

1 A bill to be entitled
2 An act relating to insurance; amending s. 626.321, F.S.;
3 including service warranty agreement sales covering
4 communications equipment under certain limited licensing
5 provisions; providing for additional appointment authority
6 for certain licensed branch locations of a communications
7 equipment retail vendor; revising certain application,
8 appointment, and licensing requirements for certain
9 entities; providing for payment of appointment fees;
10 providing an exception; requiring renewals of
11 appointments; providing for a renewal fee; amending s.
12 626.731, F.S.; revising a qualification for licensure as a
13 general lines agent; creating s. 624.1275, F.S.;
14 proscribing state agencies and political subdivisions from
15 prohibiting or excluding licensed insurance agents from
16 competing or negotiating for certain insurance products or
17 plans; providing a definition; amending s. 636.044, F.S.;
18 authorizing certain persons to engage in the solicitation
19 and sale of certain insurance relating to air ambulance
20 transportation costs; providing requirements and
21 limitations; amending s. 627.64872, F.S.; redefining the
22 term "health insurance" for purposes of determining
23 assessments under the Florida Health Insurance Plan;
24 amending s. 943.135, F.S.; authorizing certain employing
25 agencies to require law enforcement officers and
26 correctional officers to pass certain physical
27 examinations for certain purposes; providing criteria,
28 requirements, and limitations; authorizing certain

29 | employing agencies to set tobacco use standards for law
30 | enforcement officers and correctional officers employed by
31 | local governments; amending s. 631.181, F.S.; providing an
32 | exception to certain requirements for a signed statement
33 | for certain claims; providing requirements; creating s.
34 | 631.1915, F.S.; providing requirements for policyholder
35 | collateral, deductible reimbursements, and other
36 | policyholder obligations; specifying that certain
37 | collateral held by an insurer or a receiver to secure
38 | policyholder obligations under a deductible agreement are
39 | not an estate asset; requiring use of such collateral to
40 | secure policyholder obligations under such agreement;
41 | requiring a receiver to use such collateral to pay
42 | noncovered claims under certain circumstances; providing
43 | for certain claims to be claims against an insurer's
44 | estate under certain circumstances; requiring a receiver
45 | to allocate collateral among certain obligations and
46 | administer such collateral; authorizing a receiver to
47 | continue and enforce certain alternative policyholder
48 | claim funding contractual agreements; specifying certain
49 | actions as a bar to certain claims and an extinguishment
50 | of certain obligations; requiring a guaranty association
51 | to bill a policyholder for certain reimbursement amounts
52 | for certain claims; specifying policyholder obligation for
53 | certain amounts; prohibiting certain defenses; requiring a
54 | receiver to use certain collateral for certain purposes;
55 | requiring a receiver to prorate certain funds of an estate
56 | under certain circumstances; authorizing a guaranty

57 | association to deduct certain expenses; requiring a
58 | guaranty association to provide a complete accounting of
59 | certain billing and collection activities; authorizing a
60 | guaranty association to contract for certain collections;
61 | providing for claims against an insolvent insurer's estate
62 | for certain unreimbursed claims payments; requiring a
63 | receiver to periodically adjust collateral held pursuant
64 | to a deductible agreement; specifying jurisdiction of a
65 | state court to resolve disputes; preserving rights of a
66 | guaranty association to reimbursement for certain claims;
67 | providing application to certain orders of liquidation;
68 | providing definitions; providing for nonapplication to
69 | certain claims; amending s. 631.54, F.S.; revising a
70 | definition; amending s. 631.56, F.S.; revising the
71 | membership of the board of directors of the Florida
72 | Insurance Guaranty Association, Inc.; amending s. 631.57,
73 | F.S.; revising requirements and limitations for
74 | obligations of the association for covered claims;
75 | authorizing the association to contract with counties and
76 | municipalities to issue revenue bonds for certain
77 | purposes; creating s. 631.695, F.S.; providing legislative
78 | findings and purposes; providing for issuance of revenue
79 | bonds through counties and municipalities to fund
80 | assistance programs for paying covered claims for
81 | hurricane damage; providing procedures, requirements, and
82 | limitations for counties, municipalities, and the Florida
83 | Insurance Guaranty Association, Inc., relating to issuance
84 | and validation of such bonds; providing for payments on

85 and retirement of such bonds from certain assessments;
86 prohibiting pledging the funds, credit, property, and
87 taxing power of the state, counties, and municipalities
88 for payment of bonds; specifying authorized uses of bond
89 proceeds; limiting the term of bonds; specifying a state
90 covenant to protect bondholders from adverse actions
91 relating to such bonds; specifying exemptions for bonds,
92 notes, and other obligations of counties and
93 municipalities from certain taxes or assessments on
94 property and revenues; authorizing counties and
95 municipalities to create a legal entity to exercise
96 certain powers; requiring the association to issue an
97 annual report on the status of certain uses of bond
98 proceeds; providing report requirements; requiring the
99 association to provide a copy of the report to the
100 Legislature and Chief Financial Officer; prohibiting
101 repeal of certain provisions relating to certain bonds
102 under certain circumstances; providing severability;
103 providing an effective date.

