

1 A bill to be entitled
2 An act relating to personal lines residential insurance
3 policies; creating s. 627.40951, F.S.; providing
4 legislative findings; providing purpose and intent;
5 requiring the Chief Financial Officer to appoint an
6 advisory committee for certain purposes; providing for
7 membership; requiring the committee to report certain
8 recommendations to the Office of Insurance Regulation;
9 providing for the Commissioner of Insurance Regulation to
10 approve standard personal lines residential insurance
11 policies and a checklist for each type of such policy;
12 requiring insurers to offer such standard policies under
13 certain circumstances; authorizing the commissioner to
14 modify such policies under certain circumstances;
15 authorizing the Financial Services Commission to adopt
16 rules; providing a definition; amending s. 627.4143, F.S.;
17 requiring personal lines property insurance policies to
18 contain an outline of coverage and a checklist of items
19 contained in the policies; specifying checklist contents;
20 specifying outline contents; requiring the checklist and
21 outline of insurance coverage to be sent with each renewal
22 of personal lines residential insurance policies;
23 clarifying that homeowners' insurance includes mobile
24 homeowners' and condominium unit owners' insurance for
25 purposes of the outline of coverage; amending s. 627.701,
26 F.S.; excluding wind losses from certain provisions
27 specifying liability of insureds; deleting a provision
28 specifying contents of certain notices; requiring insurers

29 to provide written notice explaining to policyholders
 30 hurricane deductible options for residential property
 31 insurance policies; specifying form and contents of the
 32 notice; providing a presumption for a signed notice;
 33 providing an effective date.

34

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

36

37 Section 1. Section 627.40951, Florida Statutes, is created
 38 to read:

39 627.40951 Legislative findings; purpose and intent;
 40 standard personal lines residential insurance policy.--

41 (1) The Legislature finds that many consumers who filed
 42 property loss claims as a result of the hurricanes that struck
 43 this state in 2004 were inadequately insured due to the
 44 difficulty consumers encounter in trying to understand the
 45 complex nature of property insurance policies. The purpose and
 46 intent of this section is to have property and casualty insurers
 47 offer standard personal lines residential property insurance
 48 policies and standard checklists of policy contents, in
 49 accordance with s. 627.4143, to consumers and that these
 50 policies and checklists be written in a format and with
 51 simplified, readable language that will enable most consumers to
 52 understand the principal benefits and coverage provided in the
 53 policy, the principal exclusions, and limitations or reductions
 54 contained in the policy, including, but not limited to,
 55 deductibles, coinsurance, and any other limitations or
 56 reductions, any additional coverage provided through any rider

57 or endorsement which accompanies the policy, and renewal or
58 cancellation provisions.

59 (2) The Chief Financial Officer shall appoint an advisory
60 committee composed of the Chief Financial Officer, two
61 representatives of insurers currently selling personal lines
62 residential property insurance coverage, two representatives of
63 property and casualty agents, two representatives of consumers,
64 two representatives of the Commissioner of Insurance Regulation,
65 and the Insurance Consumer Advocate or his or her designee. The
66 Chief Financial Officer or her or his designee shall serve as
67 chair of the committee. The committee shall develop policy
68 language for coverage that represents general industry standards
69 in the market for comprehensive coverage under personal lines
70 residential insurance policies and shall develop a checklist to
71 be used with each type of personal lines residential property
72 insurance policy. The committee shall review policies and
73 related forms written by Insurance Services Office, Inc. The
74 committee shall file a report containing its recommendations to
75 the Office of Insurance Regulation by January 1, 2006.

76 (3) If the Commissioner of Insurance Regulation accepts
77 the recommendations of the committee, the commissioner shall
78 issue an order approving standard personal lines residential
79 insurance policies and a checklist for each type of personal
80 lines residential insurance policy.

81 (4) Within 12 months after the effective date of the
82 order, each insurer offering similar coverage shall offer the
83 standard plan in addition to other products the insurer is
84 authorized to offer. This requirement does not preclude insurers

85 from underwriting risks to determine eligibility of an applicant
 86 in accordance with the insurer's underwriting guidelines.

