

By the Committees on Commerce, Economic Opportunities, and Consumer Services; Banking and Insurance; and Senator Fasano

310-2506-04

1                                   A bill to be entitled  
2           An act relating to insurance; amending s.  
3           20.121, F.S.; requiring the Division of  
4           Consumer Services of the Department of  
5           Financial Services to designate an employee as  
6           primary contact for consumers on issues  
7           involving sinkholes; amending s. 501.137, F.S.;  
8           requiring an insurer to reinstate, under  
9           certain circumstances, an insurance policy that  
10          is cancelled due to failure of the lender to  
11          pay a premium for which sufficient escrow funds  
12          are on deposit; requiring that the lender  
13          reimburse the property owner for any penalties  
14          or fees paid for purposes of reinstating the  
15          policy; requiring the lender to pay the  
16          increased cost of insurance premiums for a  
17          specified period of time under certain  
18          conditions; amending s. 624.4622, F.S.;  
19          providing that a local government  
20          self-insurance fund comply with specified  
21          provisions relating to financial statements;  
22          amending s. 624.610, F.S.; revising the  
23          requirements of a trust fund for a single  
24          assuming insurer; amending s. 625.081, F.S.;  
25          providing an exception for credit disability  
26          insurance from a health insurance active life  
27          reserve requirement; amending s. 625.121, F.S.;  
28          providing for valuation of life insurance  
29          policies; amending s. 626.321, F.S.; limiting  
30          the types of business that may be transacted by  
31          personal lines agents; creating s. 626.9743,

1 F.S., relating to claim settlement practices  
2 for motor vehicle insurance; prescribing  
3 standards to be followed by insurers; creating  
4 s. 626.9744, F.S., relating to claim settlement  
5 practices for homeowners' insurance;  
6 prescribing standards to be followed by  
7 insurers; amending s. 627.0629, F.S.; exempting  
8 industrial fire insurance policies from certain  
9 requirements for rate filings; amending s.  
10 627.311, F.S.; allowing the automobile  
11 insurance joint underwriting plan to require  
12 additional proof from insureds regarding  
13 cancellation of coverage; allowing additional  
14 time for the investigation of claims against  
15 the plan; providing for expiration of the  
16 provision; amending s. 627.4091, F.S.;  
17 providing additional disclosure requirements  
18 with respect to a refusal to insure; amending  
19 s. 627.4133, F.S.; requiring property insurers  
20 to reinstate a canceled policy as required by  
21 s. 501.137, F.S.; restricting the use of  
22 certain claims as a cause for cancellation or  
23 nonrenewal; amending s. 627.476, F.S.;  
24 authorizing the use of certain mortality tables  
25 for purposes of the Standard Nonforfeiture Law  
26 for Life Insurance; creating s. 627.7077, F.S.;  
27 providing for a feasibility study for a  
28 proposed Florida Sinkhole Insurance Facility;  
29 amending s. 627.838, F.S.; deleting a filing  
30 fee; amending s. 627.848, F.S.; specifying  
31 provisions for cancellation of insurance

1 contracts; amending s. 627.849, F.S., to  
2 conform to the elimination of a filing fee;  
3 providing for a study and report by the Florida  
4 State University College of Business on  
5 personal lines property and casualty insurance;  
6 repealing s. 625.131, F.S., relating to credit  
7 life and disability policies; providing for  
8 construction of the act; providing effective  
9 dates.

10

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

12

13 Section 1. Paragraph (h) of subsection (2) of section  
14 20.121, Florida Statutes, is amended to read:

15 20.121 Department of Financial Services.--There is  
16 created a Department of Financial Services.

17 (2) DIVISIONS.--The Department of Financial Services  
18 shall consist of the following divisions:

19 (h) The Division of Consumer Services, which shall  
20 include a Bureau of Funeral and Cemetery Services.

21 1. The Division of Consumer Services shall perform the  
22 following functions concerning products or services regulated  
23 by the Department of Financial Services or by either office of  
24 the Financial Services Commission:

25 a. Receive inquiries and complaints from consumers.†

26 b. Prepare and disseminate such information as the  
27 department deems appropriate to inform or assist consumers.†

28 c. Provide direct assistance and advocacy for  
29 consumers who request such assistance or advocacy.†

30 d. With respect to apparent or potential violations of  
31 law or applicable rules by a person or entity licensed by the

1 department or by either office of the commission, report such  
2 apparent or potential violation to the appropriate division of  
3 the department or office of the commission, which may take  
4 such further action as it deems appropriate.

5 e. Designate an employee of the division as primary  
6 contact for consumers on issues relating to sinkholes.

7 2. Any person licensed or issued a certificate of  
8 authority by the department or by the Office of Insurance  
9 Regulation shall respond, in writing, to the Division of  
10 Consumer Services within 20 days after receipt of a written  
11 request for information from the division concerning a  
12 consumer complaint. The response must address the issues and  
13 allegations raised in this complaint. The division may, in its  
14 discretion, impose an administrative penalty for failure to  
15 comply with this subparagraph in an amount up to \$2,500 per  
16 violation upon any entity licensed by the department or the  
17 Office of Insurance Regulation and \$250 for the first  
18 violation, \$500 for the second violation and up to \$1,000 per  
19 violation thereafter upon any individual licensed by the  
20 department or the Office of Insurance Regulation.

21 3. The department may adopt rules to implement the  
22 provisions of this paragraph.

23 4. The powers, duties, and responsibilities expressed  
24 or granted in this paragraph shall not limit the powers,  
25 duties, and responsibilities of the Department of Financial  
26 Services, the Financial Services Commission, the Office of  
27 Insurance Regulation, or the Office of Financial Regulation  
28 set forth elsewhere in the Florida Statutes.

29 Section 2. Section 501.137, Florida Statutes, is  
30 amended to read:

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1           501.137 Mortgage lenders; tax and insurance payments  
2 from escrow accounts; duties.--

3           (1) Every lender of money, whether a natural person or  
4 an artificial entity, whose loans are secured by a mortgage on  
5 real estate located within the state and who receives funds  
6 incidental thereto or in connection therewith for the payment  
7 of property taxes or hazard insurance premiums when the ~~such~~  
8 funds are held in escrow by or on behalf of the lender, shall  
9 promptly pay the ~~such~~ taxes or insurance premiums when the  
10 ~~such~~ taxes or premiums become due and adequate escrow funds  
11 are deposited, so that the maximum tax discount available may  
12 be obtained with regard to the taxable property and so that  
13 insurance coverage on the property does not lapse.

14           (2) If an escrow account for the ~~such~~ taxes or  
15 insurance premiums is deficient, the lender shall notify the  
16 property owner within 15 days after the lender receives the  
17 notification of taxes due from the county tax collector or  
18 receives the notification from the insurer that a premium is  
19 due.

