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576-02487-17

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to the regulation of insurance companies; amending s. 215.555, F.S.; deleting a future repeal of an exemption of medical malpractice insurance premiums from certain emergency assessments by the State Board of Administration relating to the Florida Hurricane Catastrophe Fund; amending s. 624.407, F.S.; specifying the minimum surplus as to policyholders for insurers that only transact in specified forms of residential property insurance; amending s. 625.012, F.S.; revising the allowable assets of insurers relating to specified levied assessments; amending s. 627.062, F.S.; revising requirements for certain rate filings by medical malpractice insurers; amending s. 627.0645, F.S.; adding certain medical malpractice insurance to casualty insurance excluded from an annual base rate filing requirement for rating organizations; amending s. 627.4035, F.S.; revising the methods of paying premiums for insurance contracts; authorizing an insurer to impose a specified insufficient funds fee if certain premium payment methods are returned, are declined, or cannot be processed; providing an exception; amending s. 627.421, F.S.; providing that an electronically delivered document in an insurance policy meets formatting requirements for printed documents under certain conditions; amending s.



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28 627.7295, F.S.; conforming provisions to changes made
29 by the act; providing an effective date.

30

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

32

33 Section 1. Paragraph (b) of subsection (6) of section
34 215.555, Florida Statutes, is amended to read:

35 215.555 Florida Hurricane Catastrophe Fund.—

36 (6) REVENUE BONDS.—

37 (b) *Emergency assessments*.—

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



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57 premium and is subject to annual adjustments by the board in
58 order to meet debt obligations. The same percentage applies to
59 all policies in lines of business subject to the assessment
60 issued or renewed during the 12-month period beginning on the
61 effective date of the assessment.

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

73 3. Emergency assessments shall be collected from
74 policyholders. Emergency assessments shall be remitted by
75 insurers as a percentage of direct written premium for the
76 preceding calendar quarter as specified in the order from the
77 Office of Insurance Regulation. The office shall verify the
78 accurate and timely collection and remittance of emergency
79 assessments and shall report the information to the board in a
80 form and at a time specified by the board. Each insurer
81 collecting assessments shall provide the information with
82 respect to premiums and collections as may be required by the
83 office to enable the office to monitor and verify compliance
84 with this paragraph.

85 4. With respect to assessments of surplus lines premiums,



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86 each surplus lines agent shall collect the assessment at the
87 same time as the agent collects the surplus lines tax required
88 by s. 626.932, and the surplus lines agent shall remit the
89 assessment to the Florida Surplus Lines Service Office created
90 by s. 626.921 at the same time as the agent remits the surplus
91 lines tax to the Florida Surplus Lines Service Office. The
92 emergency assessment on each insured procuring coverage and
93 filing under s. 626.938 shall be remitted by the insured to the
94 Florida Surplus Lines Service Office at the time the insured
95 pays the surplus lines tax to the Florida Surplus Lines Service
96 Office. The Florida Surplus Lines Service Office shall remit the
97 collected assessments to the fund or corporation as provided in
98 the order levied by the Office of Insurance Regulation. The
99 Florida Surplus Lines Service Office shall verify the proper
100 application of such emergency assessments and shall assist the
101 board in ensuring the accurate and timely collection and
102 remittance of assessments as required by the board. The Florida
103 Surplus Lines Service Office shall annually calculate the
104 aggregate written premium on property and casualty business,
105 other than workers' compensation and medical malpractice,
106 procured through surplus lines agents and insureds procuring
107 coverage and filing under s. 626.938 and shall report the
108 information to the board in a form and at a time specified by
109 the board.

110 5. Any assessment authority not used for a particular
111 contract year may be used for a subsequent contract year. If,
112 for a subsequent contract year, the board determines that the
113 amount of revenue produced under subsection (5) is insufficient
114 to fund the obligations, costs, and expenses of the fund and the



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115 corporation, including repayment of revenue bonds and that
116 portion of the debt service coverage not met by reimbursement
117 premiums, the board shall direct the Office of Insurance
118 Regulation to levy an emergency assessment up to an amount not
119 exceeding the amount of unused assessment authority from a
120 previous contract year or years, plus an additional 4 percent
121 provided that the assessments in the aggregate do not exceed the
122 limits specified in subparagraph 2.

