

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: Commerce Committee  
2 Representative Santiago offered the following:

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4 **Amendment (with title amendment)**

5 Between lines 173 and 174, insert:

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

8 624.4085 Risk-based capital requirements for insurers.-  
9 (2)

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

14 1. The risk with respect to the insurer's assets;

15 2. The risk of adverse insurance experience with respect  
16 to the insurer's liabilities and obligations;

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17 3. The interest rate risk with respect to the insurer's  
18 business; and

19 4. Any other business or other relevant risk set out in  
20 the risk-based capital instructions,

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22 determined in each case by applying the factors in the manner  
23 set forth in the risk-based capital instructions. This paragraph  
24 does not apply to a health maintenance organization or a prepaid  
25 limited health service organization.

26 (e) A property and casualty insurer's and, if subject to  
27 this section pursuant to paragraph 624.4085(1)(g), a health  
28 maintenance organization's or a prepaid limited health service  
29 organization's, risk-based capital is determined in accordance  
30 with the formula set forth in the risk-based capital  
31 instructions. The formula takes into account and may adjust for  
32 the covariance between:

- 33 1. The asset risk;  
34 2. The credit risk;  
35 3. The underwriting risk; and

36 4. Any other business or other relevant risk set out in  
37 the risk-based capital instructions,

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39 determined in each case by applying the factors in the manner  
40 set forth in the risk-based capital instructions.

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41 Section 8. Subsection (4) of section 626.916, Florida  
42 Statutes, is amended and subsection (5) is added to read:

43 626.916 Eligibility for export.—

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

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

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

55 627.426 Claims administration.—

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

58 (a) Within 30 days after the liability insurer knew or  
59 should have known of the coverage defense, written notice of  
60 reservation of rights to assert a coverage defense is given to  
61 the named insured by United States postal proof of mailing,  
62 registered or certified mail, or other mailing using the  
63 Intelligent Mail barcode or other similar tracking method used  
64 or approved by the United States Postal Service sent to the last  
65 known address of the insured or by hand delivery; and

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66 (b) Within 60 days of compliance with paragraph (a) or  
67 receipt of a summons and complaint naming the insured as a  
68 defendant, whichever is later, but in no case later than 30 days  
69 before trial, the insurer:

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

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

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

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

86 627.7295 Motor vehicle insurance contracts.—

87 (7) A policy of private passenger motor vehicle insurance  
88 or a binder for such a policy may be initially issued in this  
89 state only if, before the effective date of such binder or  
90 policy, the insurer or agent has collected from the insured an

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91 amount equal to at least 1 month's ~~2 months'~~ premium. An  
92 insurer, agent, or premium finance company may not, directly or  
93 indirectly, take any action resulting in the insured having paid  
94 from the insured's own funds an amount less than the 1 month's ~~2~~  
95 ~~months'~~ premium required by this subsection. This subsection  
96 applies without regard to whether the premium is financed by a  
97 premium finance company or is paid pursuant to a periodic  
98 payment plan of an insurer or an insurance agent. This  
99 subsection does not apply if an insured or member of the  
100 insured's family is renewing or replacing a policy or a binder  
101 for such policy written by the same insurer or a member of the  
102 same insurer group. This subsection does not apply to an insurer  
103 that issues private passenger motor vehicle coverage primarily  
104 to active duty or former military personnel or their dependents.  
105 This subsection does not apply if all policy payments are paid  
106 pursuant to a payroll deduction plan, an automatic electronic  
107 funds transfer payment plan from the policyholder, or a  
108 recurring credit card or debit card agreement with the insurer.  
109 This subsection and subsection (4) do not apply if all policy  
110 payments to an insurer are paid pursuant to an automatic  
111 electronic funds transfer payment plan from an agent, a managing  
112 general agent, or a premium finance company and if the policy  
113 includes, at a minimum, personal injury protection pursuant to  
114 ss. 627.730-627.7405; motor vehicle property damage liability  
115 pursuant to s. 627.7275; and bodily injury liability in at least

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116 the amount of \$10,000 because of bodily injury to, or death of,  
117 one person in any one accident and in the amount of \$20,000  
118 because of bodily injury to, or death of, two or more persons in  
119 any one accident. This subsection and subsection (4) do not  
120 apply if an insured has had a policy in effect for at least 6  
121 months, the insured's agent is terminated by the insurer that  
122 issued the policy, and the insured obtains coverage on the  
123 policy's renewal date with a new company through the terminated  
124 agent.

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**T I T L E   A M E N D M E N T**

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Remove line 25 and insert:

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programs; amending s. 624.4085, F.S.; clarifying risk-based

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capital requirements for certain insurers; amending s. 626.916,

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F.S.; authorizing a reasonable per-policy fee charged by a

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retail agent on surplus lines policies; requiring such fees to

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be itemized prior to policy purchase; amending s. 627.426, F.S.;

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providing requirements for sufficient proof of notice for

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certain insurance notices; amending s. 627.7295, F.S.; reducing

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Bill No. CS/CS/HB 301 (2019)

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140 | the amount that must be collected from insureds before policies  
141 | or binders are issued; providing an effective date.