



505904

LEGISLATIVE ACTION

Senate

.

House

.

.

Floor: 1/RE/2R

.

05/04/2017 10:04 PM

.

.

Senator Brandes moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (2) of section 177.041, Florida
Statutes, is amended to read:

177.041 Boundary survey and title certification required.-
Every plat or replat of a subdivision submitted to the approving
agency of the local governing body must be accompanied by:

(2) A title opinion of an attorney at law licensed in
Florida or a property information report ~~certification by an~~



505904

12 ~~abstractor or a title company~~ showing that record title to the
13 land as described and shown on the plat is in the name of the
14 person, persons, corporation, or entity executing the
15 dedication. The title opinion or property information report
16 ~~must certification shall~~ also show all mortgages not satisfied
17 or released of record nor otherwise terminated by law.

18 Section 2. Subsection (16) of section 177.091, Florida
19 Statutes, is amended to read:

20 177.091 Plats made for recording.—Every plat of a
21 subdivision offered for recording shall conform to the
22 following:

23 (16) Location and width of proposed easements and existing
24 easements identified in the title opinion or property
25 information report certification required by s. 177.041(2) must
26 ~~shall~~ be shown on the plat or in the notes or legend, and their
27 intended use shall be clearly stated. Where easements are not
28 coincident with property lines, they must be labeled with
29 bearings and distances and tied to the principal lot, tract, or
30 right-of-way.

31 Section 3. Paragraph (a) of subsection (5) of section
32 197.502, Florida Statutes, is amended to read:

33 197.502 Application for obtaining tax deed by holder of tax
34 sale certificate; fees.—

35 (5) (a) The tax collector may contract with a title company
36 or an abstract company to provide the minimum information
37 required in subsection (4), consistent with rules adopted by the
38 department. If additional information is required, the tax
39 collector must make a written request to the title or abstract
40 company stating the additional requirements. The tax collector



505904

41 may select any title or abstract company, regardless of its
42 location, as long as the fee is reasonable, the minimum
43 information is submitted, and the title or abstract company is
44 authorized to do business in this state. The tax collector may
45 advertise and accept bids for the title or abstract company if
46 he or she considers it appropriate to do so.

47 1. The property information ~~ownership and encumbrance~~
48 report must include the letterhead of the person, firm, or
49 company that makes the search, and the signature of the
50 individual who makes the search or of an officer of the firm.
51 The tax collector is not liable for payment to the firm unless
52 these requirements are met. The report may be submitted to the
53 tax collector in an electronic format.

54 2. The tax collector may not accept or pay for any title
55 search or abstract if financial responsibility is not assumed
56 for the search. However, reasonable restrictions as to the
57 liability or responsibility of the title or abstract company are
58 acceptable. Notwithstanding s. 627.7843(3), the tax collector
59 may contract for higher maximum liability limits.

60 3. In order to establish uniform prices for property
61 information ~~ownership and encumbrance~~ reports within the county,
62 the tax collector must ensure that the contract for property
63 information ~~ownership and encumbrance reports~~ include all
64 requests for title searches or abstracts for a given period of
65 time.

66 Section 4. Paragraph (b) of subsection (6) of section
67 215.555, Florida Statutes, is amended to read:

68 215.555 Florida Hurricane Catastrophe Fund.—

69 (6) REVENUE BONDS.—



505904

70 (b) *Emergency assessments.*—

71 1. If the board determines that the amount of revenue
72 produced under subsection (5) is insufficient to fund the
73 obligations, costs, and expenses of the fund and the
74 corporation, including repayment of revenue bonds and that
75 portion of the debt service coverage not met by reimbursement
76 premiums, the board shall direct the Office of Insurance
77 Regulation to levy, by order, an emergency assessment on direct
78 premiums for all property and casualty lines of business in this
79 state, including property and casualty business of surplus lines
80 insurers regulated under part VIII of chapter 626, but not
81 including any workers' compensation premiums or medical
82 malpractice premiums. As used in this subsection, the term
83 "property and casualty business" includes all lines of business
84 identified on Form 2, Exhibit of Premiums and Losses, in the
85 annual statement required of authorized insurers by s. 624.424
86 and any rule adopted under this section, except for those lines
87 identified as accident and health insurance and except for
88 policies written under the National Flood Insurance Program. The
89 assessment shall be specified as a percentage of direct written
90 premium and is subject to annual adjustments by the board in
91 order to meet debt obligations. The same percentage applies to
92 all policies in lines of business subject to the assessment
93 issued or renewed during the 12-month period beginning on the
94 effective date of the assessment.