20           (3)(a) If the lender, as a result of neglect, fails to  
21 pay any tax or insurance premium when the tax or premium is  
22 due and there are sufficient escrow funds on deposit to pay  
23 the tax or premium, and if the property owner suffers a loss  
24 as a result of this ~~such~~ failure, then the lender is ~~will be~~  
25 liable for the ~~such~~ loss; except, however, that with respect  
26 to any loss which would otherwise have been insured, the  
27 extent of the ~~such~~ liability shall not exceed the coverage  
28 limits of any insurance policy which has lapsed.

29           (b) If the lender violates paragraph (a) and the  
30 premium payment is not more than 90 days overdue, the insurer  
31 shall reinstate the insurance policy, retroactive to the date

1 of cancellation, and the lender shall reimburse the property  
2 owner for any penalty or fees imposed by the insurer and paid  
3 by the property owner for purposes of reinstating the policy.

4 (c) If the lender violates paragraph (a) and the  
5 premium payment is more than 90 days overdue or if the insurer  
6 refuses to reinstate the insurance policy, the lender shall  
7 pay the difference between the cost of the previous insurance  
8 policy and a new, comparable insurance policy for a period of  
9 2 years.

10 (4) At the expiration of the annual accounting period,  
11 the lender shall issue to the property owner an annual  
12 statement of the escrow account.

13 Section 3. Subsection (3) is added to section  
14 624.4622, Florida Statutes, to read:

15 624.4622 Local government self-insurance funds.--

16 (3)(a) A local government self-insurance fund formed  
17 after January 1, 2005, shall, for its first 5 fiscal years,  
18 file with the office full and true statements of its financial  
19 condition, transactions, and affairs. An annual statement  
20 covering the preceding fiscal year shall be filed within 60  
21 days after the end of the fund's fiscal year and quarterly  
22 statements shall be filed within 45 days after each such date.  
23 The office may, for good cause, grant an extension of time for  
24 filing an annual or quarterly statement. The statements shall  
25 contain information generally included in insurers' financial  
26 statements prepared in accordance with generally accepted  
27 insurance accounting principles and practices and in a form  
28 generally used by insurers for financial statements, sworn to  
29 by at least two executive officers of the self-insurance fund.  
30 The form for financial statements shall be the form currently  
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1 approved by the National Association of Insurance  
2 Commissioners for use by property and casualty insurers.

3 (b) Each annual statement shall contain a statement of  
4 opinion on loss and loss adjustment expense reserves made by a  
5 member of the American Academy of Actuaries. Workpapers in  
6 support of the statement of opinion must be provided to the  
7 office upon request.

8 Section 4. Paragraph (c) of subsection (3) of section  
9 624.610, Florida Statutes, is amended to read:

10 624.610 Reinsurance.--

11 (3)

12 (c)1. Credit must be allowed when the reinsurance is  
13 ceded to an assuming insurer that maintains a trust fund in a  
14 qualified United States financial institution, as defined in  
15 paragraph (5)(b), for the payment of the valid claims of its  
16 United States ceding insurers and their assigns and successors  
17 in interest. To enable the office to determine the sufficiency  
18 of the trust fund, the assuming insurer shall report annually  
19 to the office information substantially the same as that  
20 required to be reported on the NAIC Annual Statement form by  
21 authorized insurers. The assuming insurer shall submit to  
22 examination of its books and records by the office and bear  
23 the expense of examination.

24 2.a. Credit for reinsurance must not be granted under  
25 this subsection unless the form of the trust and any  
26 amendments to the trust have been approved by:

27 (I) The insurance regulator of the state in which the  
28 trust is domiciled; or

29 (II) The insurance regulator of another state who,  
30 pursuant to the terms of the trust instrument, has accepted  
31 principal regulatory oversight of the trust.

1           b. The form of the trust and any trust amendments must  
2 be filed with the insurance regulator of every state in which  
3 the ceding insurer beneficiaries of the trust are domiciled.  
4 The trust instrument must provide that contested claims are  
5 valid and enforceable upon the final order of any court of  
6 competent jurisdiction in the United States. The trust must  
7 vest legal title to its assets in its trustees for the benefit  
8 of the assuming insurer's United States ceding insurers and  
9 their assigns and successors in interest. The trust and the  
10 assuming insurer are subject to examination as determined by  
11 the insurance regulator.

12           c. The trust remains in effect for as long as the  
13 assuming insurer has outstanding obligations due under the  
14 reinsurance agreements subject to the trust. No later than  
15 February 28 of each year, the trustee of the trust shall  
16 report to the insurance regulator in writing the balance of  
17 the trust and list the trust's investments at the preceding  
18 year end, and shall certify that the trust will not expire  
19 prior to the following December 31.

20           3. The following requirements apply to the following  
21 categories of assuming insurer:

22           a. The trust fund for a single assuming insurer  
23 consists of funds in trust in an amount not less than the  
24 assuming insurer's liabilities attributable to reinsurance  
25 ceded by United States ceding insurers, and, in addition, the  
26 assuming insurer shall maintain a trustee surplus of not less  
27 than \$20 million. Not less than 50 percent of the funds in the  
28 trust covering the assuming insurer's liabilities attributable  
29 to reinsurance ceded by United States ceding insurers and  
30 trustee surplus shall consist of assets of a quality  
31 substantially similar to that required in part II of chapter



1 625. Clean, irrevocable, unconditional, and evergreen letters  
2 of credit, issued or confirmed by a qualified United States  
3 financial institution, as defined in paragraph (5)(a),  
4 effective no later than December 31 of the year for which the  
5 filing is made and in the possession of the trust on or before  
6 the filing date of its annual statement, may be used to fund  
7 the remainder of the trust and trusted surplus.

8           b.(I) In the case of a group including incorporated  
9 and individual unincorporated underwriters:

10           (A) For reinsurance ceded under reinsurance agreements  
11 with an inception, amendment, or renewal date on or after  
12 August 1, 1995, the trust consists of a trustee account in an  
13 amount not less than the group's several liabilities  
14 attributable to business ceded by United States domiciled  
15 ceding insurers to any member of the group;

16           (B) For reinsurance ceded under reinsurance agreements  
17 with an inception date on or before July 31, 1995, and not  
18 amended or renewed after that date, notwithstanding the other  
19 provisions of this section, the trust consists of a trustee  
20 account in an amount not less than the group's several  
21 insurance and reinsurance liabilities attributable to business  
22 written in the United States; and

23           (C) In addition to these trusts, the group shall  
24 maintain in trust a trustee surplus of which \$100 million  
25 must be held jointly for the benefit of the United States  
26 domiciled ceding insurers of any member of the group for all  
27 years of account.

28           (II) The incorporated members of the group must not be  
29 engaged in any business other than underwriting of a member of  
30 the group, and are subject to the same level of regulation and  
31

1 solvency control by the group's domiciliary regulator as the  
2 unincorporated members.

3 (III) Within 90 days after its financial statements  
4 are due to be filed with the group's domiciliary regulator,  
5 the group shall provide to the insurance regulator an annual  
6 certification by the group's domiciliary regulator of the  
7 solvency of each underwriter member or, if a certification is  
8 unavailable, financial statements, prepared by independent  
9 public accountants, of each underwriter member of the group.