104
105 Be It Enacted by the Legislature of the State of Florida:

106
107 Section 1. Paragraph (i) of subsection (1) of section
108 626.321, Florida Statutes, is amended to read:

109 626.321 Limited licenses.--

110 (1) The department shall issue to a qualified individual,
111 or a qualified individual or entity under paragraphs (c), (d),

112 (e), and (i), a license as agent authorized to transact a
 113 limited class of business in any of the following categories:

114 (i) In-transit and storage personal property insurance;
 115 communications equipment property insurance, ~~or~~ communications
 116 equipment inland marine insurance, and communications equipment
 117 service warranty agreement sales.--

118 1. A license covering only the insurance of personal
 119 property not held for resale, covering the risks of
 120 transportation or storage in rented or leased motor vehicles,
 121 trailers, or self-service storage facilities, as the latter are
 122 defined in s. 83.803, may be issued, without examination, only
 123 to employees or authorized representatives of lessors who rent
 124 or lease motor vehicles, trailers, or self-service storage
 125 facilities and who are authorized by an insurer to issue
 126 certificates or other evidences of insurance to lessees of such
 127 motor vehicles, trailers, or self-service storage facilities
 128 under an insurance policy issued to the lessor. A person
 129 licensed under this paragraph shall give a prospective purchaser
 130 of in-transit or storage personal property insurance written
 131 notice that his or her homeowner's policy may provide coverage
 132 for the loss of personal property and that the purchase of such
 133 insurance is not required under the lease terms.

134 2. A license covering only communications equipment, for
 135 the loss, theft, mechanical failure, malfunction of or damage
 136 to, communications equipment. The license may be issued only to:

137 a. Employees or authorized representatives of a licensed
 138 general lines agent;

139 b. The lead ~~Each~~ business location of a retail vendor of
 140 communications equipment and its branch locations; or

141 c. Employees, agents, or authorized representatives of a
 142 retail vendor of communications equipment.

143
 144 The license authorizes the sale of such policies, or
 145 certificates under a group master policy, only with respect to
 146 the sale of, or provision of communications service for,
 147 communications equipment. A general lines agent is not required
 148 to obtain a license under this subparagraph to offer or sell
 149 communications equipment property insurance or communication
 150 equipment inland marine insurance. The license also authorizes
 151 sales of service warranty agreements covering only
 152 communications equipment to the same extent as if licensed under
 153 s. 634.419 or s. 634.420. The provisions of this chapter
 154 requiring submission of fingerprints do not apply to
 155 communications equipment licenses issued to qualified entities
 156 under this subparagraph. Licensees offering policies under this
 157 subparagraph must receive initial training from, and have a
 158 contractual relationship with, a general lines agent. For the
 159 purposes of this subparagraph, the term "communications
 160 equipment" means handsets, pagers, personal digital assistants,
 161 portable computers, automatic answering devices, and other
 162 devices or accessories used to originate or receive
 163 communications signals or service, and includes services related
 164 to the use of such devices, such as consumer access to a
 165 wireless network; however, the term does not include
 166 telecommunications switching equipment, transmission wires, cell

167 | site transceiver equipment, or other equipment and systems used
168 | by telecommunications companies to provide telecommunications
169 | service to consumers. A branch location of a retail vendor of
170 | communications equipment licensed pursuant to paragraph (2)(b)
171 | may, in lieu of obtaining an appointment from an insurer or
172 | warranty association as provided in paragraph (2)(c), obtain a
173 | single appointment from the associated lead business location
174 | licensee licensed under paragraph (2)(a) and pay the prescribed
175 | appointment fee under s. 624.501, provided the lead business
176 | location has a single appointment from each insurer or warranty
177 | association represented and such appointment provides that it
178 | applies to the lead business location and all of its branch
179 | locations. Any branch location individually appointed by an
180 | insurer under paragraph (2)(c) prior to January 1, 2006, may
181 | replace its appointments with an appointment from its lead
182 | location at no charge. Branch location appointments shall be
183 | renewed on the first annual anniversary of licensure of the lead
184 | business location occurring more than 24 months after the
185 | initial appointment date and every 24 months thereafter.
186 | Notwithstanding s. 624.501, after July 1, 2006, the renewal fee
187 | applicable to such branch location appointments shall be \$30 per
188 | appointment.

