

1 A bill to be entitled
2 An act relating to insurance; amending s.
3 627.351, F.S.; revising provisions governing
4 financing arrangements and dissolutions;
5 providing legislative intent; amending s.
6 215.555, F.S.; redefining the term "covered
7 policy"; amending ss. 324.031, 324.032, F.S.,
8 specifying manner of proving financial
9 responsibility; amending s. 631.904, F.S.;
10 redefining the term "covered claim"; amending
11 s. 625.041, F.S.; revising the liabilities that
12 a workers' compensation insurer must include on
13 its financial statements; providing retroactive
14 application; amending s. 626.926, F.S.;
15 providing circumstances under which a surplus
16 lines insurer may cancel a policy; amending s.
17 641.35, F.S.; authorizing investment of funds
18 of a health maintenance organization in excess
19 of certain reserves and surplus under certain
20 circumstances; providing a limitation; amending
21 s. 624.4072, F.S.; extending the term of the
22 exemption from taxes and assessments on
23 minority-owned property and casualty insurers;
24 postponing the scheduled repeal of the law;
25 providing effective dates.

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

28
29 Section 1. Paragraph (c) of subsection (2) of section
30 215.555, Florida Statutes, is amended to read:

31 215.555 Florida Hurricane Catastrophe Fund.--

1 (2) DEFINITIONS.--As used in this section:

2 (c) "Covered policy" means any insurance policy
3 covering residential property in this state, including, but
4 not limited to, any homeowner's, mobile home owner's, farm
5 owner's, condominium association, condominium unit owner's,
6 tenant's, or apartment building policy, or any other policy
7 covering a residential structure or its contents issued by any
8 authorized insurer, including any joint underwriting
9 association or similar entity created pursuant to law. The
10 term "covered policy" includes any collateral protection
11 insurance policy covering personal residences which protects
12 both the borrower's and the lender's financial interests, in
13 an amount at least equal to the coverage for the dwelling in
14 place under the lapsed homeowner's policy, if such policy can
15 be accurately reported as required in subsection (5).

16 Additionally, covered policies include policies covering the
17 peril of wind removed from the Florida Residential Property
18 and Casualty Joint Underwriting Association, created pursuant
19 to s. 627.351(6), or from the Florida Windstorm Underwriting
20 Association, created pursuant to s. 627.351(2), by an
21 authorized insurer under the terms and conditions of an
22 executed assumption agreement between the authorized insurer
23 and either such association. Each assumption agreement between
24 either association and such authorized insurer must be
25 approved by the Florida Department of Insurance prior to the
26 effective date of the assumption, and the Department of
27 Insurance must provide written notification to the board
28 within 15 working days after such approval. "Covered policy"
29 does not include any policy that excludes wind coverage or
30 hurricane coverage or any reinsurance agreement and does not
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1 include any policy otherwise meeting this definition which is
2 issued by a surplus lines insurer or a reinsurer.

3 Section 2. Section 324.031, Florida Statutes, is
4 amended to read:

5 324.031 Manner of proving financial
6 responsibility.--The owner or operator of a taxicab,
7 limousine, jitney, or any other for-hire passenger
8 transportation vehicle may prove financial responsibility by
9 providing satisfactory evidence of holding a motor vehicle
10 liability policy as defined in s. 324.021(8) or s. 324.151,
11 which policy is issued by an insurance carrier which is a
12 member of the Florida Insurance Guaranty Association. The
13 operator or owner of any other vehicle may prove his or her
14 financial responsibility by:

15 (1) Furnishing satisfactory evidence of holding a
16 motor vehicle liability policy as defined in ss. 324.021(8)
17 and 324.151;

18 (2) Posting with the department a satisfactory bond of
19 a surety company authorized to do business in this state,
20 conditioned for payment of the amount specified in s.
21 324.021(7);

22 (3) Furnishing a certificate of the department showing
23 a deposit of cash or securities in accordance with s. 324.161;
24 or

25 (4) Furnishing a certificate of self-insurance issued
26 by the department in accordance with s. 324.171.

