 the satisfaction of the department that such reinsurer
17 maintains the standards and meets the financial requirements
18 applicable to an authorized insurer;

19 2. To the extent of deposits by, or funds withheld
20 from, such reinsurer pursuant to express provision therefor in
21 the reinsurance contract as security for the payment of the
22 obligations thereunder if such deposits or funds are held
23 subject to withdrawal by, and under the control of, the ceding
24 insurer or such deposits or funds are placed in trust for such
25 purposes in a bank which is a member of the Federal Reserve
26 System if withdrawals from the trust cannot be made without
27 the consent of the ceding insurer. The funds withheld may be
28 cash or securities which are qualified as admitted assets
29 under part II of chapter 625 and which have a market value
30 equal to or greater than the credit taken; or

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1 3. To the extent that the amount of a clean,
2 unconditional, evergreen, and irrevocable letter of credit,
3 issued for a term of not less than 1 year and in conformity
4 with the requirements set forth in this subparagraph, equals
5 or exceeds the liability of an unauthorized or unapproved
6 reinsurer for unearned premiums, outstanding losses, and an
7 adequate reserve for incurred but not reported losses under a
8 specific reinsurance agreement. The requirements are that such
9 a clean and irrevocable letter of credit be issued under
10 arrangements satisfactory to the department as constituting
11 security to the ceding insurer substantially equal to that of
12 a deposit under subparagraph 2. and that the letter be issued
13 by a banking institution which is a member of the Federal
14 Reserve System and which has financial standing satisfactory
15 to the commissioner. The department may adopt rules requiring
16 that the letter adhere in its wording to a format for letters
17 of credit as the format has been or may be adopted or approved
18 by the National Association of Insurance Commissioners.

19 4. When the reinsurance is ceded to a reinsurer which
20 maintains a trust fund, in a bank or trust company that is
21 subject to supervision by any state of the United States or
22 that is a member of the Federal Reserve System, for the
23 payment of the valid claims for business written in the United
24 States. The trust shall consist of a trusteed account in an
25 amount not less than the reinsurer's liabilities attributable
26 to reinsurance by ceding insurers for business written in the
27 United States and, in addition, the reinsurer shall maintain a
28 trusteed surplus of not less than \$20 million. Such trust
29 shall be established in a form approved, and any amendments to
30 the trust approved, by the insurance commissioner where the
31 trust is domiciled, or the insurance commissioner of another

1 state who, pursuant to the terms of the trust agreement, has
2 accepted principal regulatory oversight of the trust. The
3 trust shall remain in effect for as long as the reinsurer has
4 outstanding obligations due under the reinsurance agreements
5 subject to the trust. The trust assets must be in cash or
6 securities which are qualified as admitted assets under part
7 II of chapter 625 and which have a market value of the
8 required liabilities and trusteed surplus. The reinsurer shall
9 report quarterly to the insurance commissioner information
10 substantially the same as that required to be reported on the
11 National Association of Insurance Commissioners Annual
12 Statement form by licensed insurers to enable the insurance
13 commissioner to determine the sufficiency of the trust fund.
14 The trust and the reinsurer shall be subject to examination as
15 determined by the commissioner.

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

20 a. Notwithstanding any other provisions in the trust
21 instrument, if the trust fund is inadequate because it
22 contains an amount less than the amount required by the
23 department or, if the grantor of the trust has been declared
24 insolvent or placed into receivership, rehabilitation,
25 liquidation, or similar proceedings under the laws of its
26 state or country of domicile, the trustee shall comply with an
27 order of the commissioner ~~superintendent~~ with regulatory
28 oversight over the trust or with an order of a court of
29 competent jurisdiction directing the trustee to transfer to
30 the commissioner ~~superintendent~~ with regulatory oversight all
31 of the assets of United States trust beneficiaries.

1 b. The assets shall be distributed by, and claims of
2 United States trust beneficiaries shall be filed with and
3 valued by, the commissioner ~~superintendent~~ with regulatory
4 oversight in accordance with the laws of the state in which
5 the trust is domiciled that are applicable to the liquidation
6 of domestic insurance companies.

7 c. If the commissioner ~~superintendent~~ with regulatory
8 oversight determines that the assets of the trust fund or any
9 part thereof are not necessary to satisfy the claims for
10 business written in the United States, the assets or any part
11 thereof shall be returned by the commissioner ~~superintendent~~
12 with regulatory oversight to the trustee for distribution in
13 accordance with the trust agreement.

14 d. The grantor shall waive any right otherwise
15 available to it under United States law that is inconsistent
16 with this provision.

