

By the Committee on Banking and Insurance

311-245A-03

1 A bill to be entitled
2 An act relating to public records and meetings;
3 reenacting and amending s. 627.311, F.S.,
4 relating to exemptions from public-records
5 requirements and public-meetings requirements
6 for the Florida Automobile Joint Underwriting
7 Association; designating the Florida Automobile
8 Joint Underwriting Association as the joint
9 underwriting plan for apportioning automobile
10 liability among insurers; providing for a board
11 of governors; conforming provisions to the
12 reorganization of agencies that regulate
13 insurers; removing the public-records exemption
14 for matters encompassed in privileged
15 attorney-client communications; clarifying
16 provisions requiring the confidentiality of
17 certain claims files and records of closed
18 meetings; removing the repeal of s.
19 627.311(3)(1), F.S., scheduled under the Open
20 Government Sunset Review Act of 1995; amending
21 ss. 440.51 and 631.912, F.S., relating to the
22 administration of ch. 440, F.S., and the board
23 of directors of the Florida Workers'
24 Compensation Insurance Guaranty Association,
25 Incorporated; conforming provisions to changes
26 made by the act; providing an effective date.

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

29
30 Section 1. Notwithstanding the repeal of paragraph (1)
31 of subsection (3) of section 627.311, Florida Statutes,

1 scheduled on October 2, 2003, under the Open Government Sunset
2 Review Act of 1995, section 627.311, Florida Statutes, is
3 reenacted and amended to read:

4 627.311 Joint underwriters and joint reinsurers;
5 public records and public meetings exemptions.--

6 (1) Every group, association, or other organization of
7 insurers which engages in joint underwritings or joint
8 reinsurance shall be subject to regulation with respect
9 thereto as ~~herein~~ provided in this section, subject, however,
10 with respect to joint underwriting, to all other provisions of
11 this chapter and, with respect to joint reinsurance, to ss.
12 624.15 and 624.3161.

13 (2) If the department finds that any activity or
14 practice of any such group, association, or other organization
15 is unfair or unreasonable or otherwise inconsistent with the
16 provisions of this chapter, it may issue a written order
17 specifying in what respects such activity or practice is
18 unfair or unreasonable or otherwise inconsistent with the
19 provisions of this chapter, and requiring the discontinuance
20 of such activity or practice.

21 (3) The office ~~department~~ may, after consultation with
22 insurers licensed to write automobile insurance in this state,
23 approve a joint underwriting plan for purposes of equitable
24 apportionment or sharing among insurers of automobile
25 liability insurance and other motor vehicle insurance, as an
26 alternate to the plan required in s. 627.351(1). All insurers
27 authorized to write automobile insurance in this state shall
28 subscribe to the plan and participate therein. The plan shall
29 be subject to continuous review by the office, ~~department~~
30 which may at any time disapprove the entire plan or any part
31 thereof if it determines that conditions have changed since

1 prior approval and that in view of the purposes of the plan
2 changes are warranted. Any disapproval by the office
3 ~~department~~ shall be subject to the provisions of chapter 120.

4 The Florida Automobile Joint Underwriting Association is
5 created under the plan.~~If adopted,~~The plan and the
6 association ~~created under the plan:~~

7 (a) Must be subject to all provisions of s.
8 627.351(1), except apportionment of applicants.

9 (b) May provide for one or more designated insurers,
10 able and willing to provide policy and claims service, to act
11 on behalf of all other insurers to provide insurance for
12 applicants who are in good faith entitled to, but unable to,
13 procure insurance through the voluntary insurance market at
14 standard rates.

15 (c) Must provide that designated insurers will issue
16 policies of insurance and provide policyholder and claims
17 service on behalf of all insurers for the joint underwriting
18 association.

