

By Senator Richter

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1 A bill to be entitled
2 An act relating to insurance; amending s. 320.27,
3 F.S.; providing that a salvage motor vehicle dealer is
4 not required to carry certain insurance on vehicles
5 that have been issued a certificate of destruction;
6 amending s. 624.501, F.S.; conforming a cross-
7 reference; amending s. 624.610, F.S.; revising
8 provisions specifying which insurers are not subject
9 to certain filing requirements relating to
10 reinsurance; amending s. 626.261, F.S.; authorizing
11 the Department of Financial Services to provide
12 examinations in Spanish; amending s. 626.321, F.S.;
13 revising provisions relating to limited licenses for
14 travel insurance; providing that a full-time salaried
15 employee of a licensed general lines agent or a
16 business entity that offers travel planning services
17 may be issued such license under certain
18 circumstances; creating s. 626.8675, F.S.; providing
19 that provisions relating to insurance adjusters do not
20 apply to individuals who conduct data entry into an
21 automated claims adjustment system for portable
22 electronics insurance claims; amending s. 627.351,
23 F.S.; increasing the amount of surplus required for an
24 association to qualify as a limited apportionment
25 company; amending s. 627.4133, F.S.; revising
26 provisions relating to the notice that an insurer must
27 provide to an insured regarding the nonrenewal,
28 cancellation, or termination of a commercial
29 residential property insurance policy; creating s.

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30 627.6011, F.S.; providing that mandatory health
31 benefits apply only to certain health benefit plans;
32 amending s. 627.7015, F.S.; revising provisions
33 relating to alternative procedures for the resolution
34 of disputed property insurance claims; amending s.
35 627.7295, F.S.; revising provisions relating to
36 cancellation for nonpayment of premiums for motor
37 vehicle insurance; amending s. 627.736, F.S.;
38 clarifying provisions relating to the amount of
39 interest on overdue payments for personal injury
40 protection benefits; providing an effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Subsection (3) of section 320.27, Florida
45 Statutes, is amended to read:

46 320.27 Motor vehicle dealers.—

47 (3) APPLICATION AND FEE.—The application for the license
48 shall be in such form as may be prescribed by the department and
49 shall be subject to such rules with respect thereto as may be so
50 prescribed by it. Such application shall be verified by oath or
51 affirmation and shall contain a full statement of the name and
52 birth date of the person or persons applying therefor; the name
53 of the firm or copartnership, with the names and places of
54 residence of all members thereof, if such applicant is a firm or
55 copartnership; the names and places of residence of the
56 principal officers, if the applicant is a body corporate or
57 other artificial body; the name of the state under whose laws
58 the corporation is organized; the present and former place or

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59 places of residence of the applicant; and prior business in
60 which the applicant has been engaged and the location thereof.
61 Such application shall describe the exact location of the place
62 of business and shall state whether the place of business is
63 owned by the applicant and when acquired, or, if leased, a true
64 copy of the lease shall be attached to the application. The
65 applicant shall certify that the location provides an adequately
66 equipped office and is not a residence; that the location
67 affords sufficient unoccupied space upon and within which
68 adequately to store all motor vehicles offered and displayed for
69 sale; and that the location is a suitable place where the
70 applicant can in good faith carry on such business and keep and
71 maintain books, records, and files necessary to conduct such
72 business, which will be available at all reasonable hours to
73 inspection by the department or any of its inspectors or other
74 employees. The applicant shall certify that the business of a
75 motor vehicle dealer is the principal business which shall be
76 conducted at that location. Such application shall contain a
77 statement that the applicant is either franchised by a
78 manufacturer of motor vehicles, in which case the name of each
79 motor vehicle that the applicant is franchised to sell shall be
80 included, or an independent (nonfranchised) motor vehicle
81 dealer. Such application shall contain such other relevant
82 information as may be required by the department, including
83 evidence that the applicant is insured under a garage liability
84 insurance policy or a general liability insurance policy coupled
85 with a business automobile policy, which shall include, at a
86 minimum, \$25,000 combined single-limit liability coverage
87 including bodily injury and property damage protection and

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88 \$10,000 personal injury protection. However, a salvage motor
89 vehicle dealer as defined in subparagraph (1)(c)5. is exempt
90 from the requirements for garage liability insurance and
91 personal injury protection insurance on those vehicles that have
92 been issued a certificate of destruction and cannot be operated
93 legally on state roads, highways, or streets. Franchise dealers
94 must submit a garage liability insurance policy, and all other
95 dealers must submit a garage liability insurance policy or a
96 general liability insurance policy coupled with a business
97 automobile policy. Such policy shall be for the license period,
98 and evidence of a new or continued policy shall be delivered to
99 the department at the beginning of each license period. Upon
100 making initial application, the applicant shall pay to the
101 department a fee of \$300 in addition to any other fees now
102 required by law; upon making a subsequent renewal application,
103 the applicant shall pay to the department a fee of \$75 in
104 addition to any other fees now required by law. Upon making an
105 application for a change of location, the person shall pay a fee
106 of \$50 in addition to any other fees now required by law. The
107 department shall, in the case of every application for initial
108 licensure, verify whether certain facts set forth in the
109 application are true. Each applicant, general partner in the
110 case of a partnership, or corporate officer and director in the
111 case of a corporate applicant, must file a set of fingerprints
112 with the department for the purpose of determining any prior
113 criminal record or any outstanding warrants. The department
114 shall submit the fingerprints to the Department of Law
115 Enforcement for state processing and forwarding to the Federal
116 Bureau of Investigation for federal processing. The actual cost

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117 of state and federal processing shall be borne by the applicant
 118 and is in addition to the fee for licensure. The department may
 119 issue a license to an applicant pending the results of the
 120 fingerprint investigation, which license is fully revocable if
 121 the department subsequently determines that any facts set forth
 122 in the application are not true or correctly represented.

123 Section 2. Paragraph (b) of subsection (9) of section
 124 624.501, Florida Statutes, is amended to read:

125 624.501 Filing, license, appointment, and miscellaneous
 126 fees.—The department, commission, or office, as appropriate,
 127 shall collect in advance, and persons so served shall pay to it
 128 in advance, fees, licenses, and miscellaneous charges as
 129 follows:

130 (9)

131 (b) For all limited appointments as agent, as provided ~~for~~
 132 in s. 626.321(1)(c) and (d) ~~626.321(1)(d)~~, the agent's original
 133 appointment and biennial renewal or continuation thereof for
 134 each insurer is ~~shall be~~ equal to the number of offices, branch
 135 offices, or places of business covered by the license multiplied
 136 by the fees set forth in paragraph (a).

