

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

1 certain reserves and surplus under certain
2 circumstances; amending s. 631.904, F.S.;
3 redefining the term "covered claim"; providing
4 retroactivity; amending s. 627.351, F.S.;
5 revising provisions governing financing
6 arrangements and dissolutions; providing
7 legislative intent; providing effective dates.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Section 624.4072, Florida Statutes, is
12 amended to read:

13 624.4072 Minority-owned property and casualty
14 insurers; limited exemption for taxation and assessments.--

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

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

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

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

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

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

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

26 Section 2. Paragraph (c) of subsection (2) of section
27 215.555, Florida Statutes, is amended to read:

28 215.555 Florida Hurricane Catastrophe Fund.--

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

30 (c) "Covered policy" means any insurance policy
31 covering residential property in this state, including, but

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

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

30 Section 3. Section 324.031, Florida Statutes, is
31 amended to read:

1 324.031 Manner of proving financial
2 responsibility.--The owner or operator of a taxicab,
3 limousine, jitney, or any other for-hire passenger
4 transportation vehicle may prove financial responsibility by
5 providing satisfactory evidence of holding a motor vehicle
6 liability policy as defined in s. 324.021(8) or s. 324.151,
7 which policy is issued by an insurance carrier which is a
8 member of the Florida Insurance Guaranty Association. The
9 operator or owner of any other vehicle may prove his or her
10 financial responsibility by:

11 (1) Furnishing satisfactory evidence of holding a
12 motor vehicle liability policy as defined in ss. 324.021(8)
13 and 324.151;

14 (2) Posting with the department a satisfactory bond of
15 a surety company authorized to do business in this state,
16 conditioned for payment of the amount specified in s.
17 324.021(7);

18 (3) Furnishing a certificate of the department showing
19 a deposit of cash or securities in accordance with s. 324.161;
20 or

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

23
24 Any person, including any firm, partnership, association,
25 corporation, or other person, other than a natural person,
26 electing to use the method of proof specified in subsection
27 (2) or subsection (3) shall post a bond or deposit equal to
28 the number of vehicles owned times \$30,000, to a maximum of
29 \$120,000; in addition, any such person, other than a natural
30 person, shall maintain insurance providing coverage in excess
31 of limits of \$10,000/20,000/10,000 or \$30,000 combined single

1 limits, and such excess insurance shall provide minimum limits
2 of \$125,000/250,000/50,000~~\$50,000/100,000/50,000~~ or \$300,000
3 ~~\$150,000~~ combined single limits. These increased limits shall
4 not affect the requirements for proving financial
5 responsibility under s. 324.032(1).

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

8 324.032 Manner of proving financial responsibility;
9 for-hire passenger transportation vehicles.--

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

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

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

28
29 Upon request by the department, the applicant must provide the
30 department at the applicant's principal place of business in
31 this state access to the applicant's underlying financial

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

14 Section 5. Paragraph (a) of subsection (6) of section
15 627.410, Florida Statutes, is amended to read:

16 627.410 Filing, approval of forms.--

17 (6)(a) An insurer shall not deliver or issue for
18 delivery or renew in this state any health insurance policy
19 form until it has filed with the department a copy of every
20 applicable rating manual, rating schedule, change in rating
21 manual, and change in rating schedule; if rating manuals and
22 rating schedules are not applicable, the insurer must file
23 with the department applicable premium rates and any change in
24 applicable premium rates. This paragraph does not apply to
25 group health insurance policies, effectuated and delivered in
26 this state, insuring groups of 51 or more persons, except for
27 Medicare supplement insurance, long-term care insurance, and
28 any coverage under which the increase in claim costs over the
29 lifetime of the contract due to advancing age or duration is
30 prefunded in the premium.

31

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

4 625.041 Liabilities, in general.--In any determination
5 of the financial condition of an insurer, liabilities to be
6 charged against its assets shall include:

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

16 Section 7. Section 627.7283, Florida Statutes, is
17 amended to read:

18 627.7283 Cancellation; return of premium.--

19 (1) If the insured ~~or insurer~~ cancels a policy of
20 motor vehicle insurance, the insurer must mail ~~return~~ the
21 unearned portion of any premium paid within 30 days after the
22 effective date of the policy cancellation or receipt of notice
23 or request for cancellation, whichever is later. This
24 requirement applies to a cancellation initiated by an insured
25 for any reason.~~issuance or receipt by the insurer of notice~~
26 ~~of cancellation. If the unearned premium is not returned~~
27 ~~within the 30-day period, the insurer must pay 8 percent~~
28 ~~interest on the amount due. If the unearned premium is not~~
29 ~~returned within 45 days after receipt of the notice, the~~
30 ~~insured may bring an action against the insurer pursuant to s.~~
31 ~~624.155.~~

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

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

11 (4)~~(2)~~ If the insured cancels, the insurer may retain
12 up to 10 percent of the unearned premium and must refund at
13 least 90 percent of the unearned premium. If the insurer
14 cancels, the insurer must refund 100 percent of the unearned
15 premium. Cancellation is without prejudice to any claim
16 originating prior to the effective date of the cancellation.
17 For purposes of this section, unearned premiums must be
18 computed on a pro rata basis.

