Amendment (with title amendment)

Between lines 173 and 174, insert:

Section 7. Paragraphs (d) and (e) of subsection (2) of section 624.4085, Florida Statutes, are amended to read:

624.4085 Risk-based capital requirements for insurers.—

(2)

(d) A life and health insurer's risk-based capital is determined in accordance with the formula set forth in the risk-based capital instructions. The formula takes into account and may adjust for the covariance between:

1. The risk with respect to the insurer's assets;
2. The risk of adverse insurance experience with respect to the insurer's liabilities and obligations;
3. The interest rate risk with respect to the insurer's business; and
   4. Any other business or other relevant risk set out in the risk-based capital instructions,
   determined in each case by applying the factors in the manner set forth in the risk-based capital instructions. This paragraph does not apply to a health maintenance organization or a prepaid limited health service organization.

(e) A property and casualty insurer's and, if subject to this section pursuant to paragraph 624.4085(1)(g), a health maintenance organization's or a prepaid limited health service organization's, risk-based capital is determined in accordance with the formula set forth in the risk-based capital instructions. The formula takes into account and may adjust for the covariance between:
   1. The asset risk;
   2. The credit risk;
   3. The underwriting risk; and
   4. Any other business or other relevant risk set out in the risk-based capital instructions,
   determined in each case by applying the factors in the manner set forth in the risk-based capital instructions.
Section 8. Subsection (4) of section 626.916, Florida Statutes, is amended and subsection (5) is added to read:

626.916 Eligibility for export.—

(4) A reasonable per-policy fee, not to exceed $35, may be charged by the filing surplus lines agent for each policy certified for export. This per-policy fee must be itemized separately to the customer before purchase and enumerated in the policy.

(5) A retail agent may charge a reasonable per-policy fee for placement of a surplus lines policy under this section. This per-policy fee must be itemized separately to the customer before purchase.

Section 9. Subsection (2) of section 627.426, Florida Statutes, is amended to read:

627.426 Claims administration.—

(2) A liability insurer shall not be permitted to deny coverage based on a particular coverage defense unless:

(a) Within 30 days after the liability insurer knew or should have known of the coverage defense, written notice of reservation of rights to assert a coverage defense is given to the named insured by United States postal proof of mailing, registered or certified mail, or other mailing using the Intelligent Mail barcode or other similar tracking method used or approved by the United States Postal Service sent to the last known address of the insured or by hand delivery; and
(b) Within 60 days of compliance with paragraph (a) or receipt of a summons and complaint naming the insured as a defendant, whichever is later, but in no case later than 30 days before trial, the insurer:

1. Gives written notice to the named insured by United States postal proof of mailing, registered or certified mail, or other mailing using the Intelligent Mail barcode or other similar tracking method used or approved by the United States Postal Service of its refusal to defend the insured;

2. Obtains from the insured a nonwaiver agreement following full disclosure of the specific facts and policy provisions upon which the coverage defense is asserted and the duties, obligations, and liabilities of the insurer during and following the pendency of the subject litigation; or

3. Retains independent counsel which is mutually agreeable to the parties. Reasonable fees for the counsel may be agreed upon between the parties or, if no agreement is reached, shall be set by the court.

Section 10. Subsection (7) of section 627.7295, Florida Statutes, is amended to read:

627.7295 Motor vehicle insurance contracts.—

(7) A policy of private passenger motor vehicle insurance or a binder for such a policy may be initially issued in this state only if, before the effective date of such binder or policy, the insurer or agent has collected from the insured an
amount equal to at least 1 month's premium. An insurer, agent, or premium finance company may not, directly or indirectly, take any action resulting in the insured having paid from the insured's own funds an amount less than the premium required by this subsection. This subsection applies without regard to whether the premium is financed by a premium finance company or is paid pursuant to a periodic payment plan of an insurer or an insurance agent. This subsection does not apply if an insured or member of the insured's family is renewing or replacing a policy or a binder for such policy written by the same insurer or a member of the same insurer group. This subsection does not apply to an insurer that issues private passenger motor vehicle coverage primarily to active duty or former military personnel or their dependents. This subsection does not apply if all policy payments are paid pursuant to a payroll deduction plan, an automatic electronic funds transfer payment plan from the policyholder, or a recurring credit card or debit card agreement with the insurer. This subsection and subsection (4) do not apply if all policy payments to an insurer are paid pursuant to an automatic electronic funds transfer payment plan from an agent, a managing general agent, or a premium finance company and if the policy includes, at a minimum, personal injury protection pursuant to ss. 627.730-627.7405; motor vehicle property damage liability pursuant to s. 627.7275; and bodily injury liability in at least
the amount of $10,000 because of bodily injury to, or death of, 
one person in any one accident and in the amount of $20,000 
because of bodily injury to, or death of, two or more persons in 
any one accident. This subsection and subsection (4) do not 
apply if an insured has had a policy in effect for at least 6 
months, the insured's agent is terminated by the insurer that 
issued the policy, and the insured obtains coverage on the 
policy's renewal date with a new company through the terminated 
agent.

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TITLE AMENDMENT

Remove line 25 and insert:
programs; amending s. 624.4085, F.S.; clarifying risk-based 
capital requirements for certain insurers; amending s. 626.916, 
F.S.; authorizing a reasonable per-policy fee charged by a 
retail agent on surplus lines policies; requiring such fees to 
be itemized prior to policy purchase; amending s. 627.426, F.S.; 
providing requirements for sufficient proof of notice for 
certain insurance notices; amending s. 627.7295, F.S.; reducing
the amount that must be collected from insureds before policies or binders are issued; providing an effective date.