27
28 Any person, including any firm, partnership, association,
29 corporation, or other person, other than a natural person,
30 electing to use the method of proof specified in subsection
31 (2) or subsection (3) shall post a bond or deposit equal to

1 the number of vehicles owned times \$30,000, to a maximum of
2 \$120,000; in addition, any such person, other than a natural
3 person, shall maintain insurance providing coverage in excess
4 of limits of \$10,000/20,000/10,000 or \$30,000 combined single
5 limits, and such excess insurance shall provide minimum limits
6 of ~~\$125,000/250,000/50,000~~\$50,000/100,000/50,000 or ~~\$300,000~~
7 ~~\$150,000~~ combined single limits. These increased limits shall
8 not affect the requirements for proving financial
9 responsibility under s. 324.032(1).

10 Section 3. Subsection (1) of section 324.032, Florida
11 Statutes, is amended to read:

12 324.032 Manner of proving financial responsibility;
13 for-hire passenger transportation vehicles.--

14 (1) Notwithstanding the provisions of s. 324.031, a
15 person who is either the owner or a lessee required to
16 maintain insurance under s. 324.021(9)(b) and who operates at
17 least 300 taxicabs, limousines, jitneys, or any other for-hire
18 passenger transportation vehicles may prove financial
19 responsibility by satisfying the following:

20 (a) Furnishing satisfactory evidence of holding a
21 motor vehicle liability policy as defined in s. 324.031; or

22 (b) Complying with the provisions of s. 324.171, such
23 compliance to be demonstrated by maintaining at its principal
24 place of business an audited financial statement, prepared in
25 accordance with generally accepted accounting principles, and
26 providing to the department a certification issued by a
27 certified public accountant that the applicant's net worth is
28 at least equal to the requirements of s. 324.171 as determined
29 by the Department of Insurance, including claims liabilities
30 in an amount certified as adequate by a Fellow of the Casualty
31 Actuarial Society.

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2 Upon request by the department, the applicant must provide the
3 department at the applicant's principal place of business in
4 this state access to the applicant's underlying financial
5 information and financial statements that provide the basis of
6 the certified public accountant's certification. The
7 applicant shall reimburse the requesting department for all
8 reasonable costs incurred by it in reviewing the supporting
9 information. The maximum amount of self-insurance permissible
10 under this subsection is \$300,000~~\$100,000~~ and must be stated
11 on a per-occurrence basis, and the applicant shall maintain
12 adequate excess insurance issued by an authorized or eligible
13 insurer licensed or approved by the Department of Insurance.
14 All risks self-insured shall remain with the owner or lessee
15 providing it, and the risks are not transferable to any other
16 person, unless a policy complying with paragraph (a) is
17 obtained.

18 Section 4. Subsection (2) of section 631.904, Florida
19 Statutes, is amended to read:

20 631.904 Definitions.--As used in this part, the term:

21 (2) "Covered claim" means an unpaid claim, including a
22 claim for return of unearned premiums, which arises out of, is
23 within the coverage of, and is not in excess of the applicable
24 limits of, an insurance policy to which this part applies,
25 which policy was issued by an insurer and which claim is made
26 on behalf of a claimant or insured who was a resident of this
27 state at the time of the injury. The term "covered claim" does
28 not include any amount sought as a return of premium under any
29 retrospective rating plan; any amount due any reinsurer,
30 insurer, insurance pool, or underwriting association, as
31 subrogation recoveries or otherwise; or any return of premium

1 resulting from a policy that was not in force on the date of
2 the final order of liquidation. Member insurers have no right
3 of subrogation against the insured of any insolvent insurer.
4 This provision shall be applied retroactively to cover claims
5 of an insolvent self-insurance fund resulting from accidents
6 or losses incurred prior to January 1, 1994, regardless of the
7 date the Department of Insurance filed a petition in circuit
8 court alleging insolvency and the date the court entered an
9 order appointing a receiver.

10 Section 5. Effective upon becoming a law and operating
11 retroactively to January 1, 2002, subsection (5) is added to
12 section 625.041, Florida Statutes, to read:

13 625.041 Liabilities, in general.--In any determination
14 of the financial condition of an insurer, liabilities to be
15 charged against its assets shall include:

16 (5) Any insurer in this state which writes workers'
17 compensation insurance shall accrue a liability on its
18 financial statements for all Special Disability Trust Fund
19 assessments that are due within the current calendar year. In
20 addition, such insurers shall also disclose in the notes to
21 the financial statements required to be filed pursuant to s.
22 624.424 an estimate of future Special Disability Trust Fund
23 assessments, if such assessments are likely to occur and can
24 be estimated with reasonable certainty.

