

1 A bill to be entitled

2 An act relating to insurance; amending s. 215.555,
3 F.S.; removing a provision repealing an exemption from
4 emergency assessment for medical malpractice insurance
5 premiums; amending s. 625.012, F.S.; revising the
6 definition of asset to include assessments on workers'
7 compensation insurance; amending s. 627.062, F.S.;
8 revising requirements for medical malpractice insurers
9 to provide rate filings; amending s. 627.0645, F.S.;
10 providing an exemption from certain annual base rate
11 filings for medical malpractice insurance; amending s.
12 627.4035, F.S.; authorizing insurers to charge
13 insufficient funds fees; amending s. 627.421, F.S.;
14 providing conditions under which an electronically
15 delivered document meets formatting requirements;
16 amending s. 627.7295, F.S.; deleting provisions
17 authorizing additional permissible types of payment
18 for motor vehicle insurance premiums and charging
19 insufficient funds fee; creating s. 627.747, F.S.;
20 authorizing insurers to exclude certain household
21 members from private passenger motor vehicle insurance
22 coverage; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Paragraph (b) of subsection (6) of section
 27 215.555, Florida Statutes, is amended to read:

28 215.555 Florida Hurricane Catastrophe Fund.—

29 (6) REVENUE BONDS.—

30 (b) Emergency assessments.—

31 1. If the board determines that the amount of revenue
 32 produced under subsection (5) is insufficient to fund the
 33 obligations, costs, and expenses of the fund and the
 34 corporation, including repayment of revenue bonds and that
 35 portion of the debt service coverage not met by reimbursement
 36 premiums, the board shall direct the Office of Insurance
 37 Regulation to levy, by order, an emergency assessment on direct
 38 premiums for all property and casualty lines of business in this
 39 state, including property and casualty business of surplus lines
 40 insurers regulated under part VIII of chapter 626, but not
 41 including any workers' compensation premiums or medical
 42 malpractice premiums. As used in this subsection, the term
 43 "property and casualty business" includes all lines of business
 44 identified on Form 2, Exhibit of Premiums and Losses, in the
 45 annual statement required of authorized insurers by s. 624.424
 46 and any rule adopted under this section, except for those lines
 47 identified as accident and health insurance and except for
 48 policies written under the National Flood Insurance Program. The
 49 assessment shall be specified as a percentage of direct written
 50 premium and is subject to annual adjustments by the board in

51 | order to meet debt obligations. The same percentage applies to
52 | all policies in lines of business subject to the assessment
53 | issued or renewed during the 12-month period beginning on the
54 | effective date of the assessment.

55 | 2. A premium is not subject to an annual assessment under
56 | this paragraph in excess of 6 percent of premium with respect to
57 | obligations arising out of losses attributable to any one
58 | contract year, and a premium is not subject to an aggregate
59 | annual assessment under this paragraph in excess of 10 percent
60 | of premium. An annual assessment under this paragraph continues
61 | as long as the revenue bonds issued with respect to which the
62 | assessment was imposed are outstanding, including any bonds the
63 | proceeds of which were used to refund the revenue bonds, unless
64 | adequate provision has been made for the payment of the bonds
65 | under the documents authorizing issuance of the bonds.

66 | 3. Emergency assessments shall be collected from
67 | policyholders. Emergency assessments shall be remitted by
68 | insurers as a percentage of direct written premium for the
69 | preceding calendar quarter as specified in the order from the
70 | Office of Insurance Regulation. The office shall verify the
71 | accurate and timely collection and remittance of emergency
72 | assessments and shall report the information to the board in a
73 | form and at a time specified by the board. Each insurer
74 | collecting assessments shall provide the information with
75 | respect to premiums and collections as may be required by the

76 | office to enable the office to monitor and verify compliance
77 | with this paragraph.