137 Section 3. Paragraph (c) of subsection (11) of section
 138 624.610, Florida Statutes, is amended to read:

139 624.610 Reinsurance.—

140 (11)

141 (c) This subsection applies to cessions of directly written
 142 risk or loss. This subsection does not apply to contracts of
 143 facultative reinsurance or to any ceding insurer that has a with
 144 surplus as to policyholders which ~~that~~ exceeds \$100 million as
 145 of the immediately preceding December 31. A ~~Additionally, any~~

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146 ceding insurer otherwise subject to this section which had with
147 less than \$500,000 in direct premiums written in this state
148 during the preceding calendar year and no more than \$250,000 in
149 direct premiums written in this state during the preceding
150 calendar quarter, or which had with less than 1,000
151 policyholders at the end of the preceding calendar year, is
152 exempt from ~~the requirements of~~ this subsection. ~~However, any~~
153 ~~ceding insurer otherwise subject to this section with more than~~
154 ~~\$250,000 in direct premiums written in this state during the~~
155 ~~preceding calendar quarter is not exempt from the requirements~~
156 ~~of this subsection.~~

157 Section 4. Subsection (5) is added to section 626.261,
158 Florida Statutes, to read:

159 626.261 Conduct of examination.—

160 (5) The department may provide licensure examinations in
161 Spanish. Applicants requesting examination or reexamination in
162 Spanish must bear the full cost of the department's development,
163 preparation, administration, grading, and evaluation of the
164 Spanish-language examination. When determining whether it is in
165 the public interest to allow the examination to be translated
166 into and administered in Spanish, the department shall consider
167 the percentage of the population who speak Spanish.

168 Section 5. Paragraph (c) of subsection (1) of section
169 626.321, Florida Statutes, is amended to read:

170 626.321 Limited licenses.—

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

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175 (c) *Travel insurance.*—License covering only policies and
176 certificates of travel insurance, which are subject to review by
177 the office ~~under s. 624.605(1)(g)~~. Policies and certificates of
178 travel insurance may provide coverage for risks incidental to
179 travel, planned travel, or accommodations while traveling,
180 including, but not limited to, accidental death and
181 dismemberment of a traveler; trip or event cancellation,
182 interruption, or delay; loss of or damage to personal effects or
183 travel documents; damages to travel accommodations; baggage
184 delay; emergency medical travel or evacuation of a traveler; or
185 medical, surgical, and hospital expenses related to an illness
186 or emergency of a traveler. ~~Any~~ Such policy or certificate may
187 be issued for terms longer than 90 ~~60~~ days, but ~~each policy or~~
188 ~~certificate~~, other than a policy or certificate providing
189 coverage for air ambulatory services only, each policy or
190 certificate must be limited to coverage for travel or use of
191 accommodations of no longer than 90 ~~60~~ days. The license may be
192 issued only:

193 1. To a full-time salaried employee of a common carrier or
194 a full-time salaried employee or owner of a transportation
195 ticket agency and may authorize the sale of such ticket policies
196 only in connection with the sale of transportation tickets, or
197 to the full-time salaried employee of such an agent. ~~No~~ Such
198 policy may not ~~shall~~ be for a ~~duration of~~ more than 48 hours or
199 more than ~~for~~ the duration of a specified one-way trip or round
200 trip.

201 2. To an entity or individual that is:

202 a. The developer of a timeshare plan that is the subject of
203 an approved public offering statement under chapter 721;

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204 b. An exchange company operating an exchange program
205 approved under chapter 721;

206 c. A managing entity operating a timeshare plan approved
207 under chapter 721;

208 d. A seller of travel as defined in chapter 559; or

209 e. A subsidiary or affiliate of any of the entities
210 described in sub-subparagraphs a.-d.

211
212 A licensee shall require each individual ~~employee~~ who offers
213 policies or certificates under this subparagraph to receive
214 initial training from a general lines agent or an insurer
215 authorized under chapter 624 to transact insurance within this
216 state. For an entity applying for a license as a travel
217 insurance agent, the fingerprinting requirement of this section
218 applies only to the president, secretary, and treasurer and to
219 any other officer or person who directs or controls the travel
220 insurance operations of the entity.

221 3. To a full-time salaried employee of a licensed general
222 lines agent or to a business entity that offers travel planning
223 services if insurance sales activities authorized by the license
224 are in connection with, and incidental to, travel.

225 a. A license issued to a business entity that offers travel
226 planning services must encompass each office, branch office, or
227 place of business making use of the entity's business name in
228 order to offer, solicit, and sell insurance pursuant to this
229 paragraph.

230 b. The application for licensure must list the name,
231 address, and phone number for each office, branch office, or
232 place of business that is to be covered by the license. The

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233 licensee shall notify the department of the name, address, and
234 phone number of any new location that is to be covered by the
235 license before the new office, branch office, or place of
236 business engages in the sale of insurance pursuant to this
237 paragraph. The licensee shall notify the department within 30
238 days after the closing or terminating of an office, branch
239 office, or place of business. Upon receipt of the notice, the
240 department shall delete the office, branch office, or place of
241 business from the license.

242 c. A licensed and appointed entity is directly responsible
243 and accountable for all acts of the licensee's employees and
244 parties with whom the licensee has entered into a contractual
245 agreement to offer travel insurance.

246 Section 6. Section 626.8675, Florida Statutes, is created
247 to read:

248 626.8675 Portable electronics insurance claims employee
249 exemption.—

250 (1) This part does not apply to individuals who collect
251 claims information from, or furnish claims information to,
252 insureds or claimants, and who conduct data entry, including
253 entering data into an automated claims adjudication system, if
254 such individuals are employees of a business entity licensed
255 under this chapter, or its affiliate, where up to 25 such
256 individuals are under the supervision of a licensed independent
257 adjuster or licensed agent who is exempt from licensure pursuant
258 to s. 626.862. For purposes of this section, "automated claims
259 adjudication system" means a preprogrammed computer system
260 designed for the collection, data entry, calculation, and final
261 resolution of portable electronics insurance claims that:

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262 (a) May be used only by a licensed independent adjuster,
263 licensed agent, or supervised individual operating pursuant to
264 this section;

265 (b) Must comply with all claims payment requirements of the
266 insurance code; and

267 (c) Must be certified as compliant with this section by a
268 licensed independent adjuster who is an officer of a licensed
269 business entity under this chapter.