95 2. A premium is not subject to an annual assessment under
96 this paragraph in excess of 6 percent of premium with respect to
97 obligations arising out of losses attributable to any one
98 contract year, and a premium is not subject to an aggregate



505904

99 annual assessment under this paragraph in excess of 10 percent
100 of premium. An annual assessment under this paragraph continues
101 as long as the revenue bonds issued with respect to which the
102 assessment was imposed are outstanding, including any bonds the
103 proceeds of which were used to refund the revenue bonds, unless
104 adequate provision has been made for the payment of the bonds
105 under the documents authorizing issuance of the bonds.

106 3. Emergency assessments shall be collected from
107 policyholders. Emergency assessments shall be remitted by
108 insurers as a percentage of direct written premium for the
109 preceding calendar quarter as specified in the order from the
110 Office of Insurance Regulation. The office shall verify the
111 accurate and timely collection and remittance of emergency
112 assessments and shall report the information to the board in a
113 form and at a time specified by the board. Each insurer
114 collecting assessments shall provide the information with
115 respect to premiums and collections as may be required by the
116 office to enable the office to monitor and verify compliance
117 with this paragraph.

118 4. With respect to assessments of surplus lines premiums,
119 each surplus lines agent shall collect the assessment at the
120 same time as the agent collects the surplus lines tax required
121 by s. 626.932, and the surplus lines agent shall remit the
122 assessment to the Florida Surplus Lines Service Office created
123 by s. 626.921 at the same time as the agent remits the surplus
124 lines tax to the Florida Surplus Lines Service Office. The
125 emergency assessment on each insured procuring coverage and
126 filing under s. 626.938 shall be remitted by the insured to the
127 Florida Surplus Lines Service Office at the time the insured



505904

128 pays the surplus lines tax to the Florida Surplus Lines Service
129 Office. The Florida Surplus Lines Service Office shall remit the
130 collected assessments to the fund or corporation as provided in
131 the order levied by the Office of Insurance Regulation. The
132 Florida Surplus Lines Service Office shall verify the proper
133 application of such emergency assessments and shall assist the
134 board in ensuring the accurate and timely collection and
135 remittance of assessments as required by the board. The Florida
136 Surplus Lines Service Office shall annually calculate the
137 aggregate written premium on property and casualty business,
138 other than workers' compensation and medical malpractice,
139 procured through surplus lines agents and insureds procuring
140 coverage and filing under s. 626.938 and shall report the
141 information to the board in a form and at a time specified by
142 the board.

143 5. Any assessment authority not used for a particular
144 contract year may be used for a subsequent contract year. If,
145 for a subsequent contract year, the board determines that the
146 amount of revenue produced under subsection (5) is insufficient
147 to fund the obligations, costs, and expenses of the fund and the
148 corporation, including repayment of revenue bonds and that
149 portion of the debt service coverage not met by reimbursement
150 premiums, the board shall direct the Office of Insurance
151 Regulation to levy an emergency assessment up to an amount not
152 exceeding the amount of unused assessment authority from a
153 previous contract year or years, plus an additional 4 percent
154 provided that the assessments in the aggregate do not exceed the
155 limits specified in subparagraph 2.

156 6. The assessments otherwise payable to the corporation



505904

157 under this paragraph shall be paid to the fund unless the Office
158 of Insurance Regulation and the Florida Surplus Lines Service
159 Office received a notice from the corporation and the fund,
160 which shall be conclusive and upon which they may rely without
161 further inquiry, that the corporation has issued bonds and the
162 fund has no agreements in effect with local governments under
163 paragraph (c). On or after the date of the notice and until the
164 date the corporation has no bonds outstanding, the fund shall
165 have no right, title, or interest in or to the assessments,
166 except as provided in the fund's agreement with the corporation.