189 | Section 2. Paragraph (f) of subsection (1) of section
190 | 626.731, Florida Statutes, is amended to read:

191 | 626.731 Qualifications for general lines agent's
192 | license.--

193 | (1) The department shall not grant or issue a license as
194 | general lines agent to any individual found by it to be

195 untrustworthy or incompetent or who does not meet each of the
 196 following qualifications:

197 (f) The applicant is not a service representative, a
 198 managing general agent licensed in this state, or a special
 199 agent or similar service representative of a health insurer
 200 which also transacts property, casualty, or surety insurance;
 201 except that the president, vice president, secretary, or
 202 treasurer, including a member of the board of directors, of a
 203 corporate insurer, if otherwise qualified under and meeting the
 204 requirements of this part, may be licensed and appointed as a
 205 local resident agent.

206 Section 3. Section 624.1275, Florida Statutes, is created
 207 to read:

208 624.1275 Insurance agents; prohibited exclusion from
 209 public bidding and negotiations.--A licensed insurance agent may
 210 not be prohibited or excluded from competing or negotiating for
 211 any insurance product or plan purchased, provided, or endorsed
 212 by a state agency or any political subdivision of this state on
 213 the basis of the compensation or contractual or employment
 214 arrangement granted to the agent by an employer, insurer, or
 215 licensed agency. The term "political subdivision" has the same
 216 meaning set forth in s. 1.01.

217 Section 4. Subsection (5) is added to section 636.044,
 218 Florida Statutes, to read:

219 636.044 Agent licensing.--

220 (5) Notwithstanding the provisions of this section, a
 221 person registered in accordance with part XI of chapter 559 as a
 222 seller of travel may engage in the solicitation and sale of

223 insurance covering the cost of transportation by air ambulance,
224 as defined in s. 401.23(4), that is provided by an air ambulance
225 service licensed pursuant to s. 401.251. The insurance policy
226 providing this coverage is subject to all applicable provisions
227 of this chapter. A seller of travel may solicit and sell such
228 insurance only in connection with the sale of transportation
229 tickets. No such policy shall be in effect for a duration of
230 more than 48 hours or for the duration of a specified one-way or
231 round-trip travel event.

232 Section 5. Paragraph (b) of subsection (20) of section
233 627.64872, Florida Statutes, is amended to read:

234 627.64872 Florida Health Insurance Plan.--

235 (20) COMBINING MEMBERSHIP OF THE FLORIDA COMPREHENSIVE
236 HEALTH ASSOCIATION; ASSESSMENT.--

237 (b)1. As a condition of doing business in this state, an
238 insurer shall pay an assessment to the board in the amount
239 prescribed by this section. For operating losses incurred on or
240 after July 1, 2004, by persons enrolled in the Florida
241 Comprehensive Health Association, each insurer shall annually be
242 assessed by the board in the following calendar year a portion
243 of such incurred operating losses of the plan. Such portion
244 shall be determined by multiplying such operating losses by a
245 fraction, the numerator of which equals the insurer's earned
246 premium pertaining to direct writings of health insurance in the
247 state during the calendar year preceding that for which the
248 assessment is levied, and the denominator of which equals the
249 total of all such premiums earned by insurers in the state
250 during such calendar year.

251 2. The total of all assessments under this paragraph upon
 252 an insurer shall not exceed 1 percent of such insurer's health
 253 insurance premium earned in this state during the calendar year
 254 preceding the year for which the assessments were levied.

255 3. For the purposes of determining assessments under this
 256 subsection, the term "health insurance" means any hospital and
 257 medical expense incurred policy, minimum premium plan, stop-loss
 258 coverage, health maintenance organization contract, prepaid
 259 health clinic contract, multiple-employer welfare arrangement
 260 contract, or fraternal benefit society health benefits contract,
 261 whether sold as an individual or group policy or contract. The
 262 term does not include a policy covering medical payment coverage
 263 or personal injury protection coverage in a motor vehicle
 264 policy, coverage issued as a supplement to liability insurance,
 265 or workers' compensation.

266 ~~4.3-~~ All rights, title, and interest in the assessment
 267 funds collected under this paragraph shall vest in this state.
 268 However, all of such funds and interest earned shall be used by
 269 the plan to pay claims and administrative expenses.