270 (2) Notwithstanding any other provision of law, a resident
271 of Canada may not be licensed as a nonresident independent
272 adjuster for purposes of adjusting portable electronics
273 insurance claims unless that person has successfully obtained an
274 adjuster license in another state.

275 Section 7. Paragraph (b) of subsection (2) of section
276 627.351, Florida Statutes, is amended to read:

277 627.351 Insurance risk apportionment plans.—

278 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

279 (b) The department shall require all insurers holding a
280 certificate of authority to transact property insurance on a
281 direct basis in this state, other than joint underwriting
282 associations and other entities formed pursuant to this section,
283 to provide windstorm coverage to applicants from areas
284 determined to be eligible pursuant to paragraph (c) who in good
285 faith are entitled to, but are unable to procure, such coverage
286 through ordinary means; or it shall adopt a reasonable plan or
287 plans for the equitable apportionment or sharing among such
288 insurers of windstorm coverage, which may include formation of
289 an association for this purpose. As used in this subsection, the
290 term "property insurance" means insurance on real or personal

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291 property, as defined in s. 624.604, including insurance for
292 fire, industrial fire, allied lines, farmowners multiperil,
293 homeowners' multiperil, commercial multiperil, and mobile homes,
294 and including liability coverages on all such insurance, but
295 excluding inland marine as defined in s. 624.607(3) and
296 excluding vehicle insurance as defined in s. 624.605(1)(a) other
297 than insurance on mobile homes used as permanent dwellings. The
298 department shall adopt rules that provide a formula for the
299 recovery and repayment of any deferred assessments.

300 1. For the purpose of this section, properties eligible for
301 such windstorm coverage are defined as dwellings, buildings, and
302 other structures, including mobile homes which are used as
303 dwellings and which are tied down in compliance with mobile home
304 tie-down requirements prescribed by the Department of Highway
305 Safety and Motor Vehicles pursuant to s. 320.8325, and the
306 contents of all such properties. An applicant or policyholder is
307 eligible for coverage only if an offer of coverage cannot be
308 obtained by or for the applicant or policyholder from an
309 admitted insurer at approved rates.

310 2.a.(I) All insurers required to be members of such
311 association shall participate in its writings, expenses, and
312 losses. Surplus of the association shall be retained for the
313 payment of claims and shall not be distributed to the member
314 insurers. Such participation by member insurers shall be in the
315 proportion that the net direct premiums of each member insurer
316 written for property insurance in this state during the
317 preceding calendar year bear to the aggregate net direct
318 premiums for property insurance of all member insurers, as
319 reduced by any credits for voluntary writings, in this state

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320 during the preceding calendar year. For the purposes of this
321 subsection, the term "net direct premiums" means direct written
322 premiums for property insurance, reduced by premium for
323 liability coverage and for the following if included in allied
324 lines: rain and hail on growing crops; livestock; association
325 direct premiums booked; National Flood Insurance Program direct
326 premiums; and similar deductions specifically authorized by the
327 plan of operation and approved by the department. A member's
328 participation shall begin on the first day of the calendar year
329 following the year in which it is issued a certificate of
330 authority to transact property insurance in the state and shall
331 terminate 1 year after the end of the calendar year during which
332 it no longer holds a certificate of authority to transact
333 property insurance in the state. The commissioner, after review
334 of annual statements, other reports, and any other statistics
335 that the commissioner deems necessary, shall certify to the
336 association the aggregate direct premiums written for property
337 insurance in this state by all member insurers.

338 (II) Effective July 1, 2002, the association shall operate
339 subject to the supervision and approval of a board of governors
340 who are the same individuals that have been appointed by the
341 Treasurer to serve on the board of governors of the Citizens
342 Property Insurance Corporation.

343 (III) The plan of operation shall provide a formula whereby
344 a company voluntarily providing windstorm coverage in affected
345 areas will be relieved wholly or partially from apportionment of
346 a regular assessment pursuant to sub-sub-subparagraph d.(I) or
347 sub-sub-subparagraph d.(II).

348 (IV) A company which is a member of a group of companies

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349 under common management may elect to have its credits applied on
350 a group basis, and any company or group may elect to have its
351 credits applied to any other company or group.

352 (V) There shall be no credits or relief from apportionment
353 to a company for emergency assessments collected from its
354 policyholders under sub-sub-subparagraph d.(III).

355 (VI) The plan of operation may also provide for the award
356 of credits, for a period not to exceed 3 years, from a regular
357 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
358 subparagraph d.(II) as an incentive for taking policies out of
359 the Residential Property and Casualty Joint Underwriting
360 Association. In order to qualify for the exemption under this
361 sub-sub-subparagraph, the take-out plan must provide that at
362 least 40 percent of the policies removed from the Residential
363 Property and Casualty Joint Underwriting Association cover risks
364 located in Miami-Dade, Broward, and Palm Beach Counties or at
365 least 30 percent of the policies so removed cover risks located
366 in Miami-Dade, Broward, and Palm Beach Counties and an
367 additional 50 percent of the policies so removed cover risks
368 located in other coastal counties, and must also provide that no
369 more than 15 percent of the policies so removed may exclude
370 windstorm coverage. With the approval of the department, the
371 association may waive these geographic criteria for a take-out
372 plan that removes at least the lesser of 100,000 Residential
373 Property and Casualty Joint Underwriting Association policies or
374 15 percent of the total number of Residential Property and
375 Casualty Joint Underwriting Association policies, provided the
376 governing board of the Residential Property and Casualty Joint
377 Underwriting Association certifies that the take-out plan will

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378 materially reduce the Residential Property and Casualty Joint
379 Underwriting Association's 100-year probable maximum loss from
380 hurricanes. With the approval of the department, the board may
381 extend such credits for an additional year if the insurer
382 guarantees an additional year of renewability for all policies
383 removed from the Residential Property and Casualty Joint
384 Underwriting Association, or for 2 additional years if the
385 insurer guarantees 2 additional years of renewability for all
386 policies removed from the Residential Property and Casualty
387 Joint Underwriting Association.

388 b. Assessments to pay deficits in the association under
389 this subparagraph shall be included as an appropriate factor in
390 the making of rates as provided in s. 627.3512.