10 Section 5. Section 625.081, Florida Statutes, is  
11 amended to read:

12 625.081 Reserve for health insurance.--For all health  
13 insurance policies, the insurer shall maintain an active life  
14 reserve which places a sound value on the insurer's  
15 liabilities under such policies; is not less than the reserve  
16 according to appropriate standards set forth in rules issued  
17 by the commission; and, with the exception of credit  
18 disability insurance, in no event, is less in the aggregate  
19 than the pro rata gross unearned premiums for such policies.

20 Section 6. Paragraphs (a), (e), and (f) of subsection  
21 (5) and subsection (13) of section 625.121, Florida Statutes,  
22 are amended, and paragraphs (k) and (l) are added to  
23 subsection (5) of that section, to read:

24 625.121 Standard Valuation Law; life insurance.--

25 (5) MINIMUM STANDARD FOR VALUATION OF POLICIES AND  
26 CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD  
27 NONFORFEITURE LAW.--Except as otherwise provided in paragraph  
28 (h) and subsections (6), (11), and (14), the minimum standard  
29 for the valuation of all such policies and contracts issued on  
30 or after the operative date of s. 627.476 (Standard  
31 Nonforfeiture Law for Life Insurance) shall be the

1 commissioners' reserve valuation method defined in subsections  
2 (7), (11), and (14); 5 percent interest for group annuity and  
3 pure endowment contracts and 3.5 percent interest for all  
4 other such policies and contracts, or in the case of life  
5 insurance policies and contracts, other than annuity and pure  
6 endowment contracts, issued on or after July 1, 1973, 4  
7 percent interest for such policies issued prior to October 1,  
8 1979, and 4.5 percent interest for such policies issued on or  
9 after October 1, 1979; and the following tables:

10 (a) For all ordinary policies of life insurance issued  
11 on the standard basis, excluding any disability and accidental  
12 death benefits in such policies:

13 1. For policies issued prior to the operative date of  
14 s. 627.476(9), the commissioners' 1958 Standard Ordinary  
15 Mortality Table; except that, for any category of such  
16 policies issued on female risks, modified net premiums and  
17 present values, referred to in subsection (7), may be  
18 calculated according to an age not more than 6 years younger  
19 than the actual age of the insured. ~~and~~

20 2. For policies issued on or after the operative date  
21 of s. 627.476(9), the commissioners' 1980 Standard Ordinary  
22 Mortality Table or, at the election of the insurer for any one  
23 or more specified plans of life insurance, the commissioners'  
24 1980 Standard Ordinary Mortality Table with Ten-Year Select  
25 Mortality Factors.

26 3. For policies issued on or after July 1, 2004,  
27 ordinary mortality tables, adopted after 1980 by the National  
28 Association of Insurance Commissioners, adopted by rule by the  
29 commission for use in determining the minimum standard of  
30 valuation for such policies.

31

1 (e) For total and permanent disability benefits in or  
2 supplementary to ordinary policies or contracts:

3 1. For policies or contracts issued on or after  
4 January 1, 1966, the tables of period 2 disablement rates and  
5 the 1930 to 1950 termination rates of the 1952 disability  
6 study of the Society of Actuaries, with due regard to the type  
7 of benefit;

8 2. For policies or contracts issued on or after  
9 January 1, 1961, and prior to January 1, 1966, either those  
10 tables or, at the option of the insurer, the class three  
11 disability table (1926); ~~and~~

12 3. For policies issued prior to January 1, 1961, the  
13 class three disability table (1926); ~~and-~~

14 4. For policies or contracts issued on or after July  
15 1, 2004, tables of disablement rates and termination rates  
16 adopted after 1980 by the National Association of Insurance  
17 Commissioners, adopted by rule by the commission for use in  
18 determining the minimum standard of valuation for those  
19 policies or contracts.

20  
21 Any such table for active lives shall be combined with a  
22 mortality table permitted for calculating the reserves for  
23 life insurance policies.

24 (f) For accidental death benefits in or supplementary  
25 to policies:

26 1. For policies issued on or after January 1, 1966,  
27 the 1959 Accidental Death Benefits Table;

28 2. For policies issued on or after January 1, 1961,  
29 and prior to January 1, 1966, either that table or, at the  
30 option of the insurer, the Intercompany Double Indemnity  
31 Mortality Table; ~~and~~

1           3. For policies issued prior to January 1, 1961, the  
2 Intercompany Double Indemnity Mortality Table; and-

3           4. For policies issued on or after July 1, 2004,  
4 tables of accidental death benefits adopted after 1980 by the  
5 National Association of Insurance Commissioners, adopted by  
6 rule by the commission for use in determining the minimum  
7 standard of valuation for those policies.

8  
9 Either table shall be combined with a mortality table  
10 permitted for calculating the reserves for life insurance  
11 policies.

12           (k) For individual annuity and pure endowment  
13 contracts issued on or after July 1, 2004, excluding any  
14 disability and accidental death benefits purchased under those  
15 contracts, individual annuity mortality tables adopted after  
16 1980 by the National Association of Insurance Commissioners,  
17 adopted by rule by the commission for use in determining the  
18 minimum standard of valuation for those contracts.

19           (l) For all annuities and pure endowments purchased on  
20 or after July 1, 2004, under group annuity and pure endowment  
21 contracts, excluding any disability and accidental death  
22 benefits purchased under those contracts, group annuity  
23 mortality tables adopted after 1980 by the National  
24 Association of Insurance Commissioners, adopted by rule by the  
25 commission for use in determining the minimum standard of  
26 valuation for those contracts.

27           (13) ~~APPLICABILITY TO~~ CREDIT LIFE AND DISABILITY  
28 ~~INSURANCE~~ POLICIES.--

29           (a) For policies issued prior to January 1, 2004:

30           1. The minimum reserve for single-premium credit  
31 disability insurance, monthly premium credit life insurance

1 and monthly premium credit disability insurance shall be the  
2 unearned gross premium.

3 2. As to single-premium credit life insurance  
4 policies, the insurer shall establish and maintain reserves  
5 that are not less than the value, at the valuation date, of  
6 the risk for the unexpired portion of the period for which the  
7 premium has been paid as computed on the basis of the  
8 commissioners' 1980 Standard Ordinary Mortality Table and 3.5  
9 percent interest. At the discretion of the office, the insurer  
10 may make a reasonable assumption as to the ages at which net  
11 premiums are to be determined. In lieu of the foregoing basis,  
12 reserves based upon unearned gross premiums may be used at the  
13 option of the insurer.

14 (b) For policies issued on or after January 1, 2004:

15 1. The minimum reserve for single-premium credit  
16 disability insurance shall be either:

17 a. The unearned gross premium, or

18 b. Based upon a morbidity table that is adopted by the  
19 National Association of Insurance Commissioners and is  
20 specified in a rule the commission adopts pursuant to  
21 subsection (14).

22 2. The minimum reserve for monthly premium credit  
23 disability insurance shall be the unearned gross premium.

24 3. The minimum reserve for monthly premium credit life  
25 insurance shall be the unearned gross premium.

