

Bill No. CS/HB 385, 1st Eng.

Amendment No. Barcode 822970

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Holzendorf moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 624.4072, Florida Statutes, is amended to read:

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

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

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

(b) Assessments by the Florida Residential Property

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1 and Casualty Joint Underwriting Association or by the Florida
2 Windstorm Underwriting Association, as provided under s.
3 627.351, except for emergency assessments collected from
4 policyholders pursuant to s. 627.351(2)(b)2.d.(III) and
5 (6)(b)3.d. Any such insurer shall be a member insurer of the
6 Florida Windstorm Underwriting Association and the Florida
7 Residential Property and Casualty Joint Underwriting
8 Association. The premiums of such insurer shall be included in
9 determining, for the Florida Windstorm Underwriting
10 Association, the aggregate statewide direct written premium
11 for property insurance and in determining, for the Florida
12 Residential Property and Casualty Joint Underwriting
13 Association, the aggregate statewide direct written premium
14 for the subject lines of business for all member insurers.

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

25 (3) The provision of the definition of "minority
26 person" in s. 288.703(3) that requires residency in Florida
27 shall not apply to the term "minority person" as used in this
28 section or s. 627.3511.

29 (4) This section is repealed effective December 31,
30 2010 ~~July 1, 2003~~, and the tax and assessment exemptions
31 authorized by this section shall terminate on such date.

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

3 215.555 Florida Hurricane Catastrophe Fund.--

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

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

19 Additionally, covered policies include policies covering the
20 peril of wind removed from the Florida Residential Property
21 and Casualty Joint Underwriting Association, created pursuant
22 to s. 627.351(6), or from the Florida Windstorm Underwriting
23 Association, created pursuant to s. 627.351(2), by an
24 authorized insurer under the terms and conditions of an
25 executed assumption agreement between the authorized insurer
26 and either such association. Each assumption agreement between
27 either association and such authorized insurer must be
28 approved by the Florida Department of Insurance prior to the
29 effective date of the assumption, and the Department of
30 Insurance must provide written notification to the board
31 within 15 working days after such approval. "Covered policy"

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1 does not include any policy that excludes wind coverage or
2 hurricane coverage or any reinsurance agreement and does not
3 include any policy otherwise meeting this definition which is
4 issued by a surplus lines insurer or a reinsurer.

5 Section 3. Section 324.031, Florida Statutes, is
6 amended to read:

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

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

20 (2) Posting with the department a satisfactory bond of
21 a surety company authorized to do business in this state,
22 conditioned for payment of the amount specified in s.
23 324.021(7);

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

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

29
30 Any person, including any firm, partnership, association,
31 corporation, or other person, other than a natural person,

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

12 Section 4. Subsection (1) of section 324.032, Florida
 13 Statutes, is amended to read:

14 324.032 Manner of proving financial responsibility;
 15 for-hire passenger transportation vehicles.--

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

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

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

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1 in an amount certified as adequate by a Fellow of the Casualty
2 Actuarial Society.

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

20 Section 5. Paragraph (a) of subsection (6) of section
21 627.410, Florida Statutes, is amended to read:

22 627.410 Filing, approval of forms.--
23 (6)(a) An insurer shall not deliver or issue for
24 delivery or renew in this state any health insurance policy
25 form until it has filed with the department a copy of every
26 applicable rating manual, rating schedule, change in rating
27 manual, and change in rating schedule; if rating manuals and
28 rating schedules are not applicable, the insurer must file
29 with the department applicable premium rates and any change in
30 applicable premium rates. This paragraph does not apply to
31 group health insurance policies, effectuated and delivered in

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1 this state, insuring groups of 51 or more persons, except for
2 Medicare supplement insurance, long-term care insurance, and
3 any coverage under which the increase in claim costs over the
4 lifetime of the contract due to advancing age or duration is
5 prefunded in the premium.

6 Section 6. Effective retroactively to January 1, 2002,
7 subsection (5) is added to section 625.041, Florida Statutes,
8 to read:

9 625.041 Liabilities, in general.--In any determination
10 of the financial condition of an insurer, liabilities to be
11 charged against its assets shall include:

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

21 Section 7. Section 627.7283, Florida Statutes, is
22 amended to read:

23 627.7283 Cancellation; return of premium.--

24 (1) If the insured ~~or insurer~~ cancels a policy of
25 motor vehicle insurance, the insurer must mail ~~return~~ the
26 unearned portion of any premium paid within 30 days after the
27 effective date of the policy cancellation or receipt of notice
28 or request for cancellation, whichever is later. This
29 requirement applies to a cancellation initiated by an insured
30 for any reason. ~~issuance or receipt by the insurer of notice~~
31 ~~of cancellation. If the unearned premium is not returned~~

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1 ~~within the 30-day period, the insurer must pay 8 percent~~
2 ~~interest on the amount due. If the unearned premium is not~~
3 ~~returned within 45 days after receipt of the notice, the~~
4 ~~insured may bring an action against the insurer pursuant to s.~~
5 ~~624.155.~~

6 (2) If an insurer cancels a policy of motor vehicle
7 insurance, the insurer must mail the unearned premium portion
8 of any premium within 15 days after the effective date of the
9 policy cancellation.