391 c. The Legislature finds that the potential for unlimited
392 deficit assessments under this subparagraph may induce insurers
393 to attempt to reduce their writings in the voluntary market, and
394 that such actions would worsen the availability problems that
395 the association was created to remedy. It is the intent of the
396 Legislature that insurers remain fully responsible for paying
397 regular assessments and collecting emergency assessments for any
398 deficits of the association; however, it is also the intent of
399 the Legislature to provide a means by which assessment
400 liabilities may be amortized over a period of years.

401 d.(I) When the deficit incurred in a particular calendar
402 year is 10 percent or less of the aggregate statewide direct
403 written premium for property insurance for the prior calendar
404 year for all member insurers, the association shall levy an
405 assessment on member insurers in an amount equal to the deficit.

406 (II) When the deficit incurred in a particular calendar

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407 year exceeds 10 percent of the aggregate statewide direct
408 written premium for property insurance for the prior calendar
409 year for all member insurers, the association shall levy an
410 assessment on member insurers in an amount equal to the greater
411 of 10 percent of the deficit or 10 percent of the aggregate
412 statewide direct written premium for property insurance for the
413 prior calendar year for member insurers. Any remaining deficit
414 shall be recovered through emergency assessments under sub-sub-
415 subparagraph (III).

416 (III) Upon a determination by the board of directors that a
417 deficit exceeds the amount that will be recovered through
418 regular assessments on member insurers, pursuant to sub-sub-
419 subparagraph (I) or sub-sub-subparagraph (II), the board shall
420 levy, after verification by the department, emergency
421 assessments to be collected by member insurers and by
422 underwriting associations created pursuant to this section which
423 write property insurance, upon issuance or renewal of property
424 insurance policies other than National Flood Insurance policies
425 in the year or years following levy of the regular assessments.
426 The amount of the emergency assessment collected in a particular
427 year shall be a uniform percentage of that year's direct written
428 premium for property insurance for all member insurers and
429 underwriting associations, excluding National Flood Insurance
430 policy premiums, as annually determined by the board and
431 verified by the department. The department shall verify the
432 arithmetic calculations involved in the board's determination
433 within 30 days after receipt of the information on which the
434 determination was based. Notwithstanding any other provision of
435 law, each member insurer and each underwriting association

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436 created pursuant to this section shall collect emergency
437 assessments from its policyholders without such obligation being
438 affected by any credit, limitation, exemption, or deferment. The
439 emergency assessments so collected shall be transferred directly
440 to the association on a periodic basis as determined by the
441 association. The aggregate amount of emergency assessments
442 levied under this sub-sub-subparagraph in any calendar year may
443 not exceed the greater of 10 percent of the amount needed to
444 cover the original deficit, plus interest, fees, commissions,
445 required reserves, and other costs associated with financing of
446 the original deficit, or 10 percent of the aggregate statewide
447 direct written premium for property insurance written by member
448 insurers and underwriting associations for the prior year, plus
449 interest, fees, commissions, required reserves, and other costs
450 associated with financing the original deficit. The board may
451 pledge the proceeds of the emergency assessments under this sub-
452 sub-subparagraph as the source of revenue for bonds, to retire
453 any other debt incurred as a result of the deficit or events
454 giving rise to the deficit, or in any other way that the board
455 determines will efficiently recover the deficit. The emergency
456 assessments under this sub-sub-subparagraph shall continue as
457 long as any bonds issued or other indebtedness incurred with
458 respect to a deficit for which the assessment was imposed remain
459 outstanding, unless adequate provision has been made for the
460 payment of such bonds or other indebtedness pursuant to the
461 document governing such bonds or other indebtedness. Emergency
462 assessments collected under this sub-sub-subparagraph are not
463 part of an insurer's rates, are not premium, and are not subject
464 to premium tax, fees, or commissions; however, failure to pay

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465 the emergency assessment shall be treated as failure to pay
466 premium.

467 (IV) Each member insurer's share of the total regular
468 assessments under sub-sub-subparagraph (I) or sub-sub-
469 subparagraph (II) shall be in the proportion that the insurer's
470 net direct premium for property insurance in this state, for the
471 year preceding the assessment bears to the aggregate statewide
472 net direct premium for property insurance of all member
473 insurers, as reduced by any credits for voluntary writings for
474 that year.

475 (V) If regular deficit assessments are made under sub-sub-
476 subparagraph (I) or sub-sub-subparagraph (II), or by the
477 Residential Property and Casualty Joint Underwriting Association
478 under sub-subparagraph (6) (b) 3.a. ~~or sub-subparagraph~~
479 ~~(6) (b) 3.b.~~, the association shall levy upon the association's
480 policyholders, as part of its next rate filing, or by a separate
481 rate filing solely for this purpose, a market equalization
482 surcharge in a percentage equal to the total amount of such
483 regular assessments divided by the aggregate statewide direct
484 written premium for property insurance for member insurers for
485 the prior calendar year. Market equalization surcharges under
486 this sub-sub-subparagraph are not considered premium and are not
487 subject to commissions, fees, or premium taxes; however, failure
488 to pay a market equalization surcharge shall be treated as
489 failure to pay premium.

490 e. The governing body of any unit of local government, any
491 residents of which are insured under the plan, may issue bonds
492 as defined in s. 125.013 or s. 166.101 to fund an assistance
493 program, in conjunction with the association, for the purpose of

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494 defraying deficits of the association. In order to avoid
495 needless and indiscriminate proliferation, duplication, and
496 fragmentation of such assistance programs, any unit of local
497 government, any residents of which are insured by the
498 association, may provide for the payment of losses, regardless
499 of whether or not the losses occurred within or outside of the
500 territorial jurisdiction of the local government. Revenue bonds
501 may not be issued until validated pursuant to chapter 75, unless
502 a state of emergency is declared by executive order or
503 proclamation of the Governor pursuant to s. 252.36 making such
504 findings as are necessary to determine that it is in the best
505 interests of, and necessary for, the protection of the public
506 health, safety, and general welfare of residents of this state
507 and the protection and preservation of the economic stability of
508 insurers operating in this state, and declaring it an essential
509 public purpose to permit certain municipalities or counties to
510 issue bonds as will provide relief to claimants and
511 policyholders of the association and insurers responsible for
512 apportionment of plan losses. Any such unit of local government
513 may enter into such contracts with the association and with any
514 other entity created pursuant to this subsection as are
515 necessary to carry out this paragraph. Any bonds issued under
516 this sub-subparagraph shall be payable from and secured by
517 moneys received by the association from assessments under this
518 subparagraph, and assigned and pledged to or on behalf of the
519 unit of local government for the benefit of the holders of such
520 bonds. The funds, credit, property, and taxing power of the
521 state or of the unit of local government shall not be pledged
522 for the payment of such bonds. If any of the bonds remain unsold

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523 60 days after issuance, the department shall require all
524 insurers subject to assessment to purchase the bonds, which
525 shall be treated as admitted assets; each insurer shall be
526 required to purchase that percentage of the unsold portion of
527 the bond issue that equals the insurer's relative share of
528 assessment liability under this subsection. An insurer shall not
529 be required to purchase the bonds to the extent that the
530 department determines that the purchase would endanger or impair
531 the solvency of the insurer. The authority granted by this sub-
532 subparagraph is additional to any bonding authority granted by
533 subparagraph 6.