26 4. As to single-premium credit life insurance  
27 policies, the insurer shall establish and maintain reserves  
28 that are not less than the value, at the valuation date, of  
29 the risk for the unexpired portion of the period for which the  
30 premium has been paid as computed on the basis of the  
31 commissioners' 1980 Standard Ordinary Mortality Table or any

1 ordinary mortality table, adopted after 1980 by the National  
2 Association of Insurance Commissioners, that is approved by  
3 rule adopted by the commission for use in determining the  
4 minimum standard of valuation for such policies; and an  
5 interest rate determined in accordance with subsection (6). At  
6 the discretion of the office, the insurer may make a  
7 reasonable assumption as to the ages at which net premiums are  
8 to be determined. In lieu of the foregoing basis, reserves  
9 based upon unearned gross premiums may be used at the option  
10 of the insurer.~~This section does not apply as to those credit~~  
11 ~~life insurance policies for which reserves are computed and~~  
12 ~~maintained as required under s. 625.131.~~

13 Section 7. Paragraph (d) of subsection (1) of section  
14 626.321, Florida Statutes, is amended to read:

15 626.321 Limited licenses.--

16 (1) The department shall issue to a qualified  
17 individual, or a qualified individual or entity under  
18 paragraphs (c), (d), (e), and (i), a license as agent  
19 authorized to transact a limited class of business in any of  
20 the following categories:

21 (d) Baggage and motor vehicle excess liability  
22 insurance.--

23 1. License covering only insurance of personal effects  
24 except as provided in subparagraph 2. The license may be  
25 issued only:

26 a. To a full-time salaried employee of a common  
27 carrier or a full-time salaried employee or owner of a  
28 transportation ticket agency, which person is engaged in the  
29 sale or handling of transportation of baggage and personal  
30 effects of travelers, and may authorize the sale of such  
31 insurance only in connection with such transportation; or

1           b. To the full-time salaried employee of a licensed  
2 general lines agent, ~~a full-time salaried employee of a~~  
3 ~~business which offers motor vehicles for rent or lease, or to~~  
4 ~~a business office of a business entity that~~ which offers motor  
5 vehicles for rent or lease if insurance sales activities  
6 authorized by the license are in connection with and  
7 incidental to the rental of a motor vehicle limited to  
8 full-time salaried employees. An entity applying for a license  
9 under this sub-subparagraph:

10           (I) Is required to submit only one application for a  
11 license under s. 626.171. The requirements of s. 626.171(5)  
12 shall apply only to the officers and directors of the entity  
13 submitting the application.

14           (II) Is required to obtain a license for each office,  
15 branch office, or place of business making use of the entity's  
16 business name by applying to the department for the license on  
17 a simplified application form developed by rule of the  
18 department for this purpose.

19           (III) Is required to pay the applicable fees for a  
20 license as prescribed in s. 624.501, be appointed under s.  
21 626.112, and pay the prescribed appointment fee under s.  
22 624.501. A licensed and appointed entity shall be directly  
23 responsible and accountable for all acts of the licensee's  
24 employees.

25  
26 The purchaser of baggage insurance shall be provided written  
27 information disclosing that the insured's homeowner's policy  
28 may provide coverage for loss of personal effects and that the  
29 purchase of such insurance is not required in connection with  
30 the purchase of tickets or in connection with the lease or  
31 rental of a motor vehicle.



1           2. A business entity that ~~office licensed pursuant to~~  
2 ~~subparagraph 1., or a person licensed pursuant to subparagraph~~  
3 ~~1. who is a full-time salaried employee of a business which~~  
4 offers motor vehicles for rent or lease, may include lessees  
5 under a master contract providing coverage to the lessor or  
6 may transact excess motor vehicle liability insurance  
7 providing coverage in excess of the standard liability limits  
8 provided by the lessor in its lease to a person renting or  
9 leasing a motor vehicle from the licensee's employer for  
10 liability arising in connection with the negligent operation  
11 of the leased or rented motor vehicle, provided that the lease  
12 or rental agreement is for not more than 30 days; that the  
13 lessee is not provided coverage for more than 30 consecutive  
14 days per lease period, and, if the lease is extended beyond 30  
15 days, the coverage may be extended one time only for a period  
16 not to exceed an additional 30 days; that the lessee is given  
17 written notice that his or her personal insurance policy  
18 providing coverage on an owned motor vehicle may provide  
19 additional excess coverage; and that the purchase of the  
20 insurance is not required in connection with the lease or  
21 rental of a motor vehicle. The excess liability insurance may  
22 be provided to the lessee as an additional insured on a policy  
23 issued to the licensee's employer.

24           3. A business entity that ~~office licensed pursuant to~~  
25 ~~subparagraph 1., or a person licensed pursuant to subparagraph~~  
26 ~~1. who is a full-time salaried employee of a business which~~  
27 offers motor vehicles for rent or lease, may, as an agent of  
28 an insurer, transact insurance that provides coverage for the  
29 liability of the lessee to the lessor for damage to the leased  
30 or rented motor vehicle if:

31

1           a. The lease or rental agreement is for not more than  
2 30 days; or the lessee is not provided coverage for more than  
3 30 consecutive days per lease period, but, if the lease is  
4 extended beyond 30 days, the coverage may be extended one time  
5 only for a period not to exceed an additional 30 days;

6           b. The lessee is given written notice that his or her  
7 personal insurance policy that provides coverage on an owned  
8 motor vehicle may provide such coverage with or without a  
9 deductible; and

10           c. The purchase of the insurance is not required in  
11 connection with the lease or rental of a motor vehicle.

12           Section 8. Section 626.9743, Florida Statutes, is  
13 created to read:

14           626.9743 Claim settlement practices relating to motor  
15 vehicle insurance.--

16           (1) This section shall apply to the adjustment and  
17 settlement of personal and commercial motor vehicle insurance  
18 claims.

19           (2) An insurer may not, when liability and damages  
20 owed under the policy are reasonably clear, recommend that a  
21 third-party claimant make a claim under his or her own policy  
22 solely to avoid paying the claim under the policy issued by  
23 that insurer. However, the insurer may identify options to a  
24 third-party claimant relative to the repair of his or her  
25 vehicle.

26           (3) An insurer that elects to repair a motor vehicle  
27 and specifically requires a particular repair shop for vehicle  
28 repairs shall cause the damaged vehicle to be restored to its  
29 physical condition as to performance and appearance  
30 immediately prior to the loss at no additional cost to the  
31

1 insured or third-party claimant other than as stated in the  
2 policy.

3 (4) An insurer may not require the use of replacement  
4 parts in the repair of a motor vehicle which are not at least  
5 equivalent in kind and quality to the damaged parts prior to  
6 the loss in terms of fit, appearance, and performance.

