

By the Committee on Banking and Insurance; and Senator Brandes

597-02140-17

2017454c1

1 A bill to be entitled
2 An act relating to the regulation of insurance
3 companies; amending s. 215.555, F.S.; deleting a
4 future repeal of an exemption of medical malpractice
5 insurance premiums from certain emergency assessments
6 by the State Board of Administration relating to the
7 Florida Hurricane Catastrophe Fund; amending s.
8 625.012, F.S.; revising the allowable assets of
9 insurers relating to specified levied assessments;
10 amending s. 627.062, F.S.; revising requirements for
11 certain rate filings by medical malpractice insurers;
12 amending s. 627.0645, F.S.; adding certain medical
13 malpractice insurance to casualty insurance excluded
14 from an annual base rate filing requirement for rating
15 organizations; amending s. 627.4035, F.S.; revising
16 the methods of paying premiums for insurance
17 contracts; authorizing an insurer to impose a
18 specified insufficient funds fee if certain premium
19 payment methods are returned, declined, or cannot be
20 processed; amending s. 627.421, F.S.; providing that
21 an electronically delivered document in an insurance
22 policy meets formatting requirements for printed
23 documents under certain conditions; amending s.
24 627.7295, F.S.; conforming provisions to changes made
25 by the act; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Paragraph (b) of subsection (6) of section

597-02140-17

2017454c1

30 215.555, Florida Statutes, is amended to read:

31 215.555 Florida Hurricane Catastrophe Fund.—

32 (6) REVENUE BONDS.—

33 (b) *Emergency assessments*.—

34 1. If the board determines that the amount of revenue
35 produced under subsection (5) is insufficient to fund the
36 obligations, costs, and expenses of the fund and the
37 corporation, including repayment of revenue bonds and that
38 portion of the debt service coverage not met by reimbursement
39 premiums, the board shall direct the Office of Insurance
40 Regulation to levy, by order, an emergency assessment on direct
41 premiums for all property and casualty lines of business in this
42 state, including property and casualty business of surplus lines
43 insurers regulated under part VIII of chapter 626, but not
44 including any workers' compensation premiums or medical
45 malpractice premiums. As used in this subsection, the term
46 "property and casualty business" includes all lines of business
47 identified on Form 2, Exhibit of Premiums and Losses, in the
48 annual statement required of authorized insurers by s. 624.424
49 and any rule adopted under this section, except for those lines
50 identified as accident and health insurance and except for
51 policies written under the National Flood Insurance Program. The
52 assessment shall be specified as a percentage of direct written
53 premium and is subject to annual adjustments by the board in
54 order to meet debt obligations. The same percentage applies to
55 all policies in lines of business subject to the assessment
56 issued or renewed during the 12-month period beginning on the
57 effective date of the assessment.

58 2. A premium is not subject to an annual assessment under

597-02140-17

2017454c1

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

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

81 4. With respect to assessments of surplus lines premiums,
82 each surplus lines agent shall collect the assessment at the
83 same time as the agent collects the surplus lines tax required
84 by s. 626.932, and the surplus lines agent shall remit the
85 assessment to the Florida Surplus Lines Service Office created
86 by s. 626.921 at the same time as the agent remits the surplus
87 lines tax to the Florida Surplus Lines Service Office. The

597-02140-17

2017454c1

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

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

597-02140-17

2017454c1

117 provided that the assessments in the aggregate do not exceed the
118 limits specified in subparagraph 2.

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

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

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

142 9. If a surplus lines insured or an insured who has
143 procured coverage and filed under s. 626.938 is entitled to the
144 return of an unearned premium, the Florida Surplus Lines Service
145 Office shall provide a credit or refund to the agent or such

597-02140-17

2017454c1

146 insured for the collected assessment attributable to the
147 unearned premium before remitting the emergency assessment
148 collected to the fund or corporation.