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

21 Section 5. Paragraph (a) of subsection (2) of section
22 627.7275, Florida Statutes, is amended to read:

23 627.7275 Motor vehicle property damage liability.--

24 (2)(a) Insurers writing motor vehicle insurance in
25 this state shall make available, subject to the insurers'
26 usual underwriting restrictions, coverage under policies as
27 described in subsection (1) of this section to any applicant
28 for private passenger motor vehicle insurance coverage who is
29 seeking the coverage in order to reinstate the applicant's
30 driving privileges in this state when the driving privileges
31 were revoked or suspended pursuant to s. 316.646 or s. 627.733

1 due to the failure of the applicant to maintain required
2 security. The policy shall be issued for a period of at least
3 6 months and as to the minimum coverages required under this
4 section shall not be cancelable by the insured for any reason
5 or by the insurer after a period not to exceed 30 days during
6 which the insurer must complete underwriting of the policy.
7 After the insurer has completed underwriting the policy within
8 the 30-day period, the insurer shall notify the Department of
9 Highway Safety and Motor Vehicles that the policy is in full
10 force and effect and the policy shall not be cancelable for
11 the remainder of the policy period. A premium shall be
12 collected and coverage shall be in effect for the 30-day
13 period during which the insurer is completing the underwriting
14 of the policy whether or not the person's driver license,
15 motor vehicle tag, and motor vehicle registration are in
16 effect. Once the noncancelable provisions of the policy
17 become effective, the coverage or risk shall not be changed
18 during the policy period and the premium shall be
19 nonrefundable ~~fully earned~~. If, during the pendency of the
20 2-year proof of insurance period required under s. 627.733(7),
21 the insured obtains additional coverage or coverage for an
22 additional risk or changes territories, the insured then she
23 ~~or he~~ must obtain a new 6-month noncancelable policy in
24 accordance with the provisions of this section. However, if
25 the insured must obtain a new 6-month policy and obtains the
26 policy from the same insurer, the policyholder shall receive
27 credit on the new policy for any premium paid on the
28 previously issued policy.

29 Section 6. Subsections (1) and (2) of section
30 627.9126, Florida Statutes, are amended to read:

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1 627.9126 Annual reports of information by liability
2 insurers required.--
3 (1) Each insurer transacting commercial multiperil,
4 products liability, commercial automobile liability, private
5 passenger automobile liability, or other line of liability
6 insurance shall maintain information as specified in this
7 section. Such information shall be maintained for each line of
8 insurance and for direct Florida business only. The department
9 ~~may~~ shall annually conduct a sampling of claims or actions for
10 damages for personal injury or property damage claimed to have
11 been caused by error, omission, or negligence of insureds if
12 the claim resulted in:
13 (a) A final judgment in any amount.
14 (b) A settlement in any amount.
15 (c) A final disposition not resulting in payment on
16 behalf of the insured.
17 (2) Upon request of the department, an insurer shall,
18 within 60 days, submit to the department a report that ~~which~~
19 contains:
20 (a) A final judgment in any amount.
21 (b) A settlement in any amount.
22 (c) A final disposition not resulting in payment on
23 behalf of the insured.
24 Section 7. Section 627.913, Florida Statutes, is
25 amended to read:
26 627.913 Reports of information by products liability
27 insurers required.--
28 ~~(1)~~ The department may require any insurer authorized
29 to write a policy of products liability insurance in the state
30 to ~~shall~~ transmit the following information, based on its
31 statewide products liability insurance writings. Upon the

1 request of, to the department, an each year in the annual
2 report of such insurer shall, within 60 days, submit to the
3 department a report that contains:
4 (1)(a) Premiums written;
5 (2)(b) Premiums earned;
6 (3)(c) Unearned premiums;
7 (4)(d) The dollar amount of claims paid;
8 (5)(e) Incurred claims, not including claims incurred
9 but not reported;
10 (6)(f) Claims closed without payment, and the amount
11 reserved for such claims;
12 (7)(g) Loss reserves for all claims except claims
13 incurred but not reported;
14 (8)(h) Reserves for claims incurred but not reported;
15 (9)(i) Losses paid as a percentage of the amount
16 reserved for such losses;
17 (10)(j) Net investment gain or loss and other income
18 gain or loss allocated to products liability lines according
19 to the allocation formula used in the annual insurance expense
20 exhibit;
21 (11)(k) Underwriting income or loss;
22 (12)(l) Actual expenses in detail, including, but not
23 limited to, loss adjustment expense; commissions; general
24 expense; and advertising, home office, and defense costs;
25 (13)(m) Claims settled after a suit was filed;
26 (14)(n) Claims paid based on a judgment; and
27 (15)(o) Judgments appealed by the insurer, together
28 with the total results of such appeals.
29 ~~(2) The department shall provide a summary of~~
30 ~~information provided pursuant to subsection (1) in its annual~~
31 ~~report.~~

1 ~~(3) In the first year that an insurer makes a report~~
2 ~~pursuant to subsection (1), the insurer shall provide only the~~
3 ~~information required by paragraphs (a) through (l) of~~
4 ~~subsection (1) and shall provide such information for the~~
5 ~~current year and the 3 previous years.~~

6 Section 8. Section 624.22, Florida Statutes, is
7 repealed.

8 Section 9. This act shall take effect October 1 of the
9 year in which enacted.

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