87 (5) After approval of the standard policies, the
 88 commissioner may make modifications to a policy as he or she
 89 finds appropriate as market conditions change and as experience
 90 with issues involving standard policies that have been issued.
 91 The commissioner may determine that modifications are necessary
 92 if he or she finds that any of the standard policies are
 93 providing coverage that is significantly different than what the
 94 market has available. Modifications shall be made by order of
 95 the commissioner.

96 (6) The Financial Services Commission may adopt rules to
 97 implement the provisions of this section.

98 (7) For purposes of this section, personal lines
 99 residential property insurance includes homeowners', mobile
 100 homeowners', dwelling, and condominium unit owners' insurance.

101 Section 2. Section 627.4143, Florida Statutes, is amended
 102 to read:

103 627.4143 Outline of coverage.--

104 (1) No private passenger motor vehicle ~~automobile or basic~~
 105 ~~homeowner's~~ policy shall be delivered or issued for delivery in
 106 this state unless an appropriate outline of coverage has been
 107 delivered prior to issuance of the policy or accompanies the
 108 policy when issued.

109 (2) The outline of coverage for a private passenger motor
 110 vehicle insurance policy shall contain all of the following:

111 (a) A brief description of the principal benefits and
 112 coverage provided in the policy, broken down by each class or

113 type of coverage provided under the policy for which a premium
 114 is charged, and itemization of the applicable premium.

115 (b) A summary statement of the principal exclusions and
 116 limitations or reductions contained in the policy by class or
 117 type, including, but not limited to, deductibles, coinsurance,
 118 and any other limitations or reductions.

119 (c) A summary statement of any renewal or cancellation
 120 provisions.

121 (d) A description of the credit or surcharge plan that is
 122 being applied. The description may display numerical or
 123 alphabetical codes on the declarations page or premium notice to
 124 enable the insured to determine the reason or reasons why her or
 125 his policy is being surcharged or is receiving a credit.

126 (e) A list of any additional coverage provided through any
 127 rider or endorsement which accompanies the policy. The list
 128 shall contain a descriptive reference to each additional
 129 coverage, rather than solely a reference to a form or code
 130 number.

131 (f) ~~For a private passenger motor vehicle insurance~~
 132 ~~policy,~~ The extent of coverage provided to the insured in the
 133 event of collision damage to a rental vehicle rented by the
 134 insured. The proof-of-insurance card required by s. 316.646 must
 135 also specify whether rental car coverage is provided, and may
 136 refer to the outline of coverage as to the details or extent of
 137 coverage.

138 (3) No basic homeowners', mobile homeowners', dwelling, or
 139 condominium unit owners' policy shall be delivered or issued for
 140 delivery in this state unless a checklist of coverage and an

141 appropriate outline of coverage has been delivered prior to
142 issuance of the policy or accompanies the policy when issued.
143 Insurers shall use the checklists developed pursuant to s.
144 627.40951.

145 (a) The checklist shall contain a list of the standard
146 provisions and elements that may typically be included in such
147 policies, whether or not they are included in the particular
148 policy being issued, in a format that allows the insurer to
149 place a check mark next to the provision's elements that are
150 included so that the consumer can see what is included and what
151 is not included in the policy. Limits of liability shall be
152 listed for each item. The checklist shall include, but is not
153 limited to, the following:

154 1. Covered real property. Items for this category shall be
155 broader than simply listing "dwelling." It shall include
156 references to specific property in the category of attached and
157 unattached structures that may be covered in a typical policy.
158 It shall include references to whether coverage for damaged
159 property is based on replacement cost coverage or actual cash
160 value coverage. Primary exclusions from real property coverage
161 shall be listed after the real property coverage items.

162 2. Personal property coverage. Primary exclusions from
163 personal property coverage items shall be listed after the
164 personal property coverage.

165 3. Personal liability coverage. Primary exclusions from
166 personal liability coverage shall be listed after the personal
167 liability coverage items.

168 4. Medical payments coverage.