7 (5) When the insurance policy provides for the  
8 adjustment and settlement of first-party motor vehicle total  
9 losses on the basis of actual cash value or replacement with  
10 another of like kind and quality, the insurer shall use one of  
11 the following methods:

12 (a) The insurer may elect a cash settlement based upon  
13 the actual cost to purchase a comparable motor vehicle,  
14 including sales tax, if applicable pursuant to subsection (9).  
15 Such cost may be derived from:

16 1. When comparable motor vehicles are available in the  
17 local market area, the cost of two or more such comparable  
18 motor vehicles available within the preceding 90 days;

19 2. The retail cost as determined from a generally  
20 recognized used motor vehicle industry source such as:

21 a. An electronic database if the pertinent portions of  
22 the valuation documents generated by the database are provided  
23 by the insurer to the first-party insured upon request; or

24 b. A guidebook that is generally available to the  
25 general public if the insurer identifies the guidebook used as  
26 the basis for the retail cost to the first-party insured upon  
27 request; or

28 3. The retail cost using two or more quotations  
29 obtained by the insurer from two or more licensed dealers in  
30 the local market area.

31

1           (b) The insurer may elect to offer a replacement motor  
2 vehicle that is a specified comparable motor vehicle available  
3 to the insured, including sales tax if applicable pursuant to  
4 subsection (9), paid for by the insurer at no cost other than  
5 any deductible provided in the policy and betterment as  
6 provided in subsection (6). The offer must be documented in  
7 the insurer's claim file. For purposes of this subsection, a  
8 comparable motor vehicle is one that is made by the same  
9 manufacturer, of the same or newer model year, and of similar  
10 body type and that has similar options and mileage as the  
11 insured vehicle. Additionally, a comparable motor vehicle must  
12 be in as good or better overall condition than the insured  
13 vehicle and available for inspection within a reasonable  
14 distance of the insured's residence.

15           (c) When a motor vehicle total loss is adjusted or  
16 settled on a basis that varies from the methods described in  
17 paragraph (a) or paragraph (b), the determination of value  
18 must be supported by documentation, and any deductions from  
19 value must be itemized and specified in appropriate dollar  
20 amounts. The basis for such settlement shall be explained to  
21 the claimant in writing, if requested, and a copy of the  
22 explanation shall be retained in the insurer's claim file.

23           (d) Any other method agreed to by the claimant.

24           (6) When the amount offered in settlement reflects a  
25 reduction by the insurer because of betterment or  
26 depreciation, information pertaining to the reduction shall be  
27 maintained with the insurer's claim file. Deductions shall be  
28 itemized and specific as to dollar amount and shall accurately  
29 reflect the value assigned to the betterment or depreciation.  
30 The basis for any deduction shall be explained to the claimant  
31

1 in writing, if requested, and a copy of the explanation shall  
2 be maintained with the insurer's claim file.

3 (7) Every insurer shall, if partial losses are settled  
4 on the basis of a written estimate prepared by or for the  
5 insurer, supply the insured a copy of the estimate upon which  
6 the settlement is based.

7 (8) Every insurer shall provide notice to an insured  
8 before termination of payment for previously authorized  
9 storage charges, and the notice shall provide 72 hours for the  
10 insured to remove the vehicle from storage before terminating  
11 payment of the storage charges.

12 (9) If sales tax will necessarily be incurred by a  
13 claimant upon replacement of a total loss or upon repair of a  
14 partial loss, the insurer may defer payment of the sales tax  
15 unless and until the obligation has actually been incurred.

16 (10) Nothing in this section shall be construed to  
17 authorize or preclude enforcement of policy provisions  
18 relating to settlement disputes.

19 Section 9. Section 626.9744, Florida Statutes, is  
20 created to read:

21 626.9744 Claim settlement practices relating to  
22 property insurance.--Unless otherwise provided by the policy,  
23 when a homeowner's insurance policy provides for the  
24 adjustment and settlement of first-party losses based on  
25 repair or replacement cost, the following requirements apply:

26 (1) When a loss requires repair or replacement of an  
27 item or part, any physical damage incurred in making such  
28 repair or replacement which is covered and not otherwise  
29 excluded by the policy shall be included in the loss to the  
30 extent of any applicable limits. The insured may not be  
31 required to pay for betterment required by ordinance or code

1 except for the applicable deductible, unless specifically  
2 excluded or limited by the policy.

3 (2) When a loss requires replacement of items and the  
4 replaced items do not match in quality, color, or size, the  
5 insurer shall make reasonable repairs or replacement of items  
6 in adjoining areas. In determining the extent of the repairs  
7 or replacement of items in adjoining areas, the insurer may  
8 consider the cost of repairing or replacing the undamaged  
9 portions of the property, the degree of uniformity that can be  
10 achieved without such cost, the remaining useful life of the  
11 undamaged portion, and other relevant factors.

12 (3) This section shall not be construed to make the  
13 insurer a warrantor of the repairs made pursuant to this  
14 section.

15 (4) Nothing in this section shall be construed to  
16 authorize or preclude enforcement of policy provisions  
17 relating to settlement disputes.

18 Section 10. Subsections (1) and (2) of section  
19 627.0629, Florida Statutes, are amended to read:

20 627.0629 Residential property insurance; rate  
21 filings.--

22 (1) Effective June 1, 2002, a rate filing for  
23 residential property insurance must include actuarially  
24 reasonable discounts, credits, or other rate differentials, or  
25 appropriate reductions in deductibles, for properties on which  
26 fixtures or construction techniques demonstrated to reduce the  
27 amount of loss in a windstorm have been installed or  
28 implemented. The fixtures or construction techniques shall  
29 include, but not be limited to, fixtures or construction  
30 techniques which enhance roof strength, roof covering  
31 performance, roof-to-wall strength,

1 wall-to-floor-to-foundation strength, opening protection, and  
2 window, door, and skylight strength. Credits, discounts, or  
3 other rate differentials for fixtures and construction  
4 techniques which meet the minimum requirements of the Florida  
5 Building Code must be included in the rate filing. All  
6 insurance companies must make a rate filing which includes the  
7 credits, discounts, or other rate differentials by February  
8 28, 2003. This subsection does not apply to industrial fire  
9 insurance policies as defined in s. 626.729.

10 (2)(a) A rate filing for residential property  
11 insurance made on or before the implementation of paragraph  
12 (b) may include rate factors that reflect the manner in which  
13 building code enforcement in a particular jurisdiction  
14 addresses the risk of wind damage; however, such a rate filing  
15 must also provide for variations from such rate factors on an  
16 individual basis based on an inspection of a particular  
17 structure by a licensed home inspector, which inspection may  
18 be at the cost of the insured.

19 (b) A rate filing for residential property insurance  
20 made more than 150 days after approval by the office of a  
21 building code rating factor plan submitted by a statewide  
22 rating organization shall include positive and negative rate  
23 factors that reflect the manner in which building code  
24 enforcement in a particular jurisdiction addresses risk of  
25 wind damage. The rate filing shall include variations from  
26 standard rate factors on an individual basis based on  
27 inspection of a particular structure by a licensed home  
28 inspector. If an inspection is requested by the insured, the  
29 insurer may require the insured to pay the reasonable cost of  
30 the inspection. This paragraph applies to structures  
31

1 constructed or renovated after the implementation of this  
2 paragraph.