270 Section 6. Subsections (5) and (6) are added to section
 271 943.135, Florida Statutes, to read:

272 943.135 Requirements for continued employment.--

273 (5) An employing agency as defined in s. 943.10(4) may
 274 require a law enforcement officer and correctional officer as
 275 defined in s. 943.10(1), (2), or (3) to successfully pass a
 276 physical examination in order to be eligible for the presumption
 277 set forth in s. 112.18. The employing agency shall have the
 278 physical examination performed prior to or immediately upon

279 employment of the officer. This provision shall not affect the
280 applicability of the presumption set forth in s. 112.18 for law
281 enforcement officers or correctional officers who are currently
282 employed by an employing agency.

283 (6) An employing agency as defined in s. 943.10(4) may set
284 tobacco use standards for law enforcement officers and
285 correctional officers as defined in s. 943.10(1), (2), or (3)
286 employed by a municipality, county, or political subdivision of
287 the state or any agent of the political subdivision who has
288 constitutional authority or statutory authority to employ or
289 appoint an officer.

290 Section 7. Paragraph (f) is added to subsection (2) of
291 section 631.181, Florida Statutes, to read:

292 631.181 Filing and proof of claim.--

293 (2)

294 (f) The signed statement required by this section shall
295 not be required on claims for which adequate claims file
296 documentation exists within the records of the insolvent
297 insurer. Claims for payment of unearned premium shall not be
298 required to use the signed statement required by this section if
299 the receiver certifies to the guaranty fund that the records of
300 the insolvent insurer are sufficient to determine the amount of
301 unearned premium owed to each policyholder of the insurer and
302 such information is remitted to the guaranty fund by the
303 receiver in electronic or other mutually agreed upon format.

304 Section 8. Section 631.1915, Florida Statutes, is created
305 to read:

306 631.1915 Policyholder collateral; deductible
307 reimbursements; other policyholder obligations.--

308 (1) Any collateral held by or for the benefit of, or
309 assigned to, the insurer or subsequently the receiver in order
310 to secure the obligations of a policyholder under a deductible
311 agreement shall not be considered an asset of the estate and
312 shall be maintained and administered by the receiver as provided
313 in this section, notwithstanding any other provision of law or
314 contract to the contrary.

315 (2) If the collateral is being held by or for the benefit
316 of, or assigned to, the insurer or subsequently the receiver to
317 secure obligations under a deductible agreement with a
318 policyholder subject to the provisions of this section, the
319 collateral shall be used to secure the policyholder's obligation
320 to fund or reimburse claims payments within the agreed
321 deductible amount.

322 (3) If a claim is subject to a deductible agreement and
323 secured by collateral and is not covered by any guaranty
324 association, the receiver shall adjust and pay the noncovered
325 claim using the collateral, but only to the extent of the
326 available collateral. A claim against the collateral by a third-
327 party claimant is not a claim against the insolvent insurer's
328 estate for purposes of s. 631.193. If the collateral is
329 exhausted and the insured is not able to provide funds to pay
330 the remaining claims within the deductible, the remaining claims
331 shall be claims against the insurer's estate subject to
332 complying with other provisions in this part for the filing and
333 allowance of such claims.

334 (4) To the extent the receiver is holding collateral
335 provided by a policyholder that was obtained to secure a
336 deductible agreement and to secure other obligations of the
337 policyholder, the receiver shall equitably allocate the
338 collateral among such obligations and administer the collateral
339 allocated to the deductible agreement pursuant to this section.
340 The receiver shall inform the guaranty associations of the
341 method and details of all the foregoing allocations.

342 (5) Regardless of whether there is collateral, if the
343 insurer has contractually agreed to allow the policyholder to
344 fund its own claims within the deductible amount pursuant to a
345 deductible agreement, through the policyholder's own
346 administration of its claims or through the policyholder
347 providing funds directly to a third-party administrator who
348 administers the claims, the receiver may allow such funding
349 arrangement to continue and, where applicable, shall enforce
350 such arrangements. The funding of such claims by the
351 policyholder within the deductible amount acts as a bar to any
352 claim for such amount in the liquidation proceeding, including,
353 but not limited to, any such claim by the policyholder or the
354 third-party claimant. The funding extinguishes both the
355 obligation, if any, of any guaranty association to pay such
356 claims within the deductible amount and the obligations, if any,
357 of the policyholder or third-party administrator to reimburse
358 the guaranty association. No charge of any kind shall be made
359 against any guaranty association on the basis of the
360 policyholder's funding of claims payment made pursuant to the
361 mechanism set forth in this subsection.