123 6. The assessments otherwise payable to the corporation
124 under this paragraph shall be paid to the fund unless the Office
125 of Insurance Regulation and the Florida Surplus Lines Service
126 Office received a notice from the corporation and the fund,
127 which shall be conclusive and upon which they may rely without
128 further inquiry, that the corporation has issued bonds and the
129 fund has no agreements in effect with local governments under
130 paragraph (c). On or after the date of the notice and until the
131 date the corporation has no bonds outstanding, the fund shall
132 have no right, title, or interest in or to the assessments,
133 except as provided in the fund's agreement with the corporation.

134 7. Emergency assessments are not premium and are not
135 subject to the premium tax, to the surplus lines tax, to any
136 fees, or to any commissions. An insurer is liable for all
137 assessments that it collects and must treat the failure of an
138 insured to pay an assessment as a failure to pay the premium. An
139 insurer is not liable for uncollectible assessments.

140 8. If an insurer is required to return an unearned premium,
141 it shall also return any collected assessment attributable to
142 the unearned premium. A credit adjustment to the collected
143 assessment may be made by the insurer with regard to future



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144 remittances that are payable to the fund or corporation, but the
145 insurer is not entitled to a refund.

146 9. If a surplus lines insured or an insured who has
147 procured coverage and filed under s. 626.938 is entitled to the
148 return of an unearned premium, the Florida Surplus Lines Service
149 Office shall provide a credit or refund to the agent or such
150 insured for the collected assessment attributable to the
151 unearned premium before remitting the emergency assessment
152 collected to the fund or corporation.

153 ~~10. The exemption of medical malpractice insurance premiums~~
154 ~~from emergency assessments under this paragraph is repealed May~~
155 ~~31, 2019, and medical malpractice insurance premiums shall be~~
156 ~~subject to emergency assessments attributable to loss events~~
157 ~~occurring in the contract years commencing on June 1, 2019.~~

158 Section 2. Subsection (1) of section 624.407, Florida
159 Statutes, is amended to read:

160 624.407 Surplus required; new insurers.-

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

166 (a) For a property and casualty insurer, \$5 million, or
167 \$2.5 million for any other insurer;

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

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



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

175 (e) Notwithstanding paragraph (a) or paragraph (d), for a
176 domestic insurer that transacts residential property insurance
177 and is:

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

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

182 (f) Notwithstanding paragraphs (a), (d), and (e), for a
183 domestic insurer that only transacts limited sinkhole coverage
184 insurance for personal lines residential property pursuant to s.
185 627.7151, \$7.5 million; or

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

190 Section 3. Subsection (15) of section 625.012, Florida
191 Statutes, is amended to read:

192 625.012 "Assets" defined.—In any determination of the
193 financial condition of an insurer, there shall be allowed as
194 "assets" only such assets as are owned by the insurer and which
195 consist of:

196 (15) (a) Assessments levied pursuant to s. 631.57(3) (a) and
197 (e) or s. 631.914 which ~~that~~ are paid before policy surcharges
198 are collected and result in a receivable for policy surcharges
199 to be collected in the future. This amount, to the extent it is
200 likely that it will be realized, meets the definition of an
201 admissible asset as specified in the National Association of



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202 Insurance Commissioners' Statement of Statutory Accounting
203 Principles No. 4. The asset shall be established and recorded
204 separately from the liability regardless of whether it is based
205 on a retrospective or prospective premium-based assessment. If
206 an insurer is unable to fully recoup the amount of the
207 assessment because of a reduction in writings or withdrawal from
208 the market, the amount recorded as an asset shall be reduced to
209 the amount reasonably expected to be recouped.

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

216 Section 4. Paragraph (e) of subsection (7) of section
217 627.062, Florida Statutes, is amended to read:

218 627.062 Rate standards.—

219 (7) The provisions of this subsection apply only to rates
220 for medical malpractice insurance and control to the extent of
221 any conflict with other provisions of this section.