167 7. Emergency assessments are not premium and are not
168 subject to the premium tax, to the surplus lines tax, to any
169 fees, or to any commissions. An insurer is liable for all
170 assessments that it collects and must treat the failure of an
171 insured to pay an assessment as a failure to pay the premium. An
172 insurer is not liable for uncollectible assessments.

173 8. If an insurer is required to return an unearned premium,
174 it shall also return any collected assessment attributable to
175 the unearned premium. A credit adjustment to the collected
176 assessment may be made by the insurer with regard to future
177 remittances that are payable to the fund or corporation, but the
178 insurer is not entitled to a refund.

179 9. If a surplus lines insured or an insured who has
180 procured coverage and filed under s. 626.938 is entitled to the
181 return of an unearned premium, the Florida Surplus Lines Service
182 Office shall provide a credit or refund to the agent or such
183 insured for the collected assessment attributable to the
184 unearned premium before remitting the emergency assessment
185 collected to the fund or corporation.



505904

186 ~~10. The exemption of medical malpractice insurance premiums~~
187 ~~from emergency assessments under this paragraph is repealed May~~
188 ~~31, 2019, and medical malpractice insurance premiums shall be~~
189 ~~subject to emergency assessments attributable to loss events~~
190 ~~occurring in the contract years commencing on June 1, 2019.~~

191 Section 5. Subsection (1) of section 624.407, Florida
192 Statutes, is amended to read:

193 624.407 Surplus required; new insurers.—

194 (1) To receive authority to transact any one kind or
195 combinations of kinds of insurance, as defined in part V of this
196 chapter, an insurer applying for its original certificate of
197 authority in this state shall possess surplus as to
198 policyholders at least the greater of:

199 (a) For a property and casualty insurer, \$5 million, or
200 \$2.5 million for any other insurer;

201 (b) For life insurers, 4 percent of the insurer's total
202 liabilities;

203 (c) For life and health insurers, 4 percent of the
204 insurer's total liabilities, plus 6 percent of the insurer's
205 liabilities relative to health insurance;

206 (d) For all insurers other than life insurers and life and
207 health insurers, 10 percent of the insurer's total liabilities;

208 (e) Notwithstanding paragraph (a) or paragraph (d), for a
209 domestic insurer that transacts residential property insurance
210 and is:

211 1. Not a wholly owned subsidiary of an insurer domiciled in
212 any other state, \$15 million.

213 2. A wholly owned subsidiary of an insurer domiciled in any
214 other state, \$50 million; ~~or~~



505904

215 (f) Notwithstanding paragraphs (a), (d), and (e), for a
216 domestic insurer that only transacts limited sinkhole coverage
217 insurance for personal lines residential property pursuant to s.
218 627.7151, \$7.5 million; or

219 (g) Notwithstanding paragraphs (a), (b), and (e), for an
220 insurer that only transacts residential property insurance in
221 the form of renter's insurance, tenant's coverage, cooperative
222 unit owner insurance, or any combination thereof, \$10 million.

223 Section 6. Paragraph (c) of subsection (8) of section
224 624.424, Florida Statutes, is amended to read:

225 624.424 Annual statement and other information.-

226 (8)

227 (c) The board of directors of an insurer shall hire the
228 certified public accountant that prepares the audit required by
229 this subsection and the board shall establish an audit committee
230 of three or more directors of the insurer or an affiliated
231 company. The audit committee shall be responsible for discussing
232 audit findings and interacting with the certified public
233 accountant with regard to her or his findings. The audit
234 committee shall be comprised ~~solely~~ of members who are free from
235 any relationship that, in the opinion of its board of directors,
236 would interfere with the exercise of independent judgment as a
237 committee member. The audit committee shall report to the board
238 any findings of adverse financial conditions or significant
239 deficiencies in internal controls that have been noted by the
240 accountant. The insurer may request the office to waive this
241 requirement of the audit committee membership based upon unusual
242 hardship to the insurer.

