

By Representative Bainter

1 A bill to be entitled
2 An act relating to insurance; amending s.
3 624.424, F.S.; increasing the time limit on an
4 insurer's use of certain accountants; amending
5 s. 627.311, F.S.; providing civil immunity for
6 certain persons associated with the Florida
7 Joint Underwriting Association; providing an
8 exception; amending s. 627.351, F.S.; providing
9 civil immunity for certain persons associated
10 with the Florida Windstorm Joint Underwriting
11 Association; providing an exception; providing
12 an effective date.

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

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16 Section 1. Paragraph (d) of subsection (8) of section
17 624.424, Florida Statutes, is amended to read:

18 624.424 Annual statement and other information.--

19 (8)

20 (d) An insurer may not use the same accountant or
21 partner of an accounting firm responsible for preparing the
22 report required by this subsection for more than 7 5
23 consecutive years. Following this period, the insurer may not
24 use such accountant or partner for a period of 2 years, but
25 may use another accountant or partner of the same firm. An
26 insurer may request the department to waive this prohibition
27 based upon an unusual hardship to the insurer and a
28 determination that the accountant is exercising independent
29 judgment that is not unduly influenced by the insurer
30 considering such factors as the number of partners, expertise
31 of the partners or the number of insurance clients of the

1 accounting firm; the premium volume of the insurer; and the
2 number of jurisdictions in which the insurer transacts
3 business.

4 Section 2. Subsection (3) of section 627.311, Florida
5 Statutes, is amended to read:

6 627.311 Joint underwriters and joint reinsurers.--

7 (3) The department may, after consultation with
8 insurers licensed to write automobile insurance in this state,
9 approve a joint underwriting plan for purposes of equitable
10 apportionment or sharing among insurers of automobile
11 liability insurance and other motor vehicle insurance, as an
12 alternate to the plan required in s. 627.351(1). All insurers
13 authorized to write automobile insurance in this state shall
14 subscribe to the plan and participate therein. The plan shall
15 be subject to continuous review by the department which may at
16 any time disapprove the entire plan or any part thereof if it
17 determines that conditions have changed since prior approval
18 and that in view of the purposes of the plan changes are
19 warranted. Any disapproval by the department shall be subject
20 to the provisions of chapter 120. If adopted, the plan and
21 the association created under the plan:

22 (a) Must be subject to all provisions of s.
23 627.351(1), except apportionment of applicants.

24 (b) May provide for one or more designated insurers,
25 able and willing to provide policy and claims service, to act
26 on behalf of all other insurers to provide insurance for
27 applicants who are in good faith entitled to, but unable to,
28 procure insurance through the voluntary insurance market at
29 standard rates.

30 (c) Must provide that designated insurers will issue
31 policies of insurance and provide policyholder and claims

1 service on behalf of all insurers for the joint underwriting
2 association.

3 (d) Must provide for the equitable apportionment among
4 insurers of losses and expenses incurred.

5 (e) Must provide that the joint underwriting
6 association will operate subject to the supervision and
7 approval of a board of governors consisting of 11 individuals,
8 including 1 who will be elected as chairman. Five members of
9 the board must be appointed by the Insurance Commissioner. Two
10 of the commissioner's appointees must be chosen from the
11 insurance industry. Any board member appointed by the
12 Insurance Commissioner may be removed and replaced by him at
13 any time without cause. Six members of the board must be
14 appointed by the participating insurers, two of whom must be
15 from the insurance agents' associations. All board members,
16 including the chairman, must be appointed to serve for 2-year
17 terms beginning annually on a date designated by the plan.

18 (f) Must provide that an agent appointed to a
19 servicing carrier must be a licensed general lines agent of an
20 insurer which is authorized to write automobile liability and
21 physical damage insurance in the state and which is actively
22 writing such coverage in the county in which the agent is
23 located, or the immediately adjoining counties, or an agent
24 who places a volume of other property and casualty insurance
25 in an amount equal to the premium volume placed with the
26 Florida Joint Underwriting Association. The department may,
27 however, determine that an agent may be appointed to a
28 servicing carrier if, after public hearing, the department
29 finds that consumers in the agent's operating area would not
30 have adequate and reasonable access to the purchase of

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1 automobile insurance if the agent were not appointed to a
2 servicing carrier.

3 (g) Must make available noncancelable coverage as
4 provided in s. 627.7275(2).

5 (h) Must provide for the furnishing of a list of
6 insureds and their mailing addresses upon the request of a
7 member of the association or an insurance agent licensed to
8 place business with an association member. The list must
9 indicate whether the insured is currently receiving a good
10 driver discount from the association. The plan may charge a
11 reasonable fee to cover the cost incurred in providing the
12 list.

13 (i) Must not provide a renewal credit or discount or
14 any other inducement designed to retain a risk.

15 (j) Must not provide any other good driver credit or
16 discount that is not actuarially sound. In addition to other
17 criteria that the plan may specify, to be eligible for a good
18 driver credit, an insured must not have any criminal traffic
19 violations within the most recent 36-month period preceding
20 the date the discount is received.

21 (k) Are immune from liability for any action taken by
22 them or their agents in administering this subsection. This
23 immunity extends to member insurers and their employees and
24 agents, the Florida Automobile Joint Underwriting Association
25 and its agents and employees, members of the Board of
26 Governors, and the department and its employees. This immunity
27 does not apply to actions for willful torts or breach of any
28 contract pertaining to insurance.

29 Section 3. Paragraph (e) is added to subsection (2) of
30 section 627.351, Florida Statutes, 1996 Supplement, to read:

31 627.351 Insurance risk apportionment plans.--

1 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--
2 (e) All member insurers and their employees and
3 agents, the Florida Windstorm Joint Underwriting Association
4 and its employees and agents, members of the Board of
5 Governors, and the department and its employees are immune
6 from liability for any action taken by them or their agents in
7 administering this subsection. This immunity does not apply to
8 actions for willful torts or breach of any contract pertaining
9 to insurance.

10 Section 4. This act shall take effect July 1, 1997.

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LEGISLATIVE SUMMARY

Increases from 5 to 7 years the time period beyond which
an insurer may not use the same accountant or partner of
an accounting firm to prepare an annual statement.
Provides civil immunity for insurers, the Department of
Insurance, and other persons associated with the Florida
Automobile Joint Underwriting Association and the Florida
Windstorm Joint Underwriting Association.