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

21 (e) Must provide that the joint underwriting
22 association will operate subject to the supervision and
23 approval of a board of governors consisting of 11 individuals,
24 including 1 who will be elected as chair. Five members of the
25 board must be appointed by the Chief Financial Officer
26 ~~Insurance Commissioner~~. Two of the Chief Financial Officer's
27 ~~commissioner's~~ appointees must be chosen from the insurance
28 industry. Any board member appointed by the Chief Financial
29 Officer ~~Insurance Commissioner~~ may be removed and replaced by
30 her or him at any time without cause. Six members of the board
31 must be appointed by the participating insurers, two of whom

1 must be from the insurance agents' associations. All board
2 members, including the chair, must be appointed to serve for
3 2-year terms beginning annually on a date designated by the
4 plan.

5 (f) Must provide that an agent appointed to a
6 servicing carrier must be a licensed general lines agent of an
7 insurer that ~~which~~ is authorized to write automobile liability
8 and physical damage insurance in the state and that ~~which~~ is
9 actively writing such coverage in the county in which the
10 agent is located, or the immediately adjoining counties, or an
11 agent who places a volume of other property and casualty
12 insurance in an amount equal to the premium volume placed with
13 the Florida Joint Underwriting Association. The office
14 ~~department~~ may, however, determine that an agent may be
15 appointed to a servicing carrier if, after public hearing, the
16 office ~~department~~ finds that consumers in the agent's
17 operating area would not have adequate and reasonable access
18 to the purchase of automobile insurance if the agent were not
19 appointed to a servicing carrier.

20 (g) Must make available noncancelable coverage as
21 provided in s. 627.7275(2).

22 (h) Must provide for the furnishing of a list of
23 insureds and their mailing addresses upon the request of a
24 member of the association or an insurance agent licensed to
25 place business with an association member. The list must
26 indicate whether the insured is currently receiving a good
27 driver discount from the association. The plan may charge a
28 reasonable fee to cover the cost incurred in providing the
29 list.

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

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

7 (k) Shall have no liability, and no cause of action of
8 any nature shall arise against, any member insurer or its
9 agents or employees, agents or employees of the association,
10 members of the board of governors of the association, or the
11 office department or its representatives, for any action taken
12 by them in the performance of their duties or responsibilities
13 under this subsection. Such immunity does not apply to
14 actions for or arising out of breach of any contract or
15 agreement pertaining to insurance, or any willful tort.

16 (4) The Florida Automobile Joint Underwriting
17 Association shall keep:

18 ~~(a)(1)1. Shall be subject to the public records~~
19 ~~requirements of chapter 119 and the public meeting~~
20 ~~requirements of s. 286.011. However, The following records of~~
21 ~~the Florida Automobile Joint Underwriting Association are~~
22 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
23 of the State Constitution:

24 ~~1.a.~~ Underwriting files, except that a policyholder or
25 an applicant shall have access to his or her own underwriting
26 files.

27 ~~2.b.~~ Claims files, until termination of all litigation
28 and settlement of all claims arising out of the same incident,
29 ~~although portions of the claims files may remain exempt, as~~
30 ~~otherwise provided by law.~~ Confidential and exempt claims
31 files ~~file records~~ may be released to other governmental

1 agencies in the furtherance of their duties and
2 responsibilities. The receiving agency must maintain the
3 confidential and exempt status of the claim file ~~upon written~~
4 ~~request and demonstration of need;~~ such records held by the
5 receiving agency remain confidential and exempt as provided by
6 this paragraph.

7 ~~3.c.~~ Records obtained or generated by an internal
8 auditor pursuant to a routine audit, until the audit is
9 completed or, if the audit is conducted as part of an
10 investigation, until the investigation is closed or ceases to
11 be active. An investigation is considered "active" while the
12 investigation is being conducted with a reasonable, good faith
13 belief that it could lead to the filing of administrative,
14 civil, or criminal proceedings.

15 ~~d. Matters reasonably encompassed in privileged~~
16 ~~attorney-client communications.~~

17 ~~4.e.~~ Proprietary information licensed to the
18 association under contract when the contract provides for the
19 confidentiality of such ~~proprietary~~ information.