10 (3) If the unearned premium is not mailed within the
11 applicable period, the insurer must pay to the insured 8
12 percent interest on the amount due. If the unearned premium is
13 not mailed within 45 days after the applicable period, the
14 insured may bring an action against the insurer pursuant to s.
15 624.155.

16 (4)(2) If the insured cancels, the insurer may retain
17 up to 10 percent of the unearned premium and must refund at
18 least 90 percent of the unearned premium. If the insurer
19 cancels, the insurer must refund 100 percent of the unearned
20 premium. Cancellation is without prejudice to any claim
21 originating prior to the effective date of the cancellation.
22 For purposes of this section, unearned premiums must be
23 computed on a pro rata basis.

24 Section 8. Section 627.9408, Florida Statutes, is
25 amended to read:

26 627.9408 Rules.--

27 (1) The department may has authority to adopt rules
28 pursuant to ss. 120.536(1) and 120.54 to administer implement
29 the provisions of this part.

30 (2) The department may adopt by rule the provisions of
31 the Long-Term Care Insurance Model Regulation adopted by the

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1 National Association of Insurance Commissioners in the second
2 quarter of the year 2000 which are not in conflict with the
3 Florida Insurance Code.

4 Section 9. Subsection (15) of section 641.35, Florida
5 Statutes, is amended to read:

6 641.35 Assets, liabilities, and investments.--

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

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

11 1. Without limitation in any investments otherwise
12 authorized by this part; or

13 2. In such other investments not specifically
14 authorized by this part provided such investments do not
15 exceed the lesser 5 percent of the health maintenance
16 organization's admitted assets or 25 percent of the amount by
17 which a health maintenance organization's surplus exceeds its
18 statutorily required minimum surplus. A health maintenance
19 organization may exceed the limitations of this subparagraph
20 only with the prior written approval of the department.

21 (b) Nothing in this section authorizes a health
22 maintenance organization to:

23 1. Invest any funds in excess of the amount by which
24 its actual surplus exceeds its statutorily required minimum
25 surplus; or

26 2. Make any investment prohibited by this code ~~Any~~
27 investment of the health maintenance organization's funds not
28 enumerated in this part requires the prior approval of the
29 department.

30 Section 10. Subsection (2) of section 631.904, Florida
31 Statutes, is amended to read:

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1 631.904 Definitions.--As used in this part, the term:
2 (2) "Covered claim" means an unpaid claim, including a
3 claim for return of unearned premiums, which arises out of, is
4 within the coverage of, and is not in excess of the applicable
5 limits of, an insurance policy to which this part applies,
6 which policy was issued by an insurer and which claim is made
7 on behalf of a claimant or insured who was a resident of this
8 state at the time of the injury. The term "covered claim" does
9 not include any amount sought as a return of premium under any
10 retrospective rating plan; any amount due any reinsurer,
11 insurer, insurance pool, or underwriting association, as
12 subrogation recoveries or otherwise; or any return of premium
13 resulting from a policy that was not in force on the date of
14 the final order of liquidation. Member insurers have no right
15 of subrogation against the insured of any insolvent insurer.
16 This provision shall be applied retroactively to cover claims
17 of an insolvent self-insurance fund resulting from accidents
18 or losses incurred prior to January 1, 1994, regardless of the
19 date the Department of Insurance filed a petition in circuit
20 court alleging insolvency and the date the court entered an
21 order appointing a receiver.

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

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

27 And the title is amended as follows:

28 Delete everything before the enacting clause

29
30 and insert:

31 A bill to be entitled

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1 An act relating to insurance; amending s.
2 624.4072, F.S.; extending the term of the
3 exemption from taxes and assessments on
4 minority-owned property and casualty insurers;
5 postponing the scheduled repeal of the law;
6 amending s. 215.555, F.S.; redefining the term
7 "covered policy"; amending ss. 324.031,
8 324.032, F.S.; revising the required amounts of
9 of insurance required for certain for-hire
10 passenger transportation vehicles; amending s.
11 627.410, F.S.; exempting group health insurance
12 policies insuring groups of a certain size from
13 rate-filing requirements; amending s. 625.041,
14 F.S.; revising the liabilities that a workers'
15 compensation insurer must include on its
16 financial statements; amending s. 627.7283,
17 F.S.; revising criteria and procedures for
18 cancellation of a motor vehicle insurance
19 policy; providing for return of unearned
20 premium under certain circumstances; providing
21 for interest under certain circumstances;
22 providing for civil action under certain
23 circumstances; amending s. 627.9408, F.S.;
24 authorizing the department to adopt by rule
25 certain provisions of the Long-Term Care
26 Insurance Model Regulation, as adopted by the
27 National Association of Insurance
28 Commissioners; amending s. 641.35, F.S.;
29 providing for the investment of funds of a
30 health maintenance organization in excess of
31 certain reserves and surplus under certain

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circumstances; amending s. 631.904, F.S.;
redefining the term "covered claim"; providing
retroactivity; providing effective dates.