243 Section 7. Subsection (15) of section 625.012, Florida



505904

244 Statutes, is amended to read:

245 625.012 "Assets" defined.—In any determination of the
246 financial condition of an insurer, there shall be allowed as
247 "assets" only such assets as are owned by the insurer and which
248 consist of:

249 (15) (a) Assessments levied pursuant to s. 631.57(3) (a) and
250 (e) or s. 631.914 which ~~that~~ are paid before policy surcharges
251 are collected and result in a receivable for policy surcharges
252 to be collected in the future. This amount, to the extent it is
253 likely that it will be realized, meets the definition of an
254 admissible asset as specified in the National Association of
255 Insurance Commissioners' Statement of Statutory Accounting
256 Principles No. 4. The asset shall be established and recorded
257 separately from the liability regardless of whether it is based
258 on a retrospective or prospective premium-based assessment. If
259 an insurer is unable to fully recoup the amount of the
260 assessment because of a reduction in writings or withdrawal from
261 the market, the amount recorded as an asset shall be reduced to
262 the amount reasonably expected to be recouped.

263 (b) Assessments levied as monthly installments pursuant to
264 s. 631.57(3) (e)3. or s. 631.914 which ~~that~~ are paid after policy
265 surcharges are collected so that the recognition of assets is
266 based on actual premium written offset by the obligation to the
267 Florida Insurance Guaranty Association or the Florida Workers'
268 Compensation Insurance Guaranty Association, Incorporated.

269 Section 8. Paragraph (e) of subsection (7) of section
270 627.062, Florida Statutes, is amended to read:

271 627.062 Rate standards.—

272 (7) The provisions of this subsection apply only to rates



505904

273 for medical malpractice insurance and control to the extent of
274 any conflict with other provisions of this section.

275 (e) For medical malpractice rates subject to paragraph
276 (2) (a), the medical malpractice insurer shall make an annual
277 base a rate filing in accordance with s. 627.0645 ~~under this~~
278 ~~section~~, sworn to by at least two executive officers of the
279 insurer, ~~at least once each calendar year.~~

280 Section 9. Subsection (1) of section 627.0645, Florida
281 Statutes, is amended to read:

282 627.0645 Annual filings.—

283 (1) Each rating organization filing rates for, and each
284 insurer writing, any line of property or casualty insurance to
285 which this part applies, except:

286 (a) Workers' compensation and employer's liability
287 insurance;

288 (b) Insurance as defined in ss. 624.604 and 624.605,
289 limited to coverage of commercial risks other than commercial
290 residential multiperil and medical malpractice insurance that is
291 subject to s. 627.062(2) (a) and (f); or

292 (c) Travel insurance, if issued as a master group policy
293 with a situs in another state where each certificateholder pays
294 less than \$30 in premium for each covered trip and where the
295 insurer has written less than \$1 million in annual written
296 premiums in the travel insurance product in this state during
297 the most recent calendar year,

298
299 shall make an annual base rate filing for each such line with
300 the office no later than 12 months after its previous base rate
301 filing, demonstrating that its rates are not inadequate.



505904

302 Section 10. Section 627.4035, Florida Statutes, is amended
303 to read:

304 627.4035 ~~Cash~~ Payment of premiums; claims.—

305 (1) (a) The premiums for insurance contracts issued in this
306 state or covering risk located in this state must ~~shall~~ be paid
307 in cash consisting of coins, currency, checks, electronic
308 checks, drafts, or money orders or by using a debit card, credit
309 card, automatic electronic funds transfer, or payroll deduction
310 plan. ~~By July 1, 2007,~~ Insurers issuing personal lines
311 residential and commercial property policies shall provide a
312 premium payment plan option to their policyholders which allows
313 for a minimum of quarterly and semiannual payment of premiums.
314 Insurers may, but are not required to, offer monthly payment
315 plans. Insurers issuing such policies must submit their premium
316 payment plan option to the office for approval before use.