149 ~~10. The exemption of medical malpractice insurance premiums~~
150 ~~from emergency assessments under this paragraph is repealed May~~
151 ~~31, 2019, and medical malpractice insurance premiums shall be~~
152 ~~subject to emergency assessments attributable to loss events~~
153 ~~occurring in the contract years commencing on June 1, 2019.~~

154 Section 2. Subsection (15) of section 625.012, Florida
155 Statutes, is amended to read:

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

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

174 (b) Assessments levied as monthly installments pursuant to

597-02140-17

2017454c1

175 s. 631.57(3)(e)3. or s. 631.914 which ~~that~~ are paid after policy
176 surcharges are collected so that the recognition of assets is
177 based on actual premium written offset by the obligation to the
178 Florida Insurance Guaranty Association or the Florida Workers'
179 Compensation Insurance Guaranty Association, Incorporated.

180 Section 3. Paragraph (e) of subsection (7) of section
181 627.062, Florida Statutes, is amended to read:

182 627.062 Rate standards.—

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

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

191 Section 4. Subsection (1) of section 627.0645, Florida
192 Statutes, is amended to read:

193 627.0645 Annual filings.—

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

197 (a) Workers' compensation and employer's liability
198 insurance;

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

203 (c) Travel insurance, if issued as a master group policy

597-02140-17

2017454c1

204 with a situs in another state where each certificateholder pays
205 less than \$30 in premium for each covered trip and where the
206 insurer has written less than \$1 million in annual written
207 premiums in the travel insurance product in this state during
208 the most recent calendar year,

209
210 shall make an annual base rate filing for each such line with
211 the office no later than 12 months after its previous base rate
212 filing, demonstrating that its rates are not inadequate.

213 Section 5. Section 627.4035, Florida Statutes, is amended
214 to read:

215 627.4035 ~~Cash~~ Payment of premiums; claims.—

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

228 (b) If, due to insufficient funds, a payment of premium
229 under this subsection by debit card, credit card, electronic
230 funds transfer, or electronic check is returned, is declined, or
231 cannot be processed, the insurer may impose an insufficient
232 funds fee of up to \$15 per occurrence pursuant to the policy

597-02140-17

2017454c1

233 terms.

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

235 (a) Reinsurance agreements;

236 (b) Pension plans;

237 (c) Premium loans, whether or not subject to an automatic
238 provision;

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

241 (e) Salary deduction plans;

242 (f) Preauthorized check plans;

243 (g) Waivers of premiums on disability;

244 (h) Nonforfeiture provisions affording benefits under
245 supplementary contracts; or

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

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

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

255 (b) If authorized in writing by the recipient or the
256 recipient's representative, by debit card or any other form of
257 electronic transfer. Any fees or costs to be charged against the
258 recipient must be disclosed in writing to the recipient or the
259 recipient's representative at the time of written authorization.
260 However, the written authorization requirement may be waived by
261 the recipient or the recipient's representative if the insurer

597-02140-17

2017454c1

262 verifies the identity of the insured or the insured's recipient
263 and does not charge a fee for the transaction. If the funds are
264 misdirected, the insurer remains liable for the payment of the
265 claim.

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

268 627.421 Delivery of policy.—

269 (5) An electronically delivered document satisfies any
270 font, size, color, spacing, or other formatting requirement for
271 printed documents if the format in the electronically delivered
272 document has reasonably similar proportions or emphasis of the
273 characters relative to the rest of the electronic document or is
274 otherwise displayed in a reasonably conspicuous manner.

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

277 627.7295 Motor vehicle insurance contracts.—

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

279 ~~627.4035(1), premium for motor vehicle insurance contracts~~
280 ~~issued in this state or covering risk located in this state may~~
281 ~~be paid in cash in the form of a draft or drafts.~~

282 ~~(b) If, due to insufficient funds, payment of premium under~~
283 ~~this subsection by debit card, credit card, electronic funds~~
284 ~~transfer, or electronic check is returned, is declined, or~~
285 ~~cannot be processed, the insurer may impose an insufficient~~
286 ~~funds fee of up to \$15 per occurrence pursuant to the policy~~
287 ~~terms.~~

288 Section 8. This act shall take effect upon becoming a law.