3 (c) The premium notice shall specify the amount by  
4 which the rate has been adjusted as a result of this  
5 subsection and shall also specify the maximum possible  
6 positive and negative adjustments that are approved for use by  
7 the insurer under this subsection.

8 (d) This subsection does not apply to industrial fire  
9 insurance policies as defined in s. 626.729.

10 Section 11. Effective July 1, 2004, and applicable to  
11 cancellation requests and notices received on or after that  
12 date, subsection (3) of section 627.311, Florida Statutes, is  
13 amended to read:

14 627.311 Joint underwriters and joint reinsurers;  
15 public records and public meetings exemptions.--

16 (3) The office may, after consultation with insurers  
17 licensed to write automobile insurance in this state, approve  
18 a joint underwriting plan for purposes of equitable  
19 apportionment or sharing among insurers of automobile  
20 liability insurance and other motor vehicle insurance, as an  
21 alternate to the plan required in s. 627.351(1). All insurers  
22 authorized to write automobile insurance in this state shall  
23 subscribe to the plan and participate therein. The plan shall  
24 be subject to continuous review by the office which may at any  
25 time disapprove the entire plan or any part thereof if it  
26 determines that conditions have changed since prior approval  
27 and that in view of the purposes of the plan changes are  
28 warranted. Any disapproval by the office shall be subject to  
29 the provisions of chapter 120. The Florida Automobile Joint  
30 Underwriting Association is created under the plan. The plan  
31 and the association:



1 (a) Must be subject to all provisions of s.  
2 627.351(1), except apportionment of applicants.

3 (b) May provide for one or more designated insurers,  
4 able and willing to provide policy and claims service, to act  
5 on behalf of all other insurers to provide insurance for  
6 applicants who are in good faith entitled to, but unable to,  
7 procure insurance through the voluntary insurance market at  
8 standard rates.

9 (c) Must provide that designated insurers will issue  
10 policies of insurance and provide policyholder and claims  
11 service on behalf of all insurers for the joint underwriting  
12 association.

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

15 (e) Must provide that the joint underwriting  
16 association will operate subject to the supervision and  
17 approval of a board of governors consisting of 11 individuals,  
18 including 1 who will be elected as chair. Five members of the  
19 board must be appointed by the Chief Financial Officer. Two of  
20 the Chief Financial Officer's appointees must be chosen from  
21 the insurance industry. Any board member appointed by the  
22 Chief Financial Officer may be removed and replaced by her or  
23 him at any time without cause. Six members of the board must  
24 be appointed by the participating insurers, two of whom must  
25 be from the insurance agents' associations. All board members,  
26 including the chair, must be appointed to serve for 2-year  
27 terms beginning annually on a date designated by the plan.

28 (f) Must provide that an agent appointed to a  
29 servicing carrier must be a licensed general lines agent of an  
30 insurer which is authorized to write automobile liability and  
31 physical damage insurance in the state and which is actively

1 writing such coverage in the county in which the agent is  
2 located, or the immediately adjoining counties, or an agent  
3 who places a volume of other property and casualty insurance  
4 in an amount equal to the premium volume placed with the  
5 Florida Joint Underwriting Association. The office may,  
6 however, determine that an agent may be appointed to a  
7 servicing carrier if, after public hearing, the office finds  
8 that consumers in the agent's operating area would not have  
9 adequate and reasonable access to the purchase of automobile  
10 insurance if the agent were not appointed to a servicing  
11 carrier.

12 (g) Must make available noncancelable coverage as  
13 provided in s. 627.7275(2).

14 (h) Must provide for the furnishing of a list of  
15 insureds and their mailing addresses upon the request of a  
16 member of the association or an insurance agent licensed to  
17 place business with an association member. The list must  
18 indicate whether the insured is currently receiving a good  
19 driver discount from the association. The plan may charge a  
20 reasonable fee to cover the cost incurred in providing the  
21 list.

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

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

30 (k)1. Shall have no liability, and no cause of action  
31 of any nature shall arise against any member insurer or its

1 agents or employees, agents or employees of the association,  
2 members of the board of governors of the association, the  
3 Chief Financial Officer, or the office or its representatives  
4 for any action taken by them in the performance of their  
5 duties or responsibilities under this subsection. Such  
6 immunity does not apply to actions for or arising out of  
7 breach of any contract or agreement pertaining to insurance,  
8 or any willful tort.

9           2. Notwithstanding the requirements of s.  
10 624.155(3)(a), as a condition precedent to bringing an action  
11 against the plan under s. 624.155, the department and the plan  
12 must have been given 90 days' written notice of the violation.  
13 If the department returns a notice for lack of specificity,  
14 the 90-day time period shall not begin until a proper notice  
15 is filed. This notice must comply with the information  
16 requirements of s. 624.155(3)(b). Effective October 1, 2007,  
17 this subparagraph shall expire unless reenacted by the  
18 Legislature prior to that date.

19           (1) May require from the insured proof that he or she  
20 has obtained the mandatory types and amounts of insurance from  
21 another admitted carrier prior to the cancellation of a policy  
22 the insured obtained from the plan and prior to the return of  
23 any unearned premium the insured paid for such coverage from  
24 the plan. This paragraph does not apply to any person who  
25 provides proof of sale or inoperability of the vehicle covered  
26 under the policy purchased from the plan or relocation outside  
27 the state.

28           Section 12. Subsection (5) is added to section  
29 627.4091, Florida Statutes, to read:

30           627.4091 Specific reasons for denial, cancellation, or  
31 nonrenewal.--

1           (5) When an insurer refuses to provide coverage to an  
2 applicant due to adverse underwriting information, the insurer  
3 shall:

4           (a) Provide to the applicant specific information  
5 regarding the reasons for the refusal to insure.

6           (b) If the reason for the refusal to insure is based  
7 on a loss underwriting history or report from a consumer  
8 reporting agency, to the extent applicable identify the loss  
9 underwriting history and notify the applicant of his or her  
10 right under the federal Fair and Accurate Credit Transactions  
11 Act to obtain a copy of the report from the consumer reporting  
12 agency.

13           Section 13. Effective upon this act becoming a law,  
14 subsections (4) and (5) are added to section 627.4133, Florida  
15 Statutes, to read:

16           627.4133 Notice of cancellation, nonrenewal, or  
17 renewal premium.--

18           (4) An insurer that cancels a property insurance  
19 policy on property secured by a mortgage due to the failure of  
20 the lender to timely pay the premium when due shall reinstate  
21 the policy as required by s. 501.137.

22           (5) A single claim on a property insurance policy  
23 which is the result of water damage may not be used as the  
24 sole cause for cancellation or nonrenewal unless the insurer  
25 can demonstrate that the insured has failed to take action  
26 reasonably requested by the insurer to prevent a future  
27 similar occurrence of damage to the insured property.