20 ~~5.f.~~ All information relating to the medical condition
21 or medical status of an association employee which is not
22 relevant to that ~~the~~ employee's capacity to perform his or her
23 duties, except as otherwise provided in this paragraph.
24 Information that ~~which~~ is confidential and exempt includes
25 ~~shall include~~, but is not limited to, information relating to
26 workers' compensation, insurance benefits, and retirement or
27 disability benefits.

28 ~~6.g.~~ All records relative to an employee's
29 participation in an employee assistance program designed to
30 assist any employee who has a behavioral or medical disorder,
31 substance abuse problem, or emotional difficulty that ~~which~~

1 affects the employee's job performance, except as otherwise
2 provided in s. 112.0455(11).

3 ~~7.h.~~ Information relating to negotiations for
4 financing, reinsurance, depopulation, or contractual services,
5 until the conclusion of the negotiations.

6 ~~8.i.~~ Minutes of closed meetings regarding confidential
7 and exempt underwriting files or confidential and exempt, and
8 ~~minutes of closed meetings regarding an open claims files,~~
9 ~~file~~ until termination of all litigation and settlement of all
10 claims with regard to that claim, except that information
11 otherwise made confidential or exempt by law must be redacted.

12
13 When an authorized insurer is considering underwriting a risk
14 insured by the association, relevant confidential and exempt
15 underwriting files and confidential and exempt claims files
16 may be released to the insurer if provided the insurer agrees
17 in writing, notarized and under oath, to maintain the
18 confidential and exempt status confidentiality of such files.

19 When a file is transferred to an insurer, that file is no
20 longer a public record because it is not held by an agency
21 subject to the provisions of the public records law. The
22 association may make the following information obtained from
23 confidential and exempt underwriting files and confidential
24 and exempt claims files available to licensed general lines
25 insurance agents: name, address, and telephone number of the
26 automobile owner or insured; location of the risk; rating
27 information; loss history; and policy type. The receiving
28 licensed general lines insurance agent must maintain ~~retain~~
29 the confidential and exempt status confidentiality of the
30 information received.

31

1 **(b)2.** Portions of association meetings ~~of the Florida~~
2 ~~Automobile Joint Underwriting Association~~ during which
3 confidential and exempt underwriting files or confidential and
4 exempt open claims files are discussed are exempt from the
5 provisions of s. 286.011 and s. 24(b), Art. I of the State
6 Constitution. All closed portions of association meetings
7 ~~which are closed to the public~~ shall be recorded by a court
8 reporter. The court reporter shall record the times of
9 commencement and termination of the meeting, all discussion
10 and proceedings, the names of all persons present at any time,
11 and the names of all persons speaking. No portion of any
12 closed meeting shall be off the record. Subject to the
13 provisions of this paragraph and s. 119.07(2)(a), the court
14 reporter's notes of any closed meeting shall be retained by
15 the association for a minimum of 5 years. A copy of the
16 transcript, less any confidential and exempt information
17 matters, of any closed meeting during which confidential and
18 exempt claims files are discussed shall become public as to an
19 individual claim file ~~claims~~ after settlement of that ~~the~~
20 claim.

21
22 ~~This paragraph is subject to the Open Government Sunset Review~~
23 ~~Act of 1995 in accordance with s. 119.15, and shall stand~~
24 ~~repealed on October 2, 2003, unless reviewed and saved from~~
25 ~~repeal through reenactment by the Legislature.~~

26 **(5)(4)(a)** Effective upon this act becoming a law, the
27 department shall, after consultation with insurers, approve a
28 joint underwriting plan of insurers which shall operate as a
29 nonprofit entity. For the purposes of this subsection, the
30 term "insurer" includes group self-insurance funds authorized
31 by s. 624.4621, commercial self-insurance funds authorized by

1 s. 624.462, assessable mutual insurers authorized under s.
2 628.6011, and insurers licensed to write workers' compensation
3 and employer's liability insurance in this state. The purpose
4 of the plan is to provide workers' compensation and employer's
5 liability insurance to applicants who are required by law to
6 maintain workers' compensation and employer's liability
7 insurance and who are in good faith entitled to but who are
8 unable to purchase such insurance through the voluntary
9 market. The joint underwriting plan shall issue policies
10 beginning January 1, 1994. The plan must have actuarially
11 sound rates that assure that the plan is self-supporting.

