

1 A bill to be entitled
 2 An act relating to the Florida Insurance Guaranty
 3 Association; amending s. 631.55, F.S.; revising the
 4 separate accounts of the association; amending s. 631.717,
 5 F.S.; revising the aggregate liability of the association;
 6 amending s. 631.735, F.S.; providing an exception to
 7 certain prohibited advertisements in sales of insurance;
 8 amending ss. 631.54 and 631.57, F.S.; conforming cross-
 9 references; providing an effective date.

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

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 13 Section 1. Subsection (2) of section 631.55, Florida
 14 Statutes, is amended to read:

15 631.55 Creation of the association.--

16 (2) For the purposes of administration and assessment, the
 17 association shall be divided into two ~~three~~ separate accounts:

18 (a) The auto liability and ~~account~~;

19 ~~(b) The auto physical damage account.~~ ; ~~and~~

20 (b)(e) The account for all other insurance to which this
 21 part applies.

22 Section 2. Subsection (9) of section 631.717, Florida
 23 Statutes, is amended to read:

24 631.717 Powers and duties of the association.--

25 (9) The association's liability for the contractual
 26 obligations of the insolvent insurer shall be as great as, but
 27 no greater than, the contractual obligations of the insurer in
 28 the absence of such insolvency, unless such obligations are

29 reduced as permitted by subsection (4), but the aggregate
 30 liability of the association shall not exceed \$300,000 ~~\$100,000~~
 31 in cash values, or \$500,000 ~~\$300,000~~ for all benefits including
 32 cash values, with respect to any one life. In no event shall the
 33 association be liable for any penalties or interest.

34 Section 3. Section 631.735, Florida Statutes, is amended
 35 to read:

36 631.735 Prohibited advertisement of Florida Life and
 37 Health Insurance Guaranty Association Act in sale of
 38 insurance.--A ~~No~~ person may not ~~shall~~ make, publish,
 39 disseminate, circulate, or place before the public, or cause
 40 directly or indirectly to be made, published, disseminated,
 41 circulated, or placed before the public, in any newspaper,
 42 magazine, or other publication, or in the form of a notice,
 43 circular, pamphlet, letter, or poster, or over any radio station
 44 or television station, or in any other way, any advertisement,
 45 announcement, or statement which uses the existence of the
 46 Insurance Guaranty Association of this state for the purpose of
 47 sales, solicitation, or inducement to purchase any form of
 48 insurance covered by the Florida Life and Health Insurance
 49 Guaranty Association Act. However, this section does ~~shall~~ not
 50 apply to the Florida Life and Health Insurance Guaranty
 51 Association or any other entity which does not sell or solicit
 52 insurance. This section does not prohibit a duly licensed
 53 insurance agent from explaining the existence or function of the
 54 association to policyholders, prospects, or applicants for
 55 coverage.

56 Section 4. Subsection (1) of section 631.54, Florida
 57 Statutes, is amended to read:

58 631.54 Definitions.--As used in this part:

59 (1) "Account" means ~~any~~ one of the ~~three~~ accounts created
 60 by s. 631.55.

61 Section 5. Paragraphs (a) and (e) of subsection (3) of
 62 section 631.57, Florida Statutes, are amended to read:

63 631.57 Powers and duties of the association.--

64 (3) (a) To the extent necessary to secure the funds for the
 65 respective accounts for the payment of covered claims, to pay
 66 the reasonable costs to administer the same, and to the extent
 67 necessary to secure the funds for the account specified in s.
 68 631.55(2) (b) ~~(e)~~ or to retire indebtedness, including, without
 69 limitation, the principal, redemption premium, if any, and
 70 interest on, and related costs of issuance of, bonds issued
 71 under s. 631.695 and the funding of any reserves and other
 72 payments required under the bond resolution or trust indenture
 73 pursuant to which such bonds have been issued, the office, upon
 74 certification of the board of directors, shall levy assessments
 75 in the proportion that each insurer's net direct written
 76 premiums in this state in the classes protected by the account
 77 bears to the total of said net direct written premiums received
 78 in this state by all such insurers for the preceding calendar
 79 year for the kinds of insurance included within such account.
 80 Assessments shall be remitted to and administered by the board
 81 of directors in the manner specified by the approved plan. Each
 82 insurer so assessed shall have at least 30 days' written notice
 83 as to the date the assessment is due and payable. Every

84 assessment shall be made as a uniform percentage applicable to
85 the net direct written premiums of each insurer in the kinds of
86 insurance included within the account in which the assessment is
87 made. The assessments levied against any insurer shall not
88 exceed in any one year more than 2 percent of that insurer's net
89 direct written premiums in this state for the kinds of insurance
90 included within such account during the calendar year next
91 preceding the date of such assessments.