534 3. The plan shall also provide that any member with a
535 surplus as to policyholders of \$25 ~~\$20~~ million or less writing
536 25 percent or more of its total countrywide property insurance
537 premiums in this state may petition the department, within the
538 first 90 days of each calendar year, to qualify as a limited
539 apportionment company. The apportionment of such a member
540 company in any calendar year for which it is qualified shall not
541 exceed its gross participation, which shall not be affected by
542 the formula for voluntary writings. In no event shall a limited
543 apportionment company be required to participate in any
544 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
545 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
546 \$50 million after payment of available plan funds in any
547 calendar year. However, a limited apportionment company shall
548 collect from its policyholders any emergency assessment imposed
549 under sub-sub-subparagraph 2.d.(III). The plan shall provide
550 that, if the department determines that any regular assessment
551 will result in an impairment of the surplus of a limited

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552 apportionment company, the department may direct that all or
553 part of such assessment be deferred. However, there shall be no
554 limitation or deferment of an emergency assessment to be
555 collected from policyholders under sub-sub-subparagraph
556 2.d.(III).

557 4. The plan shall provide for the deferment, in whole or in
558 part, of a regular assessment of a member insurer under sub-sub-
559 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not
560 for an emergency assessment collected from policyholders under
561 sub-sub-subparagraph 2.d.(III), if, in the opinion of the
562 commissioner, payment of such regular assessment would endanger
563 or impair the solvency of the member insurer. In the event a
564 regular assessment against a member insurer is deferred in whole
565 or in part, the amount by which such assessment is deferred may
566 be assessed against the other member insurers in a manner
567 consistent with the basis for assessments set forth in sub-sub-
568 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

569 5.a. The plan of operation may include deductibles and
570 rules for classification of risks and rate modifications
571 consistent with the objective of providing and maintaining funds
572 sufficient to pay catastrophe losses.

573 b. It is the intent of the Legislature that the rates for
574 coverage provided by the association be actuarially sound and
575 not competitive with approved rates charged in the admitted
576 voluntary market such that the association functions as a
577 residual market mechanism to provide insurance only when the
578 insurance cannot be procured in the voluntary market. The plan
579 of operation shall provide a mechanism to assure that, beginning
580 no later than January 1, 1999, the rates charged by the

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581 association for each line of business are reflective of approved
582 rates in the voluntary market for hurricane coverage for each
583 line of business in the various areas eligible for association
584 coverage.

585 c. The association shall provide for windstorm coverage on
586 residential properties in limits up to \$10 million for
587 commercial lines residential risks and up to \$1 million for
588 personal lines residential risks. If coverage with the
589 association is sought for a residential risk valued in excess of
590 these limits, coverage shall be available to the risk up to the
591 replacement cost or actual cash value of the property, at the
592 option of the insured, if coverage for the risk cannot be
593 located in the authorized market. The association must accept a
594 commercial lines residential risk with limits above \$10 million
595 or a personal lines residential risk with limits above \$1
596 million if coverage is not available in the authorized market.
597 The association may write coverage above the limits specified in
598 this subparagraph with or without facultative or other
599 reinsurance coverage, as the association determines appropriate.

600 d. The plan of operation must provide objective criteria
601 and procedures, approved by the department, to be uniformly
602 applied for all applicants in determining whether an individual
603 risk is so hazardous as to be uninsurable. In making this
604 determination and in establishing the criteria and procedures,
605 the following shall be considered:

606 (I) Whether the likelihood of a loss for the individual
607 risk is substantially higher than for other risks of the same
608 class; and

609 (II) Whether the uncertainty associated with the individual

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610 risk is such that an appropriate premium cannot be determined.

611

612 The acceptance or rejection of a risk by the association
613 pursuant to such criteria and procedures must be construed as
614 the private placement of insurance, and the provisions of
615 chapter 120 do not apply.

616 e. If the risk accepts an offer of coverage through the
617 market assistance program or through a mechanism established by
618 the association, either before the policy is issued by the
619 association or during the first 30 days of coverage by the
620 association, and the producing agent who submitted the
621 application to the association is not currently appointed by the
622 insurer, the insurer shall:

623 (I) Pay to the producing agent of record of the policy, for
624 the first year, an amount that is the greater of the insurer's
625 usual and customary commission for the type of policy written or
626 a fee equal to the usual and customary commission of the
627 association; or

628 (II) Offer to allow the producing agent of record of the
629 policy to continue servicing the policy for a period of not less
630 than 1 year and offer to pay the agent the greater of the
631 insurer's or the association's usual and customary commission
632 for the type of policy written.

633

634 If the producing agent is unwilling or unable to accept
635 appointment, the new insurer shall pay the agent in accordance
636 with sub-sub-subparagraph (I). Subject to the provisions of s.
637 627.3517, the policies issued by the association must provide
638 that if the association obtains an offer from an authorized

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639 insurer to cover the risk at its approved rates under either a
640 standard policy including wind coverage or, if consistent with
641 the insurer's underwriting rules as filed with the department, a
642 basic policy including wind coverage, the risk is no longer
643 eligible for coverage through the association. Upon termination
644 of eligibility, the association shall provide written notice to
645 the policyholder and agent of record stating that the
646 association policy must be canceled as of 60 days after the date
647 of the notice because of the offer of coverage from an
648 authorized insurer. Other provisions of the insurance code
649 relating to cancellation and notice of cancellation do not apply
650 to actions under this sub-subparagraph.

651 f. When the association enters into a contractual agreement
652 for a take-out plan, the producing agent of record of the
653 association policy is entitled to retain any unearned commission
654 on the policy, and the insurer shall:

655 (I) Pay to the producing agent of record of the association
656 policy, for the first year, an amount that is the greater of the
657 insurer's usual and customary commission for the type of policy
658 written or a fee equal to the usual and customary commission of
659 the association; or

660 (II) Offer to allow the producing agent of record of the
661 association policy to continue servicing the policy for a period
662 of not less than 1 year and offer to pay the agent the greater
663 of the insurer's or the association's usual and customary
664 commission for the type of policy written.