12 (b) The operation of the plan is subject to the
13 supervision of a 13-member board of governors. The board of
14 governors shall be comprised of:

15 1. Five of the 20 domestic insurers, as defined in s.
16 624.06(1), having the largest voluntary direct premiums
17 written in this state for workers' compensation and employer's
18 liability insurance, which shall be elected by those 20
19 domestic insurers;

20 2. Five of the 20 foreign insurers as defined in s.
21 624.06(2) having the largest voluntary direct premiums written
22 in this state for workers' compensation and employer's
23 liability insurance, which shall be elected by those 20
24 foreign insurers;

25 3. One person, who shall serve as the chair, appointed
26 by the Insurance Commissioner;

27 4. One person appointed by the largest property and
28 casualty insurance agents' association in this state; and

29 5. The consumer advocate appointed under s. 627.0613
30 or the consumer advocate's designee.

31

1 Each board member shall serve a 4-year term and may serve
2 consecutive terms. No board member shall be an insurer which
3 provides service to the plan or which has an affiliate which
4 provides services to the plan or which is serviced by a
5 service company or third-party administrator which provides
6 services to the plan or which has an affiliate which provides
7 services to the plan. The minutes, audits, and procedures of
8 the board of governors are subject to chapter 119.

9 (c) The operation of the plan shall be governed by a
10 plan of operation that is prepared at the direction of the
11 board of governors. The plan of operation may be changed at
12 any time by the board of governors or upon request of the
13 department. The plan of operation and all changes thereto are
14 subject to the approval of the department. The plan of
15 operation shall:

16 1. Authorize the board to engage in the activities
17 necessary to implement this subsection, including, but not
18 limited to, borrowing money.

19 2. Develop criteria for eligibility for coverage by
20 the plan, including, but not limited to, documented rejection
21 by at least two insurers which reasonably assures that
22 insureds covered under the plan are unable to acquire coverage
23 in the voluntary market. Any insured may voluntarily elect to
24 accept coverage from an insurer for a premium equal to or
25 greater than the plan premium if the insurer writing the
26 coverage adheres to the provisions of s. 627.171.

27 3. Require notice from the agent to the insured at the
28 time of the application for coverage that the application is
29 for coverage with the plan and that coverage may be available
30 through an insurer, group self-insurers' fund, commercial
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1 self-insurance fund, or assessable mutual insurer through
2 another agent at a lower cost.

3 4. Establish programs to encourage insurers to provide
4 coverage to applicants of the plan in the voluntary market and
5 to insureds of the plan, including, but not limited to:

6 a. Establishing procedures for an insurer to use in
7 notifying the plan of the insurer's desire to provide coverage
8 to applicants to the plan or existing insureds of the plan and
9 in describing the types of risks in which the insurer is
10 interested. The description of the desired risks must be on a
11 form developed by the plan.

12 b. Developing forms and procedures that provide an
13 insurer with the information necessary to determine whether
14 the insurer wants to write particular applicants to the plan
15 or insureds of the plan.

16 c. Developing procedures for notice to the plan and
17 the applicant to the plan or insured of the plan that an
18 insurer will insure the applicant or the insured of the plan,
19 and notice of the cost of the coverage offered; and developing
20 procedures for the selection of an insuring entity by the
21 applicant or insured of the plan.

22 d. Provide for a market-assistance plan to assist in
23 the placement of employers. All applications for coverage in
24 the plan received 45 days before the effective date for
25 coverage shall be processed through the market-assistance
26 plan. A market-assistance plan specifically designed to serve
27 the needs of small good policyholders as defined by the board
28 must be finalized by January 1, 1994.

29 5. Provide for policy and claims services to the
30 insureds of the plan of the nature and quality provided for
31 insureds in the voluntary market.