- 169 5. Primary discounts that are available.
- 170 6. Hurricane deductibles that are available. The notice to
 171 consumers set forth in s. 627.701(5) shall be set forth
 172 immediately following the list of deductibles.
- 173 7. References to specific additional property coverage
 174 that may be provided through any rider or endorsement. This
 175 shall include building ordinance or law coverage, personal
 176 injury endorsements, motor vehicle endorsements, jewelry, furs,
 177 and communication property endorsements, home business
 178 endorsements, and replacement cost endorsement for contents.
- 179 8. Covered perils.
- 180 9. Excluded perils.
- 181 (b) The outline of coverage shall contain:
- 182 1. A brief description of the principal benefits and
 183 coverage provided in the policy, broken down by each class or
 184 type of coverage provided under the policy for which a premium
 185 is charged, and itemization of the applicable premium.
- 186 2. A summary statement of the principal exclusions and
 187 limitations or reductions contained in the policy by class or
 188 type, including, but not limited to, deductibles, coinsurance,
 189 and any other limitations or reductions.
- 190 3. A summary statement of any renewal or cancellation
 191 provisions.
- 192 4. A description of the credit or surcharge plan that is
 193 being applied. The description may display numerical or
 194 alphabetical codes on the declarations page or premium notice to
 195 enable the insured to determine the reason or reasons why his or
 196 her policy is being surcharged or is receiving a credit.

197 5. A summary of any additional coverage provided through
 198 any rider or endorsement which accompanies the policy.

199 ~~(4)(3)~~ The outline of coverage for a private passenger
 200 motor vehicle policy is required only on the initial policy
 201 issued by an insurer. The outline of coverage and the checklist
 202 for a basic homeowners', mobile homeowners', dwelling, or
 203 condominium unit owners' policy is required on the initial
 204 policy and each renewal thereof issued by an insurer.

205 ~~(5)(4)~~ An insurer must insert the following language on
 206 the outline of coverage and the checklist:

207
 208 "The following outline of coverage or checklist is for
 209 informational purposes only. Florida law prohibits this outline
 210 or checklist from changing any of the provisions of the
 211 insurance contract which is the subject of this outline. Any
 212 endorsement regarding changes in types of coverage, exclusions,
 213 limitations, reductions, deductibles, coinsurance, renewal
 214 provisions, cancellation provisions, surcharges, or credits will
 215 be sent separately."
 216

217 ~~(6)(5)~~ Neither this section nor the outline of coverage or
 218 checklist mandated by this section alters or modifies the terms
 219 of the insurance contract, creates a cause of action, or is
 220 admissible in any civil action.

221 Section 3. Subsection (3) of section 627.701, Florida
 222 Statutes, is amended, subsections (5), (6), (7), and (8) of
 223 section 627.701, Florida Statutes, are renumbered as subsections

224 (6), (7), (8), and (9), respectively, and a new subsection (5)
 225 is added to said section, to read:

226 627.701 Liability of insureds; coinsurance; deductibles.--

227 (3)(a) A policy of residential property insurance shall
 228 include a deductible amount applicable to hurricane ~~or wind~~
 229 losses no lower than \$500 and no higher than 2 percent of the
 230 policy dwelling limits with respect to personal lines
 231 residential risks, and no higher than 3 percent of the policy
 232 limits with respect to commercial lines residential risks;
 233 however, if a risk was covered on August 24, 1992, under a
 234 policy having a higher deductible than the deductibles allowed
 235 by this paragraph, a policy covering such risk may include a
 236 deductible no higher than the deductible in effect on August 24,
 237 1992. Notwithstanding the other provisions of this paragraph, a
 238 personal lines residential policy covering a risk valued at
 239 \$50,000 or less may include a deductible amount attributable to
 240 hurricane ~~or wind~~ losses no lower than \$250, and a personal
 241 lines residential policy covering a risk valued at \$100,000 or
 242 more may include a deductible amount attributable to hurricane
 243 ~~or wind~~ losses no higher than 5 percent of the policy limits
 244 unless subject to a higher deductible on August 24, 1992;
 245 however, no maximum deductible is required with respect to a
 246 personal lines residential policy covering a risk valued at more
 247 than \$500,000. An insurer may require a higher deductible,
 248 provided such deductible is the same as or similar to a
 249 deductible program lawfully in effect on June 14, 1995. In
 250 addition to the deductible amounts authorized by this paragraph,
 251 an insurer may also offer policies with a copayment provision

252 | under which, after exhaustion of the deductible, the
 253 | policyholder is responsible for 10 percent of the next \$10,000
 254 | of insured hurricane ~~or wind~~ losses.

