

By the Committees on Banking and Insurance; Judiciary; and Banking and Insurance; and Senators Brandes and Bracy

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1 A bill to be entitled
2 An act relating to insurance; providing a short title;
3 amending s. 215.555, F.S.; increasing the required
4 reimbursement of loss adjustment expenses in
5 reimbursement contracts between the State Board of
6 Administration and property insurers under the Florida
7 Hurricane Catastrophe Fund; amending s. 319.30, F.S.;
8 specifying means by which an insurance company may
9 forward certificates of title of certain salvage motor
10 vehicles or mobile homes to the Department of Highway
11 Safety and Motor Vehicles; revising the effective date
12 of certain procedures and requirements relating to
13 certificates of title; providing that certain
14 electronic signatures satisfy certain signature
15 requirements; amending s. 440.381, F.S.; revising a
16 criminal penalty for the submission, with certain
17 intent, of an employer application for workers'
18 compensation insurance coverage which contains false,
19 misleading, or incomplete information; providing that
20 certain sworn statements in such applications are not
21 required to be notarized; creating s. 624.1055, F.S.;
22 providing a right of contribution among insurers for
23 defense costs under certain circumstances; providing a
24 requirement for, and authorizing the use of certain
25 factors by, a court in allocating costs; providing a
26 cause of action to enforce the right of contribution;
27 providing construction and applicability; amending s.
28 624.155, F.S.; deleting a provision that tolls, under
29 certain circumstances, a period before a civil action

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30 against an insurer may be brought; deleting a
31 provision authorizing the Department of Financial
32 Services to return a civil remedy notice for lack of
33 specificity; prohibiting the filing of the notice
34 within a certain timeframe under certain
35 circumstances; amending s. 624.404, F.S.; adding a
36 circumstance under which the Office of Insurance
37 Regulation may waive a 3-year operation requirement
38 for foreign or alien insurers and exchanges; amending
39 s. 624.4085, F.S.; specifying the applicable formula
40 for determining risk-based capital of certain health
41 maintenance organizations and prepaid limited health
42 service organizations; amending s. 626.914, F.S.;
43 revising the definition of the term "diligent effort"
44 as used in the Surplus Lines Law; amending s. 627.062,
45 F.S.; specifying applicable rate standards and
46 requirements for certain personal lines residential
47 property insurance; creating s. 627.1711, F.S.;
48 providing a limitation on certain personal lines
49 residential property insurance policies that may be
50 written or renewed by an insurer each calendar year;
51 amending s. 627.4102, F.S.; providing an exemption, if
52 certain conditions are met, from a form approval
53 process for certain personal lines residential
54 property insurance forms; amending s. 626.916, F.S.;
55 specifying applicable requirements before certain
56 personal lines residential property insurance may be
57 exported; deleting a limit on fees charged by filing
58 surplus lines agents per policy certified for export;

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59 authorizing retail agents to charge reasonable fees
60 for placing surplus lines policies; specifying
61 requirements for itemizing and enumerating fees;
62 amending s. 626.9541, F.S.; providing that insurers
63 and agents may give insureds certain free or
64 discounted loss mitigation services or loss control
65 items; deleting a limitation on the value of loss
66 mitigation services that may be given to insureds;
67 amending s. 627.0655, F.S.; revising circumstances
68 under which insurers or certain authorized persons may
69 provide certain premium discounts to insureds;
70 amending s. 627.426, F.S.; adding means by which
71 liability insurers may provide to named insureds
72 certain notices relating to coverage denials based on
73 a particular coverage defense; amending s. 627.4555,
74 F.S.; requiring life insurers that are required to
75 provide a specified notice to policyowners of an
76 impending lapse in coverage to also notify the
77 policyowner's agent of record within a certain
78 timeframe; providing that the agent is not responsible
79 for any lapse in coverage; exempting the insurer from
80 the requirement under certain circumstances; amending
81 s. 627.7015, F.S.; adding circumstances under which
82 certain property insurers may provide required notice
83 to policyholders of their right to participate in a
84 certain mediation program; amending s. 627.7295, F.S.;

85 reducing the collected premium required before private
86 passenger motor vehicle insurance policies or binders
87 may be initially issued; amending s. 921.0022, F.S.;

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88 conforming a provision to changes made by the act;
89 providing effective dates.

90

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

92

93 Section 1. This act may be cited as "Omnibus Prime."

94 Section 2. Effective upon this act becoming a law,
95 paragraph (b) of subsection (4) of section 215.555, Florida
96 Statutes, is amended to read:

97 215.555 Florida Hurricane Catastrophe Fund.—

98 (4) REIMBURSEMENT CONTRACTS.—

99 (b)1. The contract shall contain a promise by the board to
100 reimburse the insurer for 45 percent, 75 percent, or 90 percent
101 of its losses from each covered event in excess of the insurer's
102 retention, plus 5 percent of the reimbursed losses to cover loss
103 adjustment expenses. For contracts and rates effective on or
104 after June 1, 2019, the loss adjustment expense reimbursement
105 must be 10 percent of the reimbursed losses.

106 2. The insurer must elect one of the percentage coverage
107 levels specified in this paragraph and may, upon renewal of a
108 reimbursement contract, elect a lower percentage coverage level
109 if no revenue bonds issued under subsection (6) after a covered
110 event are outstanding, or elect a higher percentage coverage
111 level, regardless of whether or not revenue bonds are
112 outstanding. All members of an insurer group must elect the same
113 percentage coverage level. Any joint underwriting association,
114 risk apportionment plan, or other entity created under s.
115 627.351 must elect the 90-percent coverage level.

116 3. The contract shall provide that reimbursement amounts

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117 shall not be reduced by reinsurance paid or payable to the
118 insurer from other sources.

119 Section 3. Paragraph (b) of subsection (3) of section
120 319.30, Florida Statutes, is amended, and paragraph (d) is added
121 to that section, to read:

122 319.30 Definitions; dismantling, destruction, change of
123 identity of motor vehicle or mobile home; salvage.—

124 (3)

125 (b) The owner, including persons who are self-insured, of a
126 motor vehicle or mobile home that is considered to be salvage
127 shall, within 72 hours after the motor vehicle or mobile home
128 becomes salvage, forward the title to the motor vehicle or
129 mobile home to the department for processing. However, an
130 insurance company that pays money as compensation for the total
131 loss of a motor vehicle or mobile home shall obtain the
132 certificate of title for the motor vehicle or mobile home, make
133 the required notification to the National Motor Vehicle Title
134 Information System, and, within 72 hours after receiving such
135 certificate of title, forward such title by electronic means,
136 the United States Postal Service, or another commercially
137 available delivery service to the department for processing. The
138 owner or insurance company, as applicable, may not dispose of a
139 vehicle or mobile home that is a total loss before it obtains a
140 salvage certificate of title or certificate of destruction from
141 the department. Effective July 1, 2020 ~~July 1, 2023~