92 (e)1.a. In addition to assessments otherwise authorized in
93 paragraph (a) and to the extent necessary to secure the funds
94 for the account specified in s. 631.55(2) (b) ~~(e)~~ for the direct
95 payment of covered claims of insurers rendered insolvent by the
96 effects of a hurricane and to pay the reasonable costs to
97 administer such claims, or to retire indebtedness, including,
98 without limitation, the principal, redemption premium, if any,
99 and interest on, and related costs of issuance of, bonds issued
100 under s. 631.695 and the funding of any reserves and other
101 payments required under the bond resolution or trust indenture
102 pursuant to which such bonds have been issued, the office, upon
103 certification of the board of directors, shall levy emergency
104 assessments upon insurers holding a certificate of authority.
105 The emergency assessments payable under this paragraph by any
106 insurer shall not exceed in any single year more than 2 percent
107 of that insurer's direct written premiums, net of refunds, in
108 this state during the preceding calendar year for the kinds of
109 insurance within the account specified in s. 631.55(2) (b) ~~(e)~~.

110 b. Any emergency assessments authorized under this
111 paragraph shall be levied by the office upon insurers referred

112 to in sub-subparagraph a., upon certification as to the need for
113 such assessments by the board of directors. In the event the
114 board of directors participates in the issuance of bonds in
115 accordance with s. 631.695, emergency assessments shall be
116 levied in each year that bonds issued under s. 631.695 and
117 secured by such emergency assessments are outstanding, in such
118 amounts up to such 2-percent limit as required in order to
119 provide for the full and timely payment of the principal of,
120 redemption premium, if any, and interest on, and related costs
121 of issuance of, such bonds. The emergency assessments provided
122 for in this paragraph are assigned and pledged to the
123 municipality, county, or legal entity issuing bonds under s.
124 631.695 for the benefit of the holders of such bonds, in order
125 to enable such municipality, county, or legal entity to provide
126 for the payment of the principal of, redemption premium, if any,
127 and interest on such bonds, the cost of issuance of such bonds,
128 and the funding of any reserves and other payments required
129 under the bond resolution or trust indenture pursuant to which
130 such bonds have been issued, without the necessity of any
131 further action by the association, the office, or any other
132 party. To the extent bonds are issued under s. 631.695 and the
133 association determines to secure such bonds by a pledge of
134 revenues received from the emergency assessments, such bonds,
135 upon such pledge of revenues, shall be secured by and payable
136 from the proceeds of such emergency assessments, and the
137 proceeds of emergency assessments levied under this paragraph
138 shall be remitted directly to and administered by the trustee or
139 custodian appointed for such bonds.

140 c. Emergency assessments under this paragraph may be
141 payable in a single payment or, at the option of the
142 association, may be payable in 12 monthly installments with the
143 first installment being due and payable at the end of the month
144 after an emergency assessment is levied and subsequent
145 installments being due not later than the end of each succeeding
146 month.

147 d. If emergency assessments are imposed, the report
148 required by s. 631.695(7) shall include an analysis of the
149 revenues generated from the emergency assessments imposed under
150 this paragraph.

151 e. If emergency assessments are imposed, the references in
152 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
153 assessments levied under paragraph (a) shall include emergency
154 assessments imposed under this paragraph.

155 2. In order to ensure that insurers paying emergency
156 assessments levied under this paragraph continue to charge rates
157 that are neither inadequate nor excessive, within 90 days after
158 being notified of such assessments, each insurer that is to be
159 assessed pursuant to this paragraph shall submit a rate filing
160 for coverage included within the account specified in s.
161 631.55(2) (b) ~~(e)~~ and for which rates are required to be filed
162 under s. 627.062. If the filing reflects a rate change that, as
163 a percentage, is equal to the difference between the rate of
164 such assessment and the rate of the previous year's assessment
165 under this paragraph, the filing shall consist of a
166 certification so stating and shall be deemed approved when made.

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167 Any rate change of a different percentage shall be subject to
168 the standards and procedures of s. 627.062.

169 3. In the event the board of directors participates in the
170 issuance of bonds in accordance with s. 631.695, an annual
171 assessment under this paragraph shall continue while the bonds
172 issued with respect to which the assessment was imposed are
173 outstanding, including any bonds the proceeds of which were used
174 to refund bonds issued pursuant to s. 631.695, unless adequate
175 provision has been made for the payment of the bonds in the
176 documents authorizing the issuance of such bonds.

177 4. Emergency assessments under this paragraph are not
178 premium and are not subject to the premium tax, to any fees, or
179 to any commissions. An insurer is liable for all emergency
180 assessments that the insurer collects and shall treat the
181 failure of an insured to pay an emergency assessment as a
182 failure to pay the premium. An insurer is not liable for
183 uncollectible emergency assessments.

184 Section 6. This act shall take effect upon becoming a law.