665
666 If the producing agent is unwilling or unable to accept
667 appointment, the new insurer shall pay the agent in accordance

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668 with sub-sub-subparagraph (I).

669 6.a. The plan of operation may authorize the formation of a
670 private nonprofit corporation, a private nonprofit
671 unincorporated association, a partnership, a trust, a limited
672 liability company, or a nonprofit mutual company which may be
673 empowered, among other things, to borrow money by issuing bonds
674 or by incurring other indebtedness and to accumulate reserves or
675 funds to be used for the payment of insured catastrophe losses.
676 The plan may authorize all actions necessary to facilitate the
677 issuance of bonds, including the pledging of assessments or
678 other revenues.

679 b. Any entity created under this subsection, or any entity
680 formed for the purposes of this subsection, may sue and be sued,
681 may borrow money; issue bonds, notes, or debt instruments;
682 pledge or sell assessments, market equalization surcharges and
683 other surcharges, rights, premiums, contractual rights,
684 projected recoveries from the Florida Hurricane Catastrophe
685 Fund, other reinsurance recoverables, and other assets as
686 security for such bonds, notes, or debt instruments; enter into
687 any contracts or agreements necessary or proper to accomplish
688 such borrowings; and take other actions necessary to carry out
689 the purposes of this subsection. The association may issue bonds
690 or incur other indebtedness, or have bonds issued on its behalf
691 by a unit of local government pursuant to subparagraph (6)(q)2.,
692 in the absence of a hurricane or other weather-related event,
693 upon a determination by the association subject to approval by
694 the department that such action would enable it to efficiently
695 meet the financial obligations of the association and that such
696 financings are reasonably necessary to effectuate the

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697 requirements of this subsection. Any such entity may accumulate
698 reserves and retain surpluses as of the end of any association
699 year to provide for the payment of losses incurred by the
700 association during that year or any future year. The association
701 shall incorporate and continue the plan of operation and
702 articles of agreement in effect on the effective date of chapter
703 76-96, Laws of Florida, to the extent that it is not
704 inconsistent with chapter 76-96, and as subsequently modified
705 consistent with chapter 76-96. The board of directors and
706 officers currently serving shall continue to serve until their
707 successors are duly qualified as provided under the plan. The
708 assets and obligations of the plan in effect immediately prior
709 to the effective date of chapter 76-96 shall be construed to be
710 the assets and obligations of the successor plan created herein.

711 c. In recognition of s. 10, Art. I of the State
712 Constitution, prohibiting the impairment of obligations of
713 contracts, it is the intent of the Legislature that no action be
714 taken whose purpose is to impair any bond indenture or financing
715 agreement or any revenue source committed by contract to such
716 bond or other indebtedness issued or incurred by the association
717 or any other entity created under this subsection.

718 7. On such coverage, an agent's remuneration shall be that
719 amount of money payable to the agent by the terms of his or her
720 contract with the company with which the business is placed.
721 However, no commission will be paid on that portion of the
722 premium which is in excess of the standard premium of that
723 company.

724 8. Subject to approval by the department, the association
725 may establish different eligibility requirements and operational

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726 procedures for any line or type of coverage for any specified
727 eligible area or portion of an eligible area if the board
728 determines that such changes to the eligibility requirements and
729 operational procedures are justified due to the voluntary market
730 being sufficiently stable and competitive in such area or for
731 such line or type of coverage and that consumers who, in good
732 faith, are unable to obtain insurance through the voluntary
733 market through ordinary methods would continue to have access to
734 coverage from the association. When coverage is sought in
735 connection with a real property transfer, such requirements and
736 procedures shall not provide for an effective date of coverage
737 later than the date of the closing of the transfer as
738 established by the transferor, the transferee, and, if
739 applicable, the lender.

740 9. Notwithstanding any other provision of law:

741 a. The pledge or sale of, the lien upon, and the security
742 interest in any rights, revenues, or other assets of the
743 association created or purported to be created pursuant to any
744 financing documents to secure any bonds or other indebtedness of
745 the association shall be and remain valid and enforceable,
746 notwithstanding the commencement of and during the continuation
747 of, and after, any rehabilitation, insolvency, liquidation,
748 bankruptcy, receivership, conservatorship, reorganization, or
749 similar proceeding against the association under the laws of
750 this state or any other applicable laws.

751 b. No such proceeding shall relieve the association of its
752 obligation, or otherwise affect its ability to perform its
753 obligation, to continue to collect, or levy and collect,
754 assessments, market equalization or other surcharges, projected

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755 recoveries from the Florida Hurricane Catastrophe Fund,
756 reinsurance recoverables, or any other rights, revenues, or
757 other assets of the association pledged.

758 c. Each such pledge or sale of, lien upon, and security
759 interest in, including the priority of such pledge, lien, or
760 security interest, any such assessments, emergency assessments,
761 market equalization or renewal surcharges, projected recoveries
762 from the Florida Hurricane Catastrophe Fund, reinsurance
763 recoverables, or other rights, revenues, or other assets which
764 are collected, or levied and collected, after the commencement
765 of and during the pendency of or after any such proceeding shall
766 continue unaffected by such proceeding.

767 d. As used in this subsection, the term "financing
768 documents" means any agreement, instrument, or other document
769 now existing or hereafter created evidencing any bonds or other
770 indebtedness of the association or pursuant to which any such
771 bonds or other indebtedness has been or may be issued and
772 pursuant to which any rights, revenues, or other assets of the
773 association are pledged or sold to secure the repayment of such
774 bonds or indebtedness, together with the payment of interest on
775 such bonds or such indebtedness, or the payment of any other
776 obligation of the association related to such bonds or
777 indebtedness.

778 e. Any such pledge or sale of assessments, revenues,
779 contract rights or other rights or assets of the association
780 shall constitute a lien and security interest, or sale, as the
781 case may be, that is immediately effective and attaches to such
782 assessments, revenues, contract, or other rights or assets,
783 whether or not imposed or collected at the time the pledge or

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784 sale is made. Any such pledge or sale is effective, valid,
785 binding, and enforceable against the association or other entity
786 making such pledge or sale, and valid and binding against and
787 superior to any competing claims or obligations owed to any
788 other person or entity, including policyholders in this state,
789 asserting rights in any such assessments, revenues, contract, or
790 other rights or assets to the extent set forth in and in
791 accordance with the terms of the pledge or sale contained in the
792 applicable financing documents, whether or not any such person
793 or entity has notice of such pledge or sale and without the need
794 for any physical delivery, recordation, filing, or other action.