19 Section 8. Section 627.9408, Florida Statutes, is
20 amended to read:

21 627.9408 Rules.--

22 (1) The department may ~~has authority to~~ adopt rules
23 pursuant to ss. 120.536(1) and 120.54 to administer ~~implement~~
24 ~~the provisions of~~ this part.

25 (2) The department may adopt by rule the provisions of
26 the Long-Term Care Insurance Model Regulation adopted by the
27 National Association of Insurance Commissioners in the second
28 quarter of the year 2000 which are not in conflict with the
29 Florida Insurance Code.

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

1 641.35 Assets, liabilities, and investments.--
2 (15) ~~SPECIAL CONSENT INVESTMENT OF EXCESS FUNDS~~--
3 (a) After satisfying the requirements of this part,
4 any funds of a health maintenance organization in excess of
5 its statutorily required reserves and surplus may be invested:
6 1. Without limitation in any investments otherwise
7 authorized by this part; or
8 2. In such other investments not specifically
9 authorized by this part provided such investments do not
10 exceed the lesser 5 percent of the health maintenance
11 organization's admitted assets or 25 percent of the amount by
12 which a health maintenance organization's surplus exceeds its
13 statutorily required minimum surplus. A health maintenance
14 organization may exceed the limitations of this subparagraph
15 only with the prior written approval of the department.
16 (b) Nothing in this section authorizes a health
17 maintenance organization to:
18 1. Invest any funds in excess of the amount by which
19 its actual surplus exceeds its statutorily required minimum
20 surplus; or
21 2. Make any investment prohibited by this code ~~Any~~
22 ~~investment of the health maintenance organization's funds not~~
23 ~~enumerated in this part requires the prior approval of the~~
24 ~~department.~~
25 Section 10. Subsection (2) of section 631.904, Florida
26 Statutes, is amended to read:
27 631.904 Definitions.--As used in this part, the term:
28 (2) "Covered claim" means an unpaid claim, including a
29 claim for return of unearned premiums, which arises out of, is
30 within the coverage of, and is not in excess of the applicable
31 limits of, an insurance policy to which this part applies,

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

17 Section 11. Effective July 1, 2002, and contingent
 18 upon SB 1418 becoming a law, paragraph (k) of subsection (6)
 19 of section 627.351, Florida Statutes, is amended and paragraph
 20 (p) is added to that subsection, to read:

21 (6) CITIZENS RESIDENTIAL PROPERTY INSURANCE
 22 CORPORATION AND CASUALTY JOINT UNDERWRITING ASSOCIATION.--

23 (k) Upon a determination by the department board of
 24 ~~governors~~ that the conditions giving rise to the establishment
 25 and activation of the corporation association no longer exist,
 26 ~~and upon the consent thereto by order of the department,~~ the
 27 corporation association is dissolved. Upon dissolution, the
 28 assets of the association shall be applied first to pay all
 29 debts, liabilities, and obligations of the corporation
 30 ~~association~~, including the establishment of reasonable
 31 reserves for any contingent liabilities or obligations, and

1 all remaining assets of the corporation ~~association~~ shall
2 become property of the state and deposited in the Florida
3 Hurricane Catastrophe Fund. However, no dissolution shall take
4 effect as long as the corporation has bonds or other financial
5 obligations outstanding unless adequate provision has been
6 made for the payment of the bonds or other financial
7 obligations pursuant to the documents authorizing the issuance
8 of the bonds or other financial obligations.

9 (p) In enacting the provisions of this section, the
10 Legislature recognizes that both the Florida Windstorm
11 Underwriting Association and the Residential Property and
12 Casualty Joint Underwriting Association have entered into
13 financing arrangements that obligate each entity to service
14 its debts and maintain the capacity to repay funds secured
15 under these financing arrangements. It is the intent of the
16 Legislature that nothing in this section be construed to
17 compromise, diminish, or interfere with the rights of
18 creditors under such financing arrangements. It is further the
19 intent of the Legislature to preserve the obligations of the
20 Florida Windstorm Underwriting Association and Residential
21 Property and Casualty Joint Underwriting Association with
22 regard to outstanding financing arrangements, with such
23 obligations passing entirely and unchanged to the corporation
24 and, specifically, to the applicable account of the
25 corporation. So long as any bonds, notes, indebtedness, or
26 other financing obligations of the Florida Windstorm
27 Underwriting Association or the Residential Property and
28 Casualty Joint Underwriting Association are outstanding, under
29 the terms of the financing documents pertaining to them, the
30 governing board of the corporation shall have and shall
31 exercise the authority to levy, charge, collect, and receive

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

24 Section 12. The amendments to section 627.351, Florida
25 Statutes, in this act prevail over any conflicting amendments
26 to that section contained in SB 1418.

27 Section 13. Except as otherwise expressly provided in
28 this act, this act shall take effect July 1, 2002.

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