1 6. Provide for the review of applications for coverage
2 with the plan for reasonableness and accuracy, using any
3 available historic information regarding the insured.

4 7. Provide for procedures for auditing insureds of the
5 plan which are based on reasonable business judgment and are
6 designed to maximize the likelihood that the plan will collect
7 the appropriate premiums.

8 8. Authorize the plan to terminate the coverage of and
9 refuse future coverage for any insured that submits a
10 fraudulent application to the plan or provides fraudulent or
11 grossly erroneous records to the plan or to any service
12 provider of the plan in conjunction with the activities of the
13 plan.

14 9. Establish service standards for agents who submit
15 business to the plan.

16 10. Establish criteria and procedures to prohibit any
17 agent who does not adhere to the established service standards
18 from placing business with the plan or receiving, directly or
19 indirectly, any commissions for business placed with the plan.

20 11. Provide for the establishment of reasonable safety
21 programs for all insureds in the plan.

22 12. Authorize the plan to terminate the coverage of
23 and refuse future coverage to any insured who fails to pay
24 premiums or surcharges when due; who, at the time of
25 application, is delinquent in payments of workers'
26 compensation or employer's liability insurance premiums or
27 surcharges owed to an insurer, group self-insurers' fund,
28 commercial self-insurance fund, or assessable mutual insurer
29 licensed to write such coverage in this state; or who refuses
30 to substantially comply with any safety programs recommended
31 by the plan.

1 13. Authorize the board of governors to provide the
2 services required by the plan through staff employed by the
3 plan, through reasonably compensated service providers who
4 contract with the plan to provide services as specified by the
5 board of governors, or through a combination of employees and
6 service providers.

7 14. Provide for service standards for service
8 providers, methods of determining adherence to those service
9 standards, incentives and disincentives for service, and
10 procedures for terminating contracts for service providers
11 that fail to adhere to service standards.

12 15. Provide procedures for selecting service providers
13 and standards for qualification as a service provider that
14 reasonably assure that any service provider selected will
15 continue to operate as an ongoing concern and is capable of
16 providing the specified services in the manner required.

17 16. Provide for reasonable accounting and
18 data-reporting practices.

19 17. Provide for annual review of costs associated with
20 the administration and servicing of the policies issued by the
21 plan to determine alternatives by which costs can be reduced.

22 18. Authorize the acquisition of such excess insurance
23 or reinsurance as is consistent with the purposes of the plan.

24 19. Provide for an annual report to the department on
25 a date specified by the department and containing such
26 information as the department reasonably requires.

27 20. Establish multiple rating plans for various
28 classifications of risk which reflect risk of loss, hazard
29 grade, actual losses, size of premium, and compliance with
30 loss control. At least one of such plans must be a
31 preferred-rating plan to accommodate small-premium

1 | policyholders with good experience as defined in
2 | sub-subparagraph 22.a.
3 | 21. Establish agent commission schedules.
4 | 22. Establish three subplans as follows:
5 | a. Subplan "A" must include those insureds whose
6 | annual premium does not exceed \$2,500 and who have neither
7 | incurred any lost-time claims nor incurred medical-only claims
8 | exceeding 50 percent of their premium for the immediate 2
9 | years.
10 | b. Subplan "B" must include insureds that are
11 | employers identified by the board of governors as high-risk
12 | employers due solely to the nature of the operations being
13 | performed by those insureds and for whom no market exists in
14 | the voluntary market, and whose experience modifications are
15 | less than 1.00.
16 | c. Subplan "C" must include all other insureds within
17 | the plan.
18 | (d) The plan must be funded through actuarially sound
19 | premiums charged to insureds of the plan. The plan may issue
20 | assessable policies only to those insureds in subplan "C."
21 | Those assessable policies must be clearly identified as
22 | assessable by containing, in contrasting color and in not less
23 | than 10-point type, the following statements: "This is an
24 | assessable policy. If the plan is unable to pay its
25 | obligations, policyholders will be required to contribute on a
26 | pro rata earned premium basis the money necessary to meet any
27 | assessment levied." The plan may issue assessable policies
28 | with differing terms and conditions to different groups within
29 | the plan when a reasonable basis exists for the
30 | differentiation. The plan may offer rating, dividend plans,
31 | and other plans to encourage loss prevention programs.