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

227 Section 5. Subsection (1) of section 627.0645, Florida
228 Statutes, is amended to read:

229 627.0645 Annual filings.—

230 (1) Each rating organization filing rates for, and each



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231 insurer writing, any line of property or casualty insurance to
232 which this part applies, except:

233 (a) Workers' compensation and employer's liability
234 insurance;

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

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

245
246 shall make an annual base rate filing for each such line with
247 the office no later than 12 months after its previous base rate
248 filing, demonstrating that its rates are not inadequate.

249 Section 6. Section 627.4035, Florida Statutes, is amended
250 to read:

251 627.4035 ~~Cash~~ Payment of premiums; claims.—

252 (1) (a) The premiums for insurance contracts issued in this
253 state or covering risk located in this state must ~~shall~~ be paid
254 in cash consisting of coins, currency, checks, electronic
255 checks, drafts, or money orders or by using a debit card, credit
256 card, automatic electronic funds transfer, or payroll deduction
257 plan. ~~By July 1, 2007,~~ Insurers issuing personal lines
258 residential and commercial property policies shall provide a
259 premium payment plan option to their policyholders which allows



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260 for a minimum of quarterly and semiannual payment of premiums.
261 Insurers may, but are not required to, offer monthly payment
262 plans. Insurers issuing such policies must submit their premium
263 payment plan option to the office for approval before use.

264 (b) If, due to insufficient funds, a payment of premium
265 under this subsection by debit card, credit card, electronic
266 funds transfer, or electronic check is returned, is declined, or
267 cannot be processed, the insurer may impose an insufficient
268 funds fee of up to \$15 per occurrence pursuant to the policy
269 terms. However, the insurer may not charge the policyholder an
270 insufficient funds fee if the failure in payment resulted from
271 fraud or misuse on the policyholder's account from which the
272 payment was made and such fraud or misuse was not attributed to
273 the policyholder.

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

275 (a) Reinsurance agreements;

276 (b) Pension plans;

277 (c) Premium loans, whether or not subject to an automatic
278 provision;

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

281 (e) Salary deduction plans;

282 (f) Preauthorized check plans;

283 (g) Waivers of premiums on disability;

284 (h) Nonforfeiture provisions affording benefits under
285 supplementary contracts; or

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

288 (3) All payments of claims made in this state under any



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289 contract of insurance shall be paid:

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

295 (b) If authorized in writing by the recipient or the
296 recipient's representative, by debit card or any other form of
297 electronic transfer. Any fees or costs to be charged against the
298 recipient must be disclosed in writing to the recipient or the
299 recipient's representative at the time of written authorization.
300 However, the written authorization requirement may be waived by
301 the recipient or the recipient's representative if the insurer
302 verifies the identity of the insured or the insured's recipient
303 and does not charge a fee for the transaction. If the funds are
304 misdirected, the insurer remains liable for the payment of the
305 claim.

306 Section 7. Subsection (5) is added to section 627.421,
307 Florida Statutes, to read:

308 627.421 Delivery of policy.—

309 (5) An electronically delivered document satisfies any
310 font, size, color, spacing, or other formatting requirement for
311 printed documents if the format in the electronically delivered
312 document has reasonably similar proportions or emphasis of the
313 characters relative to the rest of the electronic document or is
314 otherwise displayed in a reasonably conspicuous manner.

315 Section 8. Subsection (9) of section 627.7295, Florida
316 Statutes, is amended to read:

317 627.7295 Motor vehicle insurance contracts.—



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318 ~~(9) (a) In addition to the methods provided in s.~~
319 ~~627.4035(1), premium for motor vehicle insurance contracts~~
320 ~~issued in this state or covering risk located in this state may~~
321 ~~be paid in cash in the form of a draft or drafts.~~

322 ~~(b) If, due to insufficient funds, payment of premium under~~
323 ~~this subsection by debit card, credit card, electronic funds~~
324 ~~transfer, or electronic check is returned, is declined, or~~
325 ~~cannot be processed, the insurer may impose an insufficient~~
326 ~~funds fee of up to \$15 per occurrence pursuant to the policy~~
327 ~~terms.~~

328 Section 9. This act shall take effect upon becoming a law.