78 | 4. With respect to assessments of surplus lines premiums,
79 | each surplus lines agent shall collect the assessment at the
80 | same time as the agent collects the surplus lines tax required
81 | by s. 626.932, and the surplus lines agent shall remit the
82 | assessment to the Florida Surplus Lines Service Office created
83 | by s. 626.921 at the same time as the agent remits the surplus
84 | lines tax to the Florida Surplus Lines Service Office. The
85 | emergency assessment on each insured procuring coverage and
86 | filing under s. 626.938 shall be remitted by the insured to the
87 | Florida Surplus Lines Service Office at the time the insured
88 | pays the surplus lines tax to the Florida Surplus Lines Service
89 | Office. The Florida Surplus Lines Service Office shall remit the
90 | collected assessments to the fund or corporation as provided in
91 | the order levied by the Office of Insurance Regulation. The
92 | Florida Surplus Lines Service Office shall verify the proper
93 | application of such emergency assessments and shall assist the
94 | board in ensuring the accurate and timely collection and
95 | remittance of assessments as required by the board. The Florida
96 | Surplus Lines Service Office shall annually calculate the
97 | aggregate written premium on property and casualty business,
98 | other than workers' compensation and medical malpractice,
99 | procured through surplus lines agents and insureds procuring
100 | coverage and filing under s. 626.938 and shall report the

101 information to the board in a form and at a time specified by
102 the board.

103 5. Any assessment authority not used for a particular
104 contract year may be used for a subsequent contract year. If,
105 for a subsequent contract year, the board determines that the
106 amount of revenue produced under subsection (5) is insufficient
107 to fund the obligations, costs, and expenses of the fund and the
108 corporation, including repayment of revenue bonds and that
109 portion of the debt service coverage not met by reimbursement
110 premiums, the board shall direct the Office of Insurance
111 Regulation to levy an emergency assessment up to an amount not
112 exceeding the amount of unused assessment authority from a
113 previous contract year or years, plus an additional 4 percent
114 provided that the assessments in the aggregate do not exceed the
115 limits specified in subparagraph 2.

116 6. The assessments otherwise payable to the corporation
117 under this paragraph shall be paid to the fund unless the Office
118 of Insurance Regulation and the Florida Surplus Lines Service
119 Office received a notice from the corporation and the fund,
120 which shall be conclusive and upon which they may rely without
121 further inquiry, that the corporation has issued bonds and the
122 fund has no agreements in effect with local governments under
123 paragraph (c). On or after the date of the notice and until the
124 date the corporation has no bonds outstanding, the fund shall
125 have no right, title, or interest in or to the assessments,

126 | except as provided in the fund's agreement with the corporation.

127 | 7. Emergency assessments are not premium and are not
128 | subject to the premium tax, to the surplus lines tax, to any
129 | fees, or to any commissions. An insurer is liable for all
130 | assessments that it collects and must treat the failure of an
131 | insured to pay an assessment as a failure to pay the premium. An
132 | insurer is not liable for uncollectible assessments.

133 | 8. If an insurer is required to return an unearned
134 | premium, it shall also return any collected assessment
135 | attributable to the unearned premium. A credit adjustment to the
136 | collected assessment may be made by the insurer with regard to
137 | future remittances that are payable to the fund or corporation,
138 | but the insurer is not entitled to a refund.

139 | 9. If a surplus lines insured or an insured who has
140 | procured coverage and filed under s. 626.938 is entitled to the
141 | return of an unearned premium, the Florida Surplus Lines Service
142 | Office shall provide a credit or refund to the agent or such
143 | insured for the collected assessment attributable to the
144 | unearned premium before remitting the emergency assessment
145 | collected to the fund or corporation.

146 | ~~10. The exemption of medical malpractice insurance~~
147 | ~~premiums from emergency assessments under this paragraph is~~
148 | ~~repealed May 31, 2019, and medical malpractice insurance~~
149 | ~~premiums shall be subject to emergency assessments attributable~~
150 | ~~to loss events occurring in the contract years commencing on~~

151 ~~June 1, 2019.~~

152 Section 2. Paragraph (a) of subsection (15) of section
153 625.012, Florida Statutes, is amended to read:

154 625.012 "Assets" defined.—In any determination of the
155 financial condition of an insurer, there shall be allowed as
156 "assets" only such assets as are owned by the insurer and which
157 consist of:

158 (15) (a) Assessments levied pursuant to s. 631.57(3) (a) and
159 (e) or s. 631.914 that are paid before policy surcharges are
160 collected and result in a receivable for policy surcharges to be
161 collected in the future. This amount, to the extent it is likely
162 that it will be realized, meets the definition of an admissible
163 asset as specified in the National Association of Insurance
164 Commissioners' Statement of Statutory Accounting Principles No.
165 4. The asset shall be established and recorded separately from
166 the liability regardless of whether it is based on a
167 retrospective or prospective premium-based assessment. If an
168 insurer is unable to fully recoup the amount of the assessment
169 because of a reduction in writings or withdrawal from the
170 market, the amount recorded as an asset shall be reduced to the
171 amount reasonably expected to be recouped.