1 (e) The plan shall establish and use its rates and
2 rating plans, and the plan may establish and use changes in
3 rating plans at any time, but no more frequently than two
4 times per any rating class for any calendar year. By December
5 1, 1993, and December 1 of each year thereafter, the board
6 shall establish and use actuarially sound rates for use by the
7 plan to assure that the plan is self-funding while those rates
8 are in effect. Such rates and rating plans must be filed with
9 the department within 30 calendar days after their effective
10 dates, and shall be considered a "use and file" filing. Any
11 disapproval by the department must have an effective date that
12 is at least 60 days from the date of disapproval of the rates
13 and rating plan and must have prospective effect only. The
14 plan may not be subject to any order by the department to
15 return to policyholders any portion of the rates disapproved
16 by the department. The department may not disapprove any rates
17 or rating plans unless it demonstrates that such rates and
18 rating plans are excessive, inadequate, or unfairly
19 discriminatory.

20 (f) No later than June 1 of each year, the plan shall
21 obtain an independent actuarial certification of the results
22 of the operations of the plan for prior years, and shall
23 furnish a copy of the certification to the department. If,
24 after the effective date of the plan, the projected ultimate
25 incurred losses and expenses and dividends for prior years
26 exceed collected premiums, accrued net investment income, and
27 prior assessments for prior years, the certification is
28 subject to review and approval by the department before it
29 becomes final.

30 (g) Whenever a deficit exists, the plan shall, within
31 90 days, provide the department with a program to eliminate

1 the deficit within a reasonable time. The deficit may be
2 funded through increased premiums charged to insureds of the
3 plan for subsequent years, through the use of policyholder
4 surplus attributable to any year, and through assessments on
5 insureds in the plan if the plan uses assessable policies.

6 (h) Any premium or assessments collected by the plan
7 in excess of the amount necessary to fund projected ultimate
8 incurred losses and expenses of the plan and not paid to
9 insureds of the plan in conjunction with loss prevention or
10 dividend programs shall be retained by the plan for future
11 use.

12 (i) The decisions of the board of governors do not
13 constitute final agency action and are not subject to chapter
14 120.

15 (j) Policies for insureds shall be issued by the plan.

16 (k) The plan created under this subsection is liable
17 only for payment for losses arising under policies issued by
18 the plan with dates of accidents occurring on or after January
19 1, 1994.

20 (l) Plan losses are the sole and exclusive
21 responsibility of the plan, and payment for such losses must
22 be funded in accordance with this subsection and must not
23 come, directly or indirectly, from insurers or any guaranty
24 association for such insurers.

25 (m) Each joint underwriting plan or association
26 created under this section is not a state agency, board, or
27 commission. However, for the purposes of s. 199.183(1) only,
28 the joint underwriting plan is a political subdivision of the
29 state and is exempt from the corporate income tax.

30 (n) Each joint underwriting plan or association may
31 elect to pay premium taxes on the premiums received on its

1 | behalf or may elect to have the member insurers to whom the
2 | premiums are allocated pay the premium taxes if the member
3 | insurer had written the policy. The joint underwriting plan or
4 | association shall notify the member insurers and the
5 | Department of Revenue by January 15 of each year of its
6 | election for the same year. As used in this paragraph, the
7 | term "premiums received" means the consideration for
8 | insurance, by whatever name called, but does not include any
9 | policy assessment or surcharge received by the joint
10 | underwriting association as a result of apportioning losses or
11 | deficits of the association pursuant to this section.