362 (6) If the insurer has not contractually agreed to allow
363 the policyholder to fund the policyholder's own claims within
364 the deductible amount, to the extent a guaranty association is
365 required by applicable state law to pay any claims for which the
366 insurer would have been entitled to reimbursement from the
367 policyholder under the terms of the deductible agreement and to
368 the extent the claims have not been paid by a policyholder or
369 third party, the guaranty association shall bill the
370 policyholder for such reimbursement and the policyholder is
371 obligated to pay such amount to the guaranty association for the
372 benefit of the guaranty associations who paid such claims.
373 Neither the insolvency of the insurer nor its inability to
374 perform any of its obligations under the deductible agreement
375 shall be a defense to the policyholder's reimbursement
376 obligation under the deductible agreement. If the policyholder
377 fails to pay the amounts due within 60 days after the bill for
378 such reimbursements is due, the receiver shall use the
379 collateral to the extent necessary to reimburse the guaranty
380 association and, at the same time, the guaranty association may
381 pursue other collection efforts against the policyholder. If
382 more than one guaranty association has a claim against the same
383 collateral and the available collateral, after allocation under
384 subsection (4), together with billing and collection efforts,
385 are together insufficient to pay each guaranty association in
386 full, the receiver shall prorate payments to each guaranty
387 association based upon the relationship the amount of claims
388 each guaranty association has paid bears to the total of all
389 claims paid by such guaranty associations.

390 (7) (a) The guaranty association is entitled to deduct from
391 collateral to be returned to a policyholder reasonable actual
392 expenses incurred in fulfilling the responsibilities under this
393 provision.

394 (b) With respect to claims payments made by any guaranty
395 association, the guaranty association shall provide any other
396 guaranty associations and the receiver with a complete
397 accounting of the guaranty association's deductible billing and
398 collection activities, including copies of the policyholder
399 billings when rendered and the reimbursements collected. The
400 cost of reports required pursuant to this subsection shall be
401 considered part of the expenses of the guaranty association.

402 (c) The guaranty association may contract with the
403 receiver for the direct collection from the policyholders on the
404 same basis as the guaranty association and with the same rights
405 and remedies. If so assigned, the receiver shall report any
406 amounts so collected from each policyholder to the guaranty
407 association.

408 (d) To the extent that guaranty associations pay claims
409 within the deductible amount but are not reimbursed by the
410 receiver under this section or by policyholder payments from the
411 guaranty associations' own collection efforts, the guaranty
412 association shall have a claim on the insolvent insurer's estate
413 for such unreimbursed claims payments. The priority of such
414 claim shall depend upon the nature of the payment that should
415 have been reimbursed.

416 (e) Periodically, but not more than annually, the receiver
417 shall adjust the collateral being held pursuant to the

418 deductible agreement. The receiver shall maintain adequate
419 collateral to secure 110 percent of the entire estimated
420 obligation of the policyholder. The receiver shall provide a
421 copy of its collateral review to any obligated guaranty
422 association. Once all claims covered by the collateral have been
423 paid and the receiver is satisfied that no new claims can be
424 presented, the receiver may release any remaining collateral.

425 (8) The state court that has jurisdiction over the
426 liquidation proceedings shall have jurisdiction to resolve
427 disputes arising under this section.

428 (9) Nothing in this section limits or adversely affects
429 any right the guaranty associations may have under applicable
430 state law to obtain reimbursement from certain classes of
431 policyholders for claims payments made by such guaranty
432 associations under policies of the insolvent insurer or for
433 related expenses the guaranty associations incur.

434 (10) This section applies to all liquidations for which an
435 order is entered after July 1, 2005.

436 (11) For purposes of this section, the term:

437 (a) "Deductible agreement" means any combination of one or
438 more policies, endorsements, contracts, or security agreements
439 that provide for the policyholder to bear the risk of loss
440 within a specified amount per claim or occurrence covered under
441 a policy of insurance and that may be subject to aggregate limit
442 of policyholder reimbursement obligations.

443 (b) "Noncovered claim" means a claim that is subject to a
444 deductible agreement, may be secured by collateral, and is not
445 covered by a guaranty association.

446 (12) This section does not apply to first-party claims.

447 Section 9. Subsection (3) of section 631.54, Florida
 448 Statutes, is amended to read:

449 631.54 Definitions.--As used in this part:

450 (3) "Covered claim" means an unpaid claim, including one
 451 of unearned premiums, which arises out of, and is within the
 452 coverage, and not in excess of, the applicable limits of an
 453 insurance policy to which this part applies, issued by an
 454 insurer, if such insurer becomes an insolvent insurer and the
 455 claimant or insured is a resident of this state at the time of
 456 the insured event or the property from which the claim arises is
 457 permanently located in this state. For entities other than
 458 individuals, the residence of a claimant, insured, or
 459 policyholder is the state in which the entity's principal place
 460 of business is located at the time of the insured event.