795 f. There shall be no liability on the part of, and no cause
796 of action of any nature shall arise against, any member insurer
797 or its agents or employees, agents or employees of the
798 association, members of the board of directors of the
799 association, or the department or its representatives, for any
800 action taken by them in the performance of their duties or
801 responsibilities under this subsection. Such immunity does not
802 apply to actions for breach of any contract or agreement
803 pertaining to insurance, or any willful tort.

804 Section 8. Paragraph (b) of subsection (2) of section
805 627.4133, Florida Statutes, is amended to read:

806 627.4133 Notice of cancellation, nonrenewal, or renewal
807 premium.—

808 (2) With respect to any personal lines or commercial
809 residential property insurance policy, including, but not
810 limited to, any homeowner's, mobile home owner's, farmowner's,
811 condominium association, condominium unit owner's, apartment
812 building, or other policy covering a residential structure or

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813 its contents:

814 (b) The insurer shall give the first-named insured written
815 notice of nonrenewal, cancellation, or termination at least 120
816 ~~100~~ days before the effective date of the nonrenewal,
817 cancellation, or termination. ~~However, the insurer shall give at~~
818 ~~least 100 days' written notice, or written notice by June 1,~~
819 ~~whichever is earlier, for any nonrenewal, cancellation, or~~
820 ~~termination that would be effective between June 1 and November~~
821 ~~30.~~ The notice must include the ~~reason or~~ reasons for the
822 nonrenewal, cancellation, or termination, except that:

823 1. The insurer must ~~shall~~ give the first-named insured
824 written notice of nonrenewal, cancellation, or termination at
825 least 120 days before ~~prior to~~ the effective date of the
826 nonrenewal, cancellation, or termination for a first-named
827 insured whose residential structure has been insured by that
828 insurer or an affiliated insurer for at least the 5 years before
829 ~~a 5-year period immediately prior to~~ the date of the written
830 notice.

831 2. If cancellation is for nonpayment of premium, at least
832 10 days' written notice of cancellation accompanied by the
833 reason therefor must be given. As used in this subparagraph, the
834 term "nonpayment of premium" means failure of the named insured
835 to discharge when due her or his obligations for ~~in connection~~
836 ~~with~~ the payment of premiums on a policy or any installment of
837 such premium, whether the premium is payable directly to the
838 insurer or its agent or indirectly under any premium finance
839 plan or extension of credit, or failure to maintain membership
840 in an organization if such membership is a condition precedent
841 to insurance coverage. The term also means the failure of a

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842 financial institution to honor an insurance applicant's check
843 after delivery to a licensed agent for payment of a premium,
844 even if the agent has previously delivered or transferred the
845 premium to the insurer. If a dishonored check represents the
846 initial premium payment, the contract and all contractual
847 obligations are void ab initio unless the nonpayment is cured
848 within the earlier of 5 days after actual notice by certified
849 mail is received by the applicant or 15 days after notice is
850 sent to the applicant by certified mail or registered mail, ~~and~~
851 If the contract is void, any premium received by the insurer
852 from a third party must be refunded to that party in full.

853 3. If ~~such~~ cancellation or termination occurs during the
854 first 90 days the insurance is in force and the insurance is
855 canceled or terminated for reasons other than nonpayment of
856 premium, at least 20 days' written notice of cancellation or
857 termination accompanied by the reason therefor must be given
858 unless there has been a material misstatement or
859 misrepresentation or failure to comply with the underwriting
860 requirements established by the insurer.

861 4. After the policy has been in effect for 90 days, it may
862 not be canceled by the insurer unless there has been a material
863 misstatement, a nonpayment of premium, a failure to comply with
864 underwriting requirements established by the insurer within 90
865 days after the date of effectuation of coverage, or a
866 substantial change in the risk covered by the policy or unless
867 the cancellation applies to all insureds for a given class of
868 insureds under such policies. This subparagraph does not apply
869 to individually rated risks having a policy term of less than 90
870 days.

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871 ~~4. The requirement for providing written notice by June 1~~
872 ~~of any nonrenewal that would be effective between June 1 and~~
873 ~~November 30 does not apply to the following situations, but the~~
874 ~~insurer remains subject to the requirement to provide such~~
875 ~~notice at least 100 days before the effective date of~~
876 ~~nonrenewal:~~

877 ~~a. A policy that is nonrenewed due to a revision in the~~
878 ~~coverage for sinkhole losses and catastrophic ground cover~~
879 ~~collapse pursuant to s. 627.706.~~

880 5.b. A policy that is nonrenewed by Citizens Property
881 Insurance Corporation, pursuant to s. 627.351(6), for a policy
882 that has been assumed by an authorized insurer offering
883 replacement coverage to the policyholder is exempt from the
884 notice requirements of paragraph (a) and this paragraph. In such
885 cases, the corporation must give the named insured written
886 notice of nonrenewal at least 45 days before the effective date
887 of the nonrenewal.

888
889 ~~After the policy has been in effect for 90 days, the policy may~~
890 ~~not be canceled by the insurer unless there has been a material~~
891 ~~misstatement, a nonpayment of premium, a failure to comply with~~
892 ~~underwriting requirements established by the insurer within 90~~
893 ~~days after the date of effectuation of coverage, or a~~
894 ~~substantial change in the risk covered by the policy or if the~~
895 ~~cancellation is for all insureds under such policies for a given~~
896 ~~class of insureds. This paragraph does not apply to individually~~
897 ~~rated risks having a policy term of less than 90 days.~~

898 6.5. Notwithstanding any other provision of law, an insurer
899 may cancel or nonrenew a property insurance policy after at

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900 least 45 days' notice if the office finds that the early
901 cancellation of some or all of the insurer's policies is
902 necessary to protect the best interests of the public or
903 policyholders and the office approves the insurer's plan for
904 early cancellation or nonrenewal of some or all of its policies.
905 The office may base such finding upon the financial condition of
906 the insurer, lack of adequate reinsurance coverage for hurricane
907 risk, or other relevant factors. The office may condition its
908 finding on the consent of the insurer to be placed under
909 administrative supervision pursuant to s. 624.81 or to the
910 appointment of a receiver under chapter 631.