28           Section 14. Paragraph (h) of subsection (9) of section  
29 627.476, Florida Statutes, is amended to read:

30           627.476 Standard Nonforfeiture Law for Life  
31 Insurance.--

1           (9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT  
2 VALUES FOR POLICIES ISSUED AFTER OPERATIVE DATE OF THIS  
3 SUBSECTION.--

4           (h) All adjusted premiums and present values referred  
5 to in this section shall for all policies of ordinary  
6 insurance be calculated on the basis of the Commissioners'  
7 1980 Standard Ordinary Mortality Table or, at the election of  
8 the insurer for any one or more specified plans of life  
9 insurance, the Commissioners' 1980 Standard Ordinary Mortality  
10 Table with Ten-Year Select Mortality Factors; shall for all  
11 policies of industrial insurance be calculated on the basis of  
12 the Commissioners' 1961 Standard Industrial Mortality Table;  
13 and shall for all policies issued in a particular calendar  
14 year be calculated on the basis of a rate of interest not  
15 exceeding the nonforfeiture interest rate as defined in this  
16 subsection for policies issued in that calendar year. However:

17           1. At the option of the insurer, calculations for all  
18 policies issued in a particular calendar year may be made on  
19 the basis of a rate of interest not exceeding the  
20 nonforfeiture interest rate, as defined in this subsection,  
21 for policies issued in the immediately preceding calendar  
22 year.

23           2. Under any paid-up nonforfeiture benefit, including  
24 any paid-up dividend additions, any cash surrender value  
25 available, whether or not required by subsection (2), shall be  
26 calculated on the basis of the mortality table and rate of  
27 interest used in determining the amount of such paid-up  
28 nonforfeiture benefit and paid-up dividend additions, if any.

29           3. An insurer may calculate the amount of any  
30 guaranteed paid-up nonforfeiture benefit, including any  
31 paid-up additions under the policy, on the basis of an

1 interest rate no lower than that specified in the policy for  
2 calculating cash surrender values.

3 4. In calculating the present value of any paid-up  
4 term insurance with accompanying pure endowment, if any,  
5 offered as a nonforfeiture benefit, the rates of mortality  
6 assumed may be not more than those shown in the Commissioners'  
7 1980 Extended Term Insurance Table for policies of ordinary  
8 insurance and not more than the Commissioners' 1961 Industrial  
9 Extended Term Insurance Table for policies of industrial  
10 insurance.

11 5. In lieu of the mortality tables specified in this  
12 section, at the option of the insurance company and subject to  
13 rules adopted by the commission, the insurance company may  
14 substitute:

15 a. The 1958 CSO or CET Smoker and Nonsmoker Mortality  
16 Tables, whichever is applicable, for policies issued on or  
17 after the operative date of this subsection and before January  
18 1, 1989;

19 b. The 1980 CSO or CET Smoker and Nonsmoker Mortality  
20 Tables, whichever is applicable, for policies issued on or  
21 after the operative date of this subsection;

22 c. A mortality table that is a blend of the  
23 sex-distinct 1980 CSO or CET mortality table standard,  
24 whichever is applicable, or a mortality table that is a blend  
25 of the sex-distinct 1980 CSO or CET smoker and nonsmoker  
26 mortality table standards, whichever is applicable, for  
27 policies that are subject to the United States Supreme Court  
28 decision in Arizona Governing Committee v. Norris to prevent  
29 unfair discrimination in employment situations.

30 6. Ordinary mortality tables, adopted after 1980 by  
31 the National Association of Insurance Commissioners, adopted

1 by rule by the commission for use in determining the minimum  
2 nonforfeiture standard may be substituted for the  
3 Commissioners' 1980 Standard Ordinary Mortality Table with or  
4 without Ten-Year Select Mortality Factors or for the  
5 Commissioners' 1980 Extended Term Insurance Table.

6 ~~7.6.~~ For insurance issued on a substandard basis, the  
7 calculation of any such adjusted premiums and present values  
8 may be based on appropriate modifications of the  
9 aforementioned tables.

10 Section 15. Section 627.7077, Florida Statutes, is  
11 created to read:

12 627.7077 Florida Sinkhole Insurance Facility and other  
13 matters related to affordability and availability of sinkhole  
14 insurance; feasibility study.--

15 (1) The Florida State University College of Business  
16 Department of Risk Management and Insurance shall, under the  
17 direction of the office, conduct a feasibility and  
18 cost-benefit study of a potential Florida Sinkhole Insurance  
19 Facility and of other matters related to affordability and  
20 availability of sinkhole insurance. The study shall be  
21 conducted in consultation with the State Board of  
22 Administration and the Florida Geological Survey. The  
23 university shall provide a preliminary report of its analysis,  
24 findings, and recommendations to the Financial Services  
25 Commission and the presiding officers of the Legislature no  
26 later than February 1, 2005, and shall provide a final report  
27 no later than April 1, 2005.

28 (2) The potential functions of the facility to be  
29 analyzed include:

30 (a) Serving as the direct insurer or the reinsurer for  
31 all or some sinkhole losses.

1           (b) Providing training, communication, and other  
2 educational services to the public, engineers, the  
3 construction industry, insurance professionals, or others.

4           (c) Providing uniform standards for use by insurers in  
5 evaluating sinkhole loss claims.

6           (d) Providing consulting services for insurers.

7           (e) Maintaining a public database of all confirmed  
8 sinkholes and paid sinkhole loss claims, for use by consumers  
9 and by the insurance, building construction, banking, and real  
10 estate industries.

11           (3) The feasibility study shall, at a minimum, address  
12 the following issues:

13           (a) Where the facility should be housed, including,  
14 but not limited to, the options of creating a separate  
15 facility or using the Citizens Property Insurance Corporation  
16 or the Florida Hurricane Catastrophe Fund.

17           (b) Federal income taxation implications.

18           (c) Funding options and costs associated with  
19 operating the facility, including means of funding sinkhole  
20 insurance through premiums that are adequate to fund covered  
21 losses.

22           (d) Applicability of the experience of similar  
23 facilities of other states.

24           (e) Other economic impact considerations pertinent to  
25 a facility.

26           (f) Alternative dispute resolution mechanisms.

27           (g) The impact of all present requirements in the  
28 Florida Insurance Code on affordability and availability of  
29 sinkhole insurance and recommendations to address such  
30 impacts.

31



1           (4) The study shall be funded from a budget of no more  
2 than \$300,000, which will be funded by assessments on insurers  
3 issuing property insurance in this state. Such assessments  
4 shall be collected by the office and shall be prorated among  
5 such insurers according to a formula whereby each insurer  
6 shall pay a fraction of such budget, the numerator of which  
7 shall be such insurer's direct earned premiums for property  
8 insurance in this state and the denominator of which shall be  
9 the total direct earned premiums for property insurance in  
10 this state for calendar year 2003.

11           Section 16. Section 627.838, Florida Statutes, is  
12 amended to read:

13           627.838 Filing and approval of forms; service  
14 charges.--

15           (1) No premium finance agreement form or related form  
16 shall be used in this state by a premium finance company  
17 unless it has been filed with and approved by the office.  
18 Every filing shall be made within 30 days of issuance or use.

19           (2) Each premium finance company shall file with the  
20 office the service charge and interest rate plan, including  
21 all modifications thereto, for informational purposes only.  
22 Every filing shall be made within 30 days of its effective  
23 date.