317 (b) If, due to insufficient funds, a payment of premium
318 under this subsection by debit card, credit card, electronic
319 funds transfer, or electronic check is returned, is declined, or
320 cannot be processed, the insurer may impose an insufficient
321 funds fee of up to \$15 per occurrence pursuant to the policy
322 terms. However, the insurer may not charge the policyholder an
323 insufficient funds fee if the failure in payment resulted from
324 fraud or misuse on the policyholder's account from which the
325 payment was made and such fraud or misuse was not attributed to
326 the policyholder.

327 (2) Subsection (1) is not applicable to:

328 (a) Reinsurance agreements;

329 (b) Pension plans;

330 (c) Premium loans, whether or not subject to an automatic



505904

331 provision;

332 (d) Dividends, whether to purchase additional paid-up
333 insurance or to shorten the dividend payment period;

334 (e) Salary deduction plans;

335 (f) Preauthorized check plans;

336 (g) Waivers of premiums on disability;

337 (h) Nonforfeiture provisions affording benefits under
338 supplementary contracts; or

339 (i) Such other methods of paying for life insurance as may
340 be permitted by the commission pursuant to rule or regulation.

341 (3) All payments of claims made in this state under any
342 contract of insurance shall be paid:

343 (a) In cash consisting of coins, currency, checks, drafts,
344 or money orders and, if by check or draft, shall be in such form
345 as will comply with the standards for cash items adopted by the
346 Federal Reserve System to facilitate the sorting, routing, and
347 mechanized processing of such items; or

348 (b) If authorized in writing by the recipient or the
349 recipient's representative, by debit card or any other form of
350 electronic transfer. Any fees or costs to be charged against the
351 recipient must be disclosed in writing to the recipient or the
352 recipient's representative at the time of written authorization.
353 However, the written authorization requirement may be waived by
354 the recipient or the recipient's representative if the insurer
355 verifies the identity of the insured or the insured's recipient
356 and does not charge a fee for the transaction. If the funds are
357 misdirected, the insurer remains liable for the payment of the
358 claim.

359 Section 11. Subsection (5) is added to section 627.421,



505904

360 Florida Statutes, to read:

361 627.421 Delivery of policy.-

362 (5) An electronically delivered document satisfies any
363 font, size, color, spacing, or other formatting requirement for
364 printed documents if the format in the electronically delivered
365 document has reasonably similar proportions or emphasis of the
366 characters relative to the rest of the electronic document or is
367 otherwise displayed in a reasonably conspicuous manner.

368 Section 12. Subsection (9) of section 627.7295, Florida
369 Statutes, is amended to read:

370 627.7295 Motor vehicle insurance contracts.-

371 ~~(9)(a) In addition to the methods provided in s.~~

372 ~~627.4035(1), premium for motor vehicle insurance contracts~~
373 ~~issued in this state or covering risk located in this state may~~
374 ~~be paid in cash in the form of a draft or drafts.~~

375 ~~(b) If, due to insufficient funds, payment of premium under~~
376 ~~this subsection by debit card, credit card, electronic funds~~
377 ~~transfer, or electronic check is returned, is declined, or~~
378 ~~cannot be processed, the insurer may impose an insufficient~~
379 ~~funds fee of up to \$15 per occurrence pursuant to the policy~~
380 ~~terms.~~

381 Section 13. Section 627.7843, Florida Statutes, is amended
382 to read:

383 627.7843 Property information reports ~~Ownership and~~
384 ~~encumbrance reports.-~~

385 (1) As used in this section, the term "property information
386 report" means any report that contains the limitations of this
387 section and discloses documents or information appearing in the
388 Official Records as described in s. 28.222, in the records of a



505904

389 county tax collector pertaining to ad valorem real property
390 taxes and special assessments imposed by a governmental
391 authority against real property, in the Secretary of State
392 filing office, or in another governmental filing office
393 pertaining to real or personal property. A property information
394 report may be issued by any person, including a Florida-licensed
395 title insurer, title agent, or title agency "ownership and
396 encumbrance report" means a report that discloses certain
397 defined documents imparting constructive notice and appearing in
398 the official records relating to specified real property.