12 | (o) Neither the plan nor any member of the board of
13 | governors is liable for monetary damages to any person for any
14 | statement, vote, decision, or failure to act, regarding the
15 | management or policies of the plan, unless:

16 | 1. The member breached or failed to perform her or his
17 | duties as a member; and

18 | 2. The member's breach of, or failure to perform,
19 | duties constitutes:

20 | a. A violation of the criminal law, unless the member
21 | had reasonable cause to believe her or his conduct was not
22 | unlawful. A judgment or other final adjudication against a
23 | member in any criminal proceeding for violation of the
24 | criminal law estops that member from contesting the fact that
25 | her or his breach, or failure to perform, constitutes a
26 | violation of the criminal law; but does not estop the member
27 | from establishing that she or he had reasonable cause to
28 | believe that her or his conduct was lawful or had no
29 | reasonable cause to believe that her or his conduct was
30 | unlawful;

31 |

1 b. A transaction from which the member derived an
2 improper personal benefit, either directly or indirectly; or

3 c. Recklessness or any act or omission that was
4 committed in bad faith or with malicious purpose or in a
5 manner exhibiting wanton and willful disregard of human
6 rights, safety, or property. For purposes of this
7 sub-subparagraph, the term "recklessness" means the acting, or
8 omission to act, in conscious disregard of a risk:

9 (I) Known, or so obvious that it should have been
10 known, to the member; and

11 (II) Known to the member, or so obvious that it should
12 have been known, to be so great as to make it highly probable
13 that harm would follow from such act or omission.

14 (p) No insurer shall provide workers' compensation and
15 employer's liability insurance to any person who is delinquent
16 in the payment of premiums, assessments, penalties, or
17 surcharges owed to the plan.

18 (6)~~(5)~~ As used in this section and ss. 215.555 and
19 627.351, the term "collateral protection insurance" means
20 commercial property insurance of which a creditor is the
21 primary beneficiary and policyholder and which protects or
22 covers an interest of the creditor arising out of a credit
23 transaction secured by real or personal property. Initiation
24 of such coverage is triggered by the mortgagor's failure to
25 maintain insurance coverage as required by the mortgage or
26 other lending document. Collateral protection insurance is not
27 residential coverage.

28 Section 2. Paragraph (a) of subsection (13) of section
29 440.51, Florida Statutes, is amended to read:

30 440.51 Expenses of administration.--

31 (13) As used in s. 440.50 and this section, the term:

1 (a) "Plan" means the workers' compensation joint
2 underwriting plan provided for in s. 627.311(5)~~s. 627.311(4)~~.

3 Section 3. Subsection (3) of section 631.912, Florida
4 Statutes, is amended to read:

5 631.912 Board of directors.--

6 (3) Effective upon this act becoming a law, the
7 persons on the board of directors created pursuant to s.
8 627.311(5)(a)~~s. 627.311(4)(a)~~ who evidence a willingness to
9 serve in writing, shall serve as an interim board of directors
10 of the corporation until the initial board of directors has
11 been appointed for the corporation in accordance with the
12 provisions of subsection (1). The interim board of directors
13 shall serve for a period not to exceed 6 months. The initial
14 meeting shall be called by the commissioner within 30 days
15 after this act becomes a law. The interim board of directors
16 shall establish a process for the selection of persons to
17 serve on the board of the Florida Workers' Compensation
18 Insurance Guaranty Association in accordance with the terms of
19 subsection (1). The board of directors shall adopt an interim
20 plan of operation to effect the merger in s. 631.911 and avoid
21 any interruption of benefit payments to injured workers. When
22 necessary and upon approval of the chairs of their respective
23 board of directors, the Florida Self-Insurance Fund Guaranty
24 Association and the Florida Insurance Guaranty Association
25 shall provide staff support to the interim board of directors.
26 The board shall submit the interim plan to the commissioner,
27 who shall approve or disapprove the plan within 30 days after
28 receipt.

29 Section 4. This act shall take effect October 1, 2003.
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SENATE SUMMARY

Reenacts an exemption from requirements for public records and open meetings for the Florida Automobile Joint Underwriting Association. Removes the repeal of the exemption scheduled for October 2, 2003, under the Open Government Sunset Review Act of 1995. Deletes a public-records exemption for matters encompassed in privileged attorney-client communications.