25 Section 6. Section 626.926, Florida Statutes, is
26 amended to read:

27 626.926 Liability of insurer as to losses and unearned
28 premiums.--

29 (1) If an unauthorized insurer or a person authorized
30 by it has bound the risk as to a surplus lines coverage placed
31 under this Surplus Lines Law, and if the premium therefor has

1 been received by the surplus lines agent or originating agent
2 who placed such insurance, then in all questions thereafter
3 arising under the coverage as between the insurer and the
4 insured, the insurer shall be deemed to have received the
5 premium due to it for such coverage; and the insurer shall be
6 liable to the insured as to losses covered by such insurance,
7 and for unearned premiums which may become payable to the
8 insured upon cancellation of such insurance, whether or not in
9 fact the surplus lines agent is indebted to the insurer with
10 respect to such insurance or for any other cause. However, if
11 the premium is financed and the surplus lines insurer or the
12 surplus lines agent does not receive the premium, the surplus
13 lines insurer may cancel the policy pursuant to s. 626.9201.

14 (2) Each unauthorized insurer assuming a surplus lines
15 direct risk under this Surplus Lines Law shall be deemed
16 thereby to have subjected itself to the terms of this section.

17 Section 7. Subsection (15) of section 641.35, Florida
18 Statutes, is amended to read:

19 641.35 Assets, liabilities, and investments.--

20 (15) ~~SPECIAL CONSENT~~ INVESTMENT OF EXCESS FUNDS.--

21 (a) After satisfying the requirements of this part,
22 any funds of a health maintenance organization in excess of
23 its statutorily required reserves and surplus may be invested:

24 1. Without limitation in any investments otherwise
25 authorized by this part; or

26 2. In such other investments not specifically
27 authorized by this part provided such investments do not
28 exceed the lesser 5 percent of the health maintenance
29 organization's admitted assets or 25 percent of the amount by
30 which a health maintenance organization's surplus exceeds its
31 statutorily required minimum surplus. A health maintenance

1 organization may exceed the limitations of this subparagraph
2 only with the prior written approval of the department.

3 (b) Nothing in this subsection authorizes a health
4 maintenance organization to:

5 1. Invest any funds in excess of the amount by which
6 its actual surplus exceeds its statutorily required minimum
7 surplus; or

8 2. Make any investment prohibited by this code ~~Any~~
9 ~~investment of the health maintenance organization's funds not~~
10 ~~enumerated in this part requires the prior approval of the~~
11 ~~department.~~

12 Section 8. Section 624.4072, Florida Statutes, is
13 amended to read:

14 624.4072 Minority-owned property and casualty
15 insurers; limited exemption for taxation and assessments.--

16 (1) A minority business that is at least 51 percent
17 owned by minority persons, as defined in s. 288.703(3),
18 initially issued a certificate of authority in this state as
19 an authorized insurer after May 1, 1998, and before January 1,
20 2002, to write property and casualty insurance shall be
21 exempt, for a period not to exceed 10 5 years from the date of
22 receiving its certificate of authority, from the following
23 taxes and assessments:

24 (a) Taxes imposed under ss. 175.101, 185.08, and
25 624.509;

26 (b) Assessments by the Florida Residential Property
27 and Casualty Joint Underwriting Association or by the Florida
28 Windstorm Underwriting Association, as provided under s.
29 627.351, except for emergency assessments collected from
30 policyholders pursuant to s. 627.351(2)(b)2.d.(III) and
31 (6)(b)3.d. Any such insurer shall be a member insurer of the

1 Florida Windstorm Underwriting Association and the Florida
2 Residential Property and Casualty Joint Underwriting
3 Association. The premiums of such insurer shall be included in
4 determining, for the Florida Windstorm Underwriting
5 Association, the aggregate statewide direct written premium
6 for property insurance and in determining, for the Florida
7 Residential Property and Casualty Joint Underwriting
8 Association, the aggregate statewide direct written premium
9 for the subject lines of business for all member insurers.

10 (2) Subsection (1) applies only to personal lines and
11 commercial lines residential property insurance policies as
12 defined in s. 627.4025, and applies only to an insurer that
13 has employees in this state and has a home office or a
14 regional office in this state. With respect to any tax year
15 or assessment year, the exemptions provided by subsection (1)
16 apply only if during the year an average of at least 10
17 percent of the insurer's Florida residential property policies
18 in force covered properties located in enterprise zones
19 designated pursuant to s. 290.0065.