255 | (b)1. Except as otherwise provided in this paragraph,
 256 | prior to issuing a personal lines residential property insurance
 257 | policy on or after April 1, 1996, or prior to the first renewal
 258 | of a residential property insurance policy on or after April 1,
 259 | 1996, the insurer must offer alternative deductible amounts
 260 | applicable to hurricane ~~or wind~~ losses equal to \$500 and 2
 261 | percent of the policy dwelling limits, unless the 2 percent
 262 | deductible is less than \$500. ~~The written notice of the offer~~
 263 | ~~shall specify the hurricane or wind deductible to be applied in~~
 264 | ~~the event that the applicant or policyholder fails to~~
 265 | ~~affirmatively choose a hurricane deductible. The insurer must~~
 266 | ~~provide such policyholder with notice of the availability of the~~
 267 | ~~deductible amounts specified in this paragraph in a form~~
 268 | ~~approved by the office in conjunction with each renewal of the~~
 269 | ~~policy. The failure to provide such notice constitutes a~~
 270 | ~~violation of this code but does not affect the coverage provided~~
 271 | ~~under the policy.~~

272 | 2. This paragraph does not apply with respect to a
 273 | deductible program lawfully in effect on June 14, 1995, or to
 274 | any similar deductible program, if the deductible program
 275 | requires a minimum deductible amount of no less than 2 percent
 276 | of the policy limits.

277 | 3. With respect to a policy covering a risk with dwelling
 278 | limits of at least \$100,000, but less than \$250,000, the insurer
 279 | may, in lieu of offering a policy with a \$500 hurricane ~~or wind~~

280 deductible as required by subparagraph 1., offer a policy that
 281 the insurer guarantees it will not nonrenew for reasons of
 282 reducing hurricane loss for one renewal period and that contains
 283 up to a 2 percent hurricane ~~or wind~~ deductible as required by
 284 subparagraph 1.

285 4. With respect to a policy covering a risk with dwelling
 286 limits of \$250,000 or more, the insurer need not offer the \$500
 287 hurricane ~~or wind~~ deductible as required by subparagraph 1., but
 288 must, except as otherwise provided in this subsection, offer the
 289 2 percent hurricane ~~or wind~~ deductible as required by
 290 subparagraph 1.

291 (c) In order to provide for the transition from wind
 292 deductibles to hurricane deductibles as required by this
 293 subsection, an insurer is required to provide wind deductibles
 294 meeting the requirements of this subsection until the effective
 295 date of the insurer's first rate filing made after January 1,
 296 1997, and is thereafter required to provide hurricane
 297 deductibles meeting the requirements of this subsection.

298 (5) Prior to issuing a personal lines residential property
 299 insurance policy and prior to each renewal thereof, insurers
 300 shall provide each policyholder and applicant with a notice of
 301 the availability of the deductible amounts that insurers are
 302 required to offer and any other deductible that an insurer
 303 chooses to offer that is not prohibited by this section. The
 304 notice shall be on a form approved by the office. The form shall
 305 fully advise the policyholder or applicant of the nature of the
 306 deductible, including the fact that higher deductibles result in
 307 lower premiums but will also result in higher out-of-pocket

308 expenses to the policyholder in the event of a hurricane damage
 309 claim. For each percentage deductible available to the
 310 policyholder or applicant, the form shall include the dollar
 311 amount of deductible that will result from application of the
 312 percentage deductible. The heading of the form shall be in 12-
 313 point bold type and shall state:

314
 315 "You are required by Florida law to choose a
 316 deductible that will apply to any claims that you may
 317 have with your insurer as a result of damage to your
 318 residence by a hurricane. This form explains the
 319 deductible options that your insurer is required or
 320 permitted to offer to you. Please read carefully."

321
 322 If this form is signed by a named insured, it is conclusively
 323 presumed there was an informed, knowing selection of the amount
 324 of the deductible. Such notice shall provide for a means to
 325 allow the policyholder or applicant to select the deductible.
 326 The failure to provide such notice constitutes a violation of
 327 this code but does not affect the coverage provided under the
 328 policy.

329 Section 4. This act shall take effect July 1, 2005.