24           ~~(3) Each filing shall be accompanied by the filing fee~~  
25 ~~specified in s. 627.849.~~

26           Section 17. Paragraph (e) of subsection (1) of section  
27 627.848, Florida Statutes, is amended to read:

28           627.848 Cancellation of insurance contract upon  
29 default.--

30           (1) When a premium finance agreement contains a power  
31 of attorney or other authority enabling the premium finance

1 company to cancel any insurance contract listed in the  
2 agreement, the insurance contract shall not be canceled unless  
3 cancellation is in accordance with the following provisions:  
4 (e) Whenever a financed ~~an~~ insurance contract is  
5 canceled ~~in accordance with this section~~, the insurer shall,  
6 within 30 days of the cancellation date, ~~promptly~~ return the  
7 unpaid balance due under the finance contract, up to the gross  
8 amount available upon the cancellation of the policy, to the  
9 premium finance company and any remaining unearned premium to  
10 the agent or the insured, or both, for the benefit of the  
11 insured or insureds. The insurer shall, within 30 days of the  
12 cancellation date, notify the insured and the agent of the  
13 amount of unearned premium returned to the premium finance  
14 company and the amount of unearned commission held by the  
15 agent. The premium finance company shall, within 15 days after  
16 the account has been overpaid, either refund to the insured  
17 for the insured's benefit any refund due on his or her account  
18 or, if the refund is sent or credited to the agent, return or  
19 credit to the agent the amount of the overpayment and notify  
20 the insured of the refunded amount. ~~The premium finance~~  
21 ~~company within 15 days shall notify the insured and the agent~~  
22 ~~of the amount of unearned premium.~~ Within 15 days of receipt  
23 of notification from the premium finance company, the agent  
24 shall return such amount including any unearned commission to  
25 the insured or with the written approval of the insured apply  
26 such amount to the purchase of other insurance products  
27 regulated by the office. The commission may adopt rules  
28 necessary to implement the provisions of this subsection.  
29 Section 18. Subsection (1) of section 627.849, Florida  
30 Statutes, is amended to read:  
31 627.849 Fees.--

1           (1) The office shall collect in advance, and the  
2 persons so served shall pay to it in advance, the following  
3 fees:

- 4           (a) Annual license fee.....\$250  
5           (b) Investigation fee.....100  
6           (c) Annual report filing fee.....25  
7           (d) ~~Form filing fee.....10~~

8           Section 19. Analysis of factors affecting premium  
9 levels and availability of personal lines property and  
10 casualty insurance to consumers in Florida.--

11           (1) The Legislative Auditing Committee shall enter  
12 into a contract with the Florida State University College of  
13 Business Department of Risk Management and Insurance to  
14 provide, no later than February 1, 2005, a detailed analysis  
15 of factors affecting costs and potential assessments on  
16 consumers, and availability, of personal lines property and  
17 casualty insurance in Florida generally and in those areas in  
18 which coverage is underwritten by the Citizens Property and  
19 Casualty Insurance Company. The analysis shall include an  
20 evaluation of such factors and recommendations appropriate to  
21 moderate or enhance their impact on premiums potential  
22 assessments and availability of such insurance. Such factors  
23 shall include, but are not limited to:

24           (a) The factors affecting the level of competition and  
25 premium levels specifically, including the impact of rate  
26 regulation and possible rating law reforms, and including  
27 reforms that have succeeded or failed in other states.

28           (b) The cost and benefits of required coverages and of  
29 restrictions on optional coverages that could otherwise be  
30 made available to consumers.

31

1           (c) Such other information as may be useful to the  
2 Legislature in determining how to increase availability and,  
3 over the short and long term, to moderate costs and potential  
4 consumer assessments.

5           (2) The study shall be funded from a budget of no more  
6 than \$250,000, which shall be funded by assessments on  
7 insurers issuing personal lines property and casualty  
8 insurance in the state. Such assessments shall be collected by  
9 the Office of Insurance Regulation and shall be prorated among  
10 such insurers according to a formula whereby each insurer  
11 shall pay a fraction of such budget, the numerator of which  
12 shall be such insurer's direct earned premiums for personal  
13 lines property and casualty insurance in the state and the  
14 denominator of which shall be the total direct earned premiums  
15 for personal lines property and casualty insurance in the  
16 state for calendar year 2003.

17           (3) The Department of Financial Services, the Office  
18 of Insurance Regulation, and insurers shall cooperate with the  
19 Florida State University College of Business Department of  
20 Risk Management and Insurance conducting the analysis and  
21 shall provide such information as the Florida State University  
22 College of Business Department of Risk Management and  
23 Insurance may request in the format requested by the  
24 university.

25           Section 20. Section 625.131, Florida Statutes, is  
26 repealed.

27           Section 21. Nothing in this act shall be construed to  
28 create or be the basis of a civil action. Nothing in this act  
29 shall be construed as limiting settlement or adjustment of  
30 claims by methods that are otherwise permissible under Florida  
31 law.

1           Section 22. Except as otherwise expressly provided in  
2 this act and except for this section, which shall take effect  
3 upon becoming a law, this act shall take effect July 1, 2004.

4  
5                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
6                                 COMMITTEE SUBSTITUTE FOR  
7   CS/SB 2038

8 The committee substitute:

- 9 -- Removes a provision which specified that an arbitration  
10 clause in an insurance policy cannot preclude the insured  
11 from using certain mediation provisions in law.  
12 -- Removes a provision which specified that a local  
13 government self-insurance fund created for the purpose of  
14 providing workers' compensation benefits initially has to  
15 be organized as a commercial self-insurance fund or a  
16 group self-insurance fund.  
17 -- Provides that industrial fire insurance policies are  
18 exempt from the requirement that a residential property  
19 insurance rate filing must include actuarially reasonable  
20 discounts, credits, or other rate differentials for  
21 properties on which fixtures or construction techniques  
22 that reduce windstorm loss have been installed or  
23 implemented.  
24 -- Authorizes a study by the Florida State University  
25 Department of Risk Management and Insurance on factors  
26 affecting costs and potential assessments on consumers of  
27 personal lines property and casualty insurance in this  
28 state.  
29 -- Revises a reinsurance statute to specify that a single  
30 assuming insurer may use letters of credit to fund up to  
31 half of the trust fund and trusteed surplus required to  
be maintained under current law.  
-- Specifies that a premium finance company shall, within 15  
days after an account has been overpaid, refund to the  
insured any refund due on the account or, if the refund  
is sent or credited to the agent, return or credit to the  
agent the amount of the overpayment and notify the  
insured of the refund amount.  
-- Specifies that, for an action to be brought against a  
automobile joint underwriting plan (i.e., the Florida  
Automobile Joint Underwriting Association), the  
Department of Financial Services and the plan must have  
been given 90 days' written notice of the violation, and  
provides that the joint underwriting plan may require  
from the insured proof that he or she has obtained the  
mandatory types and amounts of insurance from another  
admitted carrier prior to the cancellation of a policy  
the insured obtained from the plan.