399 (2) A property information ~~An ownership and encumbrance~~
400 report may not directly or indirectly set forth or imply any
401 opinion, warranty, guarantee, insurance, or other similar
402 assurance and does not constitute title insurance as defined in
403 s. 624.608 as to the status of title to real property.

404 (3) The contractual liability of the issuer of a property
405 information report is limited to the person or persons expressly
406 identified by name in the property information report as the
407 recipient or recipients of the property information report and
408 may not exceed the amount paid for the property information
409 report. Only contractual remedies are available for an error or
410 omission that arises from a property information report. A
411 property information report must contain the following language:

412
413 "This report is not title insurance. Pursuant to s. 627.7843,
414 Florida Statutes, the maximum liability of the issuer of this
415 property information report for errors or omissions in this
416 property information report is limited to the amount paid for
417 this property information report, and is further limited to the



505904

418 person(s) expressly identified by name in the property
419 information report as the recipient(s) of the property
420 information report.” ~~Any ownership and encumbrance report or~~
421 ~~similar report that is relied on or intended to be relied on by~~
422 ~~a consumer must be on forms approved by the office, and must~~
423 ~~provide for a maximum liability for incorrect information of not~~
424 ~~more than \$1,000.~~

425 (4) This section is not applicable to an opinion of title
426 issued by an attorney.

427 Section 14. This act shall take effect upon becoming a law.

428
429 ===== T I T L E A M E N D M E N T =====

430 And the title is amended as follows:

431 Delete everything before the enacting clause
432 and insert:

433 A bill to be entitled
434 An act relating to the regulation of insurance
435 companies; amending s. 177.041, F.S.; providing that a
436 specified property information report, rather than a
437 specified certification by an abstractor or a title
438 company, may be submitted as part of certain
439 information required in relation to the plat or replat
440 of a subdivision; amending ss. 177.091 and 197.502,
441 F.S.; conforming provisions to changes made by the
442 act; amending s. 215.555, F.S.; deleting a future
443 repeal of an exemption of medical malpractice
444 insurance premiums from certain emergency assessments
445 by the State Board of Administration relating to the
446 Florida Hurricane Catastrophe Fund; amending s.



505904

447 624.407, F.S.; specifying the minimum surplus as to
448 policyholders for insurers that only transact in
449 specified forms of residential property insurance;
450 amending s. 624.424, F.S.; revising a requirement for
451 audit committees established by the boards of
452 directors of insurers, relating to relationships that
453 would interfere with the exercise of independent
454 judgment of committee members; amending s. 625.012,
455 F.S.; revising the allowable assets of insurers
456 relating to specified levied assessments; amending s.
457 627.062, F.S.; revising requirements for certain rate
458 filings by medical malpractice insurers; amending s.
459 627.0645, F.S.; adding certain medical malpractice
460 insurance to casualty insurance excluded from an
461 annual base rate filing requirement for rating
462 organizations; amending s. 627.4035, F.S.; revising
463 the methods of paying premiums for insurance
464 contracts; authorizing an insurer to impose a
465 specified insufficient funds fee if certain premium
466 payment methods are returned, are declined, or cannot
467 be processed; providing an exception; amending s.
468 627.421, F.S.; providing that an electronically
469 delivered document in an insurance policy meets
470 formatting requirements for printed documents under
471 certain conditions; amending s. 627.7295, F.S.;
472 conforming provisions to changes made by the act;
473 amending s. 627.7843, F.S.; replacing provisions
474 relating to ownership and encumbrance reports with
475 provisions relating to property information reports;



505904

476 defining the term "property information report";
477 prohibiting property information reports from setting
478 forth or implying certain assurances; providing
479 construction; specifying a limitation on the
480 contractual liability of issuers of property
481 information reports; requiring a specified disclosure
482 in property information reports; providing
483 applicability; providing an effective date.