461 "Covered claim" shall not include:

462 (a) Any amount due any reinsurer, insurer, insurance pool,
 463 or underwriting association, sought directly or indirectly
 464 through a third party, as subrogation, contribution,
 465 indemnification, or otherwise; or

466 (b) Any claim that would otherwise be a covered claim
 467 under this part that has been rejected by any other state
 468 guaranty fund on the grounds that an insured's net worth is
 469 greater than that allowed under that state's guaranty law.
 470 Member insurers shall have no right of subrogation,
 471 contribution, indemnification, or otherwise, sought directly or
 472 indirectly through a third party, against the insured of any
 473 insolvent member.

474 Section 10. Subsection (1) of section 631.56, Florida
 475 Statutes, is amended to read:

476 631.56 Board of directors.--

477 (1) The board of directors of the association shall
 478 consist of not less than six ~~five~~ or more than ten ~~nine~~ persons
 479 serving terms as established in the plan of operation. The
 480 department shall approve and appoint to the board up to nine
 481 persons recommended by the member insurers. The department shall
 482 select one Florida-licensed insurance agent to serve as a
 483 nonvoting member. In the event the department finds that any
 484 recommended person does not meet the qualifications for service
 485 on the board, the department shall request the member insurers
 486 to recommend another person. Each member shall serve for a 4-
 487 year term and may be reappointed. Vacancies on the board shall
 488 be filled for the remaining period of the term in the same
 489 manner as initial appointments.

490 Section 11. Paragraph (a) of subsection (1), paragraph (d)
 491 of subsection (2), and paragraph (a) of subsection (3) of
 492 section 631.57, Florida Statutes, are amended to read:

493 631.57 Powers and duties of the association.--

494 (1) The association shall:

495 (a)1. Be obligated to the extent of the covered claims
 496 existing:

497 a. Prior to adjudication of insolvency and arising within
 498 30 days after the determination of insolvency;

499 b. Before the policy expiration date if less than 30 days
 500 after the determination; or

501 c. Before the insured replaces the policy or causes its
502 cancellation, if she or he does so within 30 days of the
503 determination.

504 2.a. The obligation under subparagraph 1. shall include
505 only that amount of each covered claim which is in excess of
506 \$100 and is less than \$300,000, except with respect to policies
507 covering condominium associations or homeowners' associations,
508 which associations have a responsibility to provide insurance
509 coverage on residential units within the association, the
510 obligation shall include that amount of each covered property
511 insurance claim which is less than \$100,000 multiplied by the
512 number of condominium units or other residential units; however,
513 as to homeowners' associations, this sub-subparagraph
514 ~~subparagraph~~ applies only to claims for damage or loss to
515 residential units and structures attached to residential units.

516 b. Notwithstanding sub-subparagraph a., the association
517 has no obligation to pay covered claims that are to be paid from
518 the proceeds of bonds issued under s. 631.695. However, the
519 association shall assign and pledge the first available moneys
520 from all or part of the assessments to be made under paragraph
521 (3) (a) to or on behalf of the issuer of such bonds for the
522 benefit of the holders of such bonds. The association shall
523 administer any such covered claims and present valid covered
524 claims for payment in accordance with the provisions of the
525 assistance program in connection with which such bonds have been
526 issued.

527 3. In no event shall the association be obligated to a
528 policyholder or claimant in an amount in excess of the

529 obligation of the insolvent insurer under the policy from which
 530 the claim arises.

531 (2) The association may:

532 (d) Negotiate and become a party to such contracts as are
 533 necessary to carry out the purpose of this part. Additionally,
 534 the association may enter into such contracts with a
 535 municipality or county or such legal entity created pursuant to
 536 s. 163.01(7)(g) as are necessary in order for the municipality
 537 or county or such legal entity to issue bonds under s. 631.695.
 538 In connection with the issuance of any such bonds and the
 539 entering into of any such necessary contracts, the association
 540 may agree to such terms and conditions as the association deems
 541 necessary and proper.

542 (3) (a) To the extent necessary to secure the funds for the
 543 respective accounts for the payment of covered claims, ~~and also~~
 544 to pay the reasonable costs to administer the same, and to the
 545 extent necessary to secure the funds for the account specified
 546 in s. 631.55(2)(c), or to retire indebtedness, including,
 547 without limitation, the principal, redemption premium, if any,
 548 and interest on, and related costs of issuance of, bonds issued
 549 under s. 631.695, and the funding of any reserves and other
 550 payments required under the bond resolution or trust indenture
 551 pursuant to which such bonds have been issued, the office, upon
 552 certification of the board of directors, shall levy assessments
 553 in the proportion that each insurer's net direct written
 554 premiums in this state in the classes protected by the account
 555 bears to the total of said net direct written premiums received
 556 in this state by all such insurers for the preceding calendar