20 (3) The provision of the definition of "minority
21 person" in s. 288.703(3) that requires residency in Florida
22 shall not apply to the term "minority person" as used in this
23 section or s. 627.3511.

24 (4) This section is repealed effective December 31,
25 2010 ~~July 1, 2003~~, and the tax and assessment exemptions
26 authorized by this section shall terminate on such date.

27 Section 9. Effective July 1, 2002, and contingent upon
28 SB 1418 becoming a law, paragraph (k) of subsection (6) of
29 section 627.351, Florida Statutes, is amended and paragraph
30 (p) is added to that subsection, to read:

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1 (6) CITIZENS RESIDENTIAL PROPERTY INSURANCE
2 CORPORATION AND CASUALTY JOINT UNDERWRITING ASSOCIATION.--

3 (k) Upon a determination by the department board of
4 governors that the conditions giving rise to the establishment
5 and activation of the corporation association no longer exist,
6 and upon the consent thereto by order of the department, the
7 corporation association is dissolved. Upon dissolution, the
8 assets of the association shall be applied first to pay all
9 debts, liabilities, and obligations of the corporation
10 association, including the establishment of reasonable
11 reserves for any contingent liabilities or obligations, and
12 all remaining assets of the corporation association shall
13 become property of the state and deposited in the Florida
14 Hurricane Catastrophe Fund. However, no dissolution shall take
15 effect as long as the corporation has bonds or other financial
16 obligations outstanding unless adequate provision has been
17 made for the payment of the bonds or other financial
18 obligations pursuant to the documents authorizing the issuance
19 of the bonds or other financial obligations.

20 (p) In enacting the provisions of this section, the
21 Legislature recognizes that both the Florida Windstorm
22 Underwriting Association and the Residential Property and
23 Casualty Joint Underwriting Association have entered into
24 financing arrangements that obligate each entity to service
25 its debts and maintain the capacity to repay funds secured
26 under these financing arrangements. It is the intent of the
27 Legislature that nothing in this section be construed to
28 compromise, diminish, or interfere with the rights of
29 creditors under such financing arrangements. It is further the
30 intent of the Legislature to preserve the obligations of the
31 Florida Windstorm Underwriting Association and Residential

1 Property and Casualty Joint Underwriting Association with
2 regard to outstanding financing arrangements, with such
3 obligations passing entirely and unchanged to the corporation
4 and, specifically, to the applicable account of the
5 corporation. So long as any bonds, notes, indebtedness, or
6 other financing obligations of the Florida Windstorm
7 Underwriting Association or the Residential Property and
8 Casualty Joint Underwriting Association are outstanding, under
9 the terms of the financing documents pertaining to them, the
10 governing board of the corporation shall have and shall
11 exercise the authority to levy, charge, collect, and receive
12 all premiums, assessments, surcharges, charges, revenues and
13 receipts that the associations had authority to levy, charge,
14 collect, or receive under the provisions of subsection (2) and
15 subsection (6), respectively, as they existed on January 1,
16 2002, to provide moneys, without exercise of the authority
17 provided by this subsection, in at least the amounts, and by
18 the times, as would be provided under those former provisions
19 of subsection (2) or subsection (6), respectively, so that the
20 value, amount, and collectability of any assets, revenues, or
21 revenue source pledged or committed to, or any lien thereon
22 securing such outstanding bonds, notes, indebtedness, or other
23 financing obligations will not be diminished, impaired, or
24 adversely affected by the amendments made by this act and to
25 permit compliance with all provisions of financing documents
26 pertaining to such bonds, notes, indebtedness, or other
27 financing obligations, or the security or credit enhancement
28 for them, and any reference in this subsection to bonds,
29 notes, indebtedness, financing obligations, or similar
30 obligations, of the corporation shall include like instruments
31 or contracts of the Florida Windstorm Underwriting Association

1 and the Residential Property and Casualty Joint Underwriting
2 Association to the extent not inconsistent with the provisions
3 of the financing documents pertaining to them.

4 Section 10. The amendments to section 627.351, Florida
5 Statutes, in this act prevail over any conflicting amendments
6 to that section contained in SB 1418.

7 Section 11. Except as otherwise expressly provided in
8 this act, this act shall take effect July 1, 2002.

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