172 Section 3. Paragraph (e) of subsection (7) of section
173 627.062, Florida Statutes, is amended to read:

174 627.062 Rate standards.—

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

176 | for medical malpractice insurance and control to the extent of
 177 | any conflict with other provisions of this section.

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

183 | Section 4. Subsection (1) of section 627.0645, Florida
 184 | Statutes, is amended to read:

185 | 627.0645 Annual filings.—

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

189 | (a) Workers' compensation and employer's liability
 190 | insurance;

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

195 | (c) Travel insurance, if issued as a master group policy
 196 | with a situs in another state where each certificateholder pays
 197 | less than \$30 in premium for each covered trip and where the
 198 | insurer has written less than \$1 million in annual written
 199 | premiums in the travel insurance product in this state during
 200 | the most recent calendar year,

201
202 shall make an annual base rate filing for each such line with
203 the office no later than 12 months after its previous base rate
204 filing, demonstrating that its rates are not inadequate.

205 Section 5. Subsection (1) of section 627.4035, Florida
206 Statutes, is amended to read:

207 627.4035 Payment ~~Cash payment~~ of premiums; claims.—

208 (1) (a) The premiums for insurance contracts issued in this
209 state or covering risk located in this state shall be paid in
210 cash consisting of coins, currency, checks, drafts, or money
211 orders or by using a debit card, credit card, automatic
212 electronic funds transfer, electronic check, or payroll
213 deduction plan. Insurers ~~By July 1, 2007, insurers~~ issuing
214 personal lines residential and commercial property policies
215 shall provide a premium payment plan option to their
216 policyholders which allows for a minimum of quarterly and
217 semiannual payment of premiums. Insurers may, but are not
218 required to, offer monthly payment plans. Insurers issuing such
219 policies must submit their premium payment plan option to the
220 office for approval before use.

221 (b) If, due to insufficient funds, payment of premium
222 under this subsection by debit card, credit card, electronic
223 funds transfer, or electronic check is returned, is declined, or
224 cannot be processed, the insurer may impose an insufficient
225 funds fee of up to \$15 per occurrence pursuant to the policy

226 terms.

227 Section 6. Subsection (5) is added to section 627.421,
228 Florida Statutes, to read:

229 627.421 Delivery of policy.—

230 (5) Any document delivered electronically satisfies any
231 font, size, color, spacing, or other format requirements that
232 are established for printed documents in this chapter, provided
233 that the format in the document delivered electronically has
234 reasonably similar proportions or emphasis for the characters
235 relative to the rest of the electronic document or is otherwise
236 electronically displayed in a reasonably conspicuous manner.

237 Section 7. Subsection (9) of section 627.7295, Florida
238 Statutes, is amended to read:

239 627.7295 Motor vehicle insurance contracts.—

240 ~~(9)(a) In addition to the methods provided in s.~~
241 ~~627.4035(1), premium for motor vehicle insurance contracts~~
242 ~~issued in this state or covering risk located in this state may~~
243 ~~be paid in cash in the form of a draft or drafts.~~

244 ~~(b) If, due to insufficient funds, payment of premium~~
245 ~~under this subsection by debit card, credit card, electronic~~
246 ~~funds transfer, or electronic check is returned, is declined, or~~
247 ~~cannot be processed, the insurer may impose an insufficient~~
248 ~~funds fee of up to \$15 per occurrence pursuant to the policy~~
249 ~~terms.~~

250 Section 8. Section 627.747, Florida Statutes, is created

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251 to read:

252 627.747 Named driver exclusion.—If the insurer identifies
253 a household member by name and the named insured consents in
254 writing, ss. 320.02, 324.022, and 627.727 do not prohibit an
255 insurer that issues an insurance policy on a private passenger
256 motor vehicle from excluding all coverage under the policy for
257 the identified member of the household, unless the excluded
258 household member is injured while he or she is not operating the
259 motor vehicle.

260 Section 9. This act shall take effect upon becoming law.