557 | year for the kinds of insurance included within such account.
558 | Assessments shall be remitted to and administered by the board
559 | of directors in the manner specified by the approved plan. Each
560 | insurer so assessed shall have at least 30 days' written notice
561 | as to the date the assessment is due and payable. Every
562 | assessment shall be made as a uniform percentage applicable to
563 | the net direct written premiums of each insurer in the kinds of
564 | insurance included within the account in which the assessment is
565 | made. The assessments levied against any insurer shall not
566 | exceed in any one year more than 2 percent of that insurer's net
567 | direct written premiums in this state for the kinds of insurance
568 | included within such account during the calendar year next
569 | preceding the date of such assessments.

570 | Section 12. Section 631.695, Florida Statutes, is created
571 | to read:

572 | 631.695 Revenue bond issuance through counties or
573 | municipalities.--

574 | (1) The Legislature finds:

575 | (a) The potential for widespread and massive damage to
576 | persons and property caused by hurricanes making landfall in
577 | this state can generate insurance claims of such a number as to
578 | render numerous insurers operating within this state insolvent
579 | and therefore unable to satisfy covered claims.

580 | (b) The inability of insureds within this state to receive
581 | payment of covered claims or to timely receive such payment
582 | creates financial and other hardships for such insureds and
583 | places undue burdens on the state, the affected units of local
584 | government, and the community at large.

585 (c) In addition, the failure of insurers to pay covered
586 claims or to timely pay such claims due to the insolvency of
587 such insurers can undermine the public's confidence in insurers
588 operating within this state, thereby adversely affecting the
589 stability of the insurance industry in this state.

590 (d) The state has previously taken action to address these
591 problems by adopting the Florida Insurance Guaranty Association
592 Act, which, among other things, provides a mechanism for the
593 payment of covered claims under certain insurance policies to
594 avoid excessive delay in payment and to avoid financial loss to
595 claimants or policyholders because of the insolvency of an
596 insurer.

597 (e) In the wake of the unprecedented destruction caused by
598 various hurricanes that have made landfall in this state, the
599 resultant covered claims, and the number of insurers rendered
600 insolvent thereby, it is evident that alternative programs must
601 be developed to allow the Florida Insurance Guaranty
602 Association, Inc., to more expeditiously and effectively provide
603 for the payment of covered claims.

604 (f) It is therefore determined to be in the best interests
605 of, and necessary for, the protection of the public health,
606 safety, and general welfare of the residents of this state, and
607 for the protection and preservation of the economic stability of
608 insurers operating in this state, and it is declared to be an
609 essential public purpose, to permit certain municipalities and
610 counties to take such actions as will provide relief to
611 claimants and policyholders having covered claims against

612 insolvent insurers operating in this state by expediting the
613 handling and payment of covered claims.

614 (g) To achieve the foregoing purposes, it is proper to
615 authorize municipalities and counties of this state
616 substantially affected by the landfall of a category 1 or
617 greater hurricane to issue bonds to assist the Florida Insurance
618 Guaranty Association, Inc., in expediting the handling and
619 payment of covered claims of insolvent insurers.

620 (h) In order to avoid the needless and indiscriminate
621 proliferation, duplication, and fragmentation of such assistance
622 programs, it is in the best interests of the residents of this
623 state to authorize municipalities and counties severely affected
624 by a category 1 or greater hurricane to provide for the payment
625 of covered claims beyond their territorial limits in the
626 implementation of such programs.

627 (i) It is a paramount public purpose for municipalities
628 and counties substantially affected by the landfall of a
629 category 1 or greater hurricane to be able to issue bonds for
630 the purposes described in this section. Such issuance shall
631 provide assistance to residents of those municipalities and
632 counties as well as to other residents of this state.

633 (2) The governing body of any municipality or county the
634 residents of which have been substantially affected by a
635 category 1 or greater hurricane may issue bonds to fund an
636 assistance program in conjunction with, and with the consent of,
637 the Florida Insurance Guaranty Association, Inc., for the
638 purpose of paying claimants' or policyholders' covered claims as
639 defined in s. 631.54 arising through the insolvency of an