911 ~~7.6.~~ A policy covering both a home and motor vehicle may be
912 nonrenewed for any reason applicable to either the property or
913 motor vehicle insurance after providing 90 days' notice.

914 Section 9. Section 627.6011, Florida Statutes, is created
915 to read:

916 627.6011 Mandated coverages.—Mandatory health benefits
917 regulated under this chapter which must be covered by an insurer
918 are intended to apply only to the type of health benefit plan
919 defined in s. 627.6699(3), issued in any market, unless
920 specifically designated otherwise. For purposes of this section,
921 the term "mandatory health benefits" means those benefits set
922 forth in ss. 627.6401-627.64193 and any cross-references to
923 these sections, and any other mandatory treatment or health
924 coverages or benefits enacted on or after July 1, 2012.

925 Section 10. Subsections (1), (2), (7), and (9) of section
926 627.7015, Florida Statutes, are amended to read:

927 627.7015 Alternative procedure for resolution of disputed
928 property insurance claims.—

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929 (1) ~~PURPOSE AND SCOPE.~~ This section sets forth a
930 nonadversarial alternative dispute resolution procedure for a
931 mediated claim resolution conference prompted by the need for
932 effective, fair, and timely handling of property insurance
933 claims. There is a particular need for an informal,
934 nonthreatening forum for helping parties who elect this
935 procedure to resolve their claims disputes because most
936 homeowner's and commercial residential insurance policies
937 obligate policyholders ~~insureds~~ to participate in a potentially
938 expensive and time-consuming adversarial appraisal process
939 before ~~prior to~~ litigation. The procedure set forth in this
940 section is designed to bring the parties together for a mediated
941 claims settlement conference without any of the trappings or
942 drawbacks of an adversarial process. Before resorting to these
943 procedures, policyholders ~~insureds~~ and insurers are encouraged
944 to resolve claims as quickly and fairly as possible. This
945 section is available with respect to claims under personal lines
946 and commercial residential policies before ~~for all claimants and~~
947 ~~insurers prior to~~ commencing the appraisal process, or before
948 commencing litigation. Mediation may be requested only by the
949 policyholder, as a first-party claimant, or the insurer. If
950 requested by the policyholder ~~insured~~, participation by legal
951 counsel is ~~shall be~~ permitted. Mediation under this section is
952 also available to litigants referred to the department by a
953 county court or circuit court. This section does not apply to
954 commercial coverages, to private passenger motor vehicle
955 insurance coverages, or to disputes relating to liability
956 coverages in policies of property insurance.

957 (2) At the time a first-party claim within the scope of

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958 this section is filed by the policyholder, the insurer shall
959 notify the policyholder ~~all first-party claimants~~ of its ~~their~~
960 right to participate in the mediation program under this
961 section. The department shall prepare a consumer information
962 pamphlet for distribution to persons participating in mediation
963 ~~under this section.~~

964 (7) If the insurer fails to comply with subsection (2) by
965 failing to notify a policyholder ~~first-party claimant~~ of its
966 right to participate in the mediation program under this section
967 or if the insurer requests the mediation, and the mediation
968 results are rejected by either party, the policyholder is
969 ~~insured shall~~ not be required to submit to or participate in any
970 contractual loss appraisal process of the property loss damage
971 as a precondition to legal action for breach of contract against
972 the insurer for its failure to pay the policyholder's claims
973 covered by the policy.

974 (9) For purposes of this section, the term "claim" refers
975 to any dispute between an insurer and a policyholder ~~an insured~~
976 relating to a material issue of fact other than a dispute:

977 (a) With respect to which the insurer has a reasonable
978 basis to suspect fraud;

979 (b) Where, based on agreed-upon facts as to the cause of
980 loss, there is no coverage under the policy;

981 (c) With respect to which the insurer has a reasonable
982 basis to believe that the policyholder ~~claimant~~ has
983 intentionally made a material misrepresentation of fact which is
984 relevant to the claim, and the entire request for payment of a
985 loss has been denied on the basis of the material
986 misrepresentation; ~~or~~

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987 (d) With respect to which the amount in controversy is less
988 than \$500, unless the parties agree to mediate a dispute
989 involving a lesser amount; or-

990 (e) Where the notice of loss is reported to the insurer
991 more than 36 months after the declaration of a state of
992 emergency by the Governor in response to a hurricane that makes
993 landfall in this state.

994 Section 11. Subsection (4) of section 627.7295, Florida
995 Statutes, is amended to read:

996 627.7295 Motor vehicle insurance contracts.-

997 (4) ~~If subsection (7) does not apply,~~ The insurer may
998 cancel the policy in accordance with this code except that,
999 notwithstanding s. 627.728, an insurer may not cancel a new
1000 policy or binder during the first 60 days immediately following
1001 the effective date of the policy or binder ~~except~~ for nonpayment
1002 of premium unless the reason for the cancellation is the
1003 issuance of a check for the premium that is dishonored for any
1004 reason or any other type of premium payment that was
1005 subsequently determined to be rejected or invalid.

1006 Section 12. Paragraph (d) of subsection (4) of section
1007 627.736, Florida Statutes, is amended to read:

1008 627.736 Required personal injury protection benefits;
1009 exclusions; priority; claims.-

1010 (4) BENEFITS; WHEN DUE.-Benefits due from an insurer under
1011 ss. 627.730-627.7405 shall be primary, except that benefits
1012 received under any workers' compensation law shall be credited
1013 against the benefits provided by subsection (1) and shall be due
1014 and payable as loss accrues, upon receipt of reasonable proof of
1015 such loss and the amount of expenses and loss incurred which are

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1016 covered by the policy issued under ss. 627.730-627.7405. When
1017 the Agency for Health Care Administration provides, pays, or
1018 becomes liable for medical assistance under the Medicaid program
1019 related to injury, sickness, disease, or death arising out of
1020 the ownership, maintenance, or use of a motor vehicle, benefits
1021 under ss. 627.730-627.7405 shall be subject to the provisions of
1022 the Medicaid program.

1023 (d) All overdue payments ~~shall~~ bear simple interest fixed
1024 at the rate established under s. 55.03 or the rate established
1025 in the insurance contract, whichever is greater, in effect on
1026 the date ~~for the year in which~~ the payment became overdue,
1027 calculated from the date the insurer was furnished with written
1028 notice of the amount of covered loss. Interest is ~~shall be~~ due
1029 at the time payment of the overdue claim is made.

1030 Section 13. This act shall take effect July 1, 2012.