640 insurer, which insolvency is determined by the Florida Insurance
641 Guaranty Association, Inc., to have been a result of a category
642 1 or greater hurricane, regardless of whether such claimants or
643 policyholders are residents of such municipality or county or
644 the property to which such claim relates is located within or
645 outside the territorial jurisdiction of such municipality or
646 county. The power of a municipality or county to issue bonds as
647 described in this section is in addition to any powers granted
648 by law and may not be abrogated or restricted by any provisions
649 in such municipality's or county's charter. A municipality or
650 county issuing bonds for this purpose shall enter into such
651 contracts with the Florida Insurance Guaranty Association, Inc.,
652 or any entity acting on behalf of the Florida Insurance Guaranty
653 Association, Inc., as are necessary to implement the assistance
654 program. Any bonds issued by a municipality or county or
655 combination thereof under this subsection shall be payable from
656 and secured by moneys received by or on behalf of the
657 municipality or county from assessments levied under s.
658 631.57(3)(a) and assigned and pledged to or on behalf of the
659 municipality or county for the benefit of the holders of such
660 bonds in connection with such assistance program. The funds,
661 credit, property, and taxing power of the state or any
662 municipality or county shall not be pledged for the payment of
663 such bonds.

664 (3) Bonds may be validated by such municipality or county
665 pursuant to chapter 75. The proceeds of such bonds may be used
666 to pay covered claims of insolvent insurers; to refinance or
667 replace previously existing borrowings or financial

668 arrangements; to pay interest on bonds; to fund reserves for the
669 bonds; to pay expenses incident to the issuance or sale of any
670 bond issued under this section, including costs of validating,
671 printing, and delivering the bonds, costs of printing the
672 official statement, costs of publishing notices of sale of the
673 bonds, costs of obtaining credit enhancement or liquidity
674 support, and related administrative expenses; or for such other
675 purposes related to the financial obligations of the fund as the
676 association may determine. The term of the bonds may not exceed
677 30 years.

678 (4) The state covenants with holders of bonds of the
679 assistance program that the state will not take any action which
680 will have a material adverse affect on such holders and will not
681 repeal or abrogate the power of the board of directors of the
682 association to direct the Office of Insurance Regulation to levy
683 the assessments and to collect the proceeds of the revenues
684 pledged to the payment of such bonds as long as any such bonds
685 remain outstanding unless adequate provision has been made for
686 the payment of such bonds pursuant to the documents authorizing
687 the issuance of such bonds.

688 (5) The accomplishment of the authorized purposes of such
689 municipality or county under this section is in all respects for
690 the benefit of the people of the state, for the increase of
691 their commerce and prosperity, and for the improvement of their
692 health and living conditions. Such municipality or county, in
693 performing essential governmental functions in accomplishing its
694 purposes, is not required to pay any taxes or assessments of any
695 kind whatsoever upon any property acquired or used by the county

696 or municipality for such purposes or upon any revenues at any
 697 time received by the county or municipality. The bonds, notes,
 698 and other obligations of such municipality or county, and the
 699 transfer of and income from such bonds, notes, and other
 700 obligations, including any profits made on the sale of such
 701 bonds, notes, and other obligations, are exempt from taxation of
 702 any kind by the state or by any political subdivision or other
 703 agency or instrumentality of the state. The exemption granted in
 704 this subsection is not applicable to any tax imposed by chapter
 705 220 on interest, income, or profits on debt obligations owned by
 706 corporations.

707 (6) Two or more municipalities or counties the residents
 708 of which have been substantially affected by a category 1 or
 709 greater hurricane may create a legal entity pursuant to s.
 710 163.01(7)(g) to exercise the powers described in this section as
 711 well as those powers granted in s. 163.01(7)(g). Reference in
 712 this section to a municipality or county includes such legal
 713 entity.

714 (7) The association shall issue an annual report on the
 715 status of the use of bond proceeds as related to insolvencies
 716 caused by hurricanes. The report must contain the number and
 717 amount of claims paid. The association shall also include an
 718 analysis of the revenue generated from the assessment levied
 719 under s. 631.57(3)(a) to pay such bonds. The association shall
 720 submit a copy of the report to the President of the Senate, the
 721 Speaker of the House of Representatives, and the Chief Financial
 722 Officer within 90 days after the end of each calendar year in
 723 which bonds were outstanding.

724 Section 13. No provision of s. 631.57 or s. 631.695,
725 Florida Statutes, shall be repealed until such time as the
726 principal, redemption premium, if any, and interest on all bonds
727 issued under s. 631.695, Florida Statutes, payable and secured
728 from assessments levied under s. 631.57(3)(a), Florida Statutes,
729 have been paid in full or adequate provision for such payment
730 has been made in accordance with the bond resolution or trust
731 indenture pursuant to which such bonds were issued.

732 Section 14. If any provision of this act or the
733 application thereof to any person or circumstance is held
734 invalid, the invalidity shall not affect other provisions or
735 applications of the act which can be given effect without the
736 invalid provision or application, and to this end the provisions
737 of this act are declared severable.

738 Section 15. This act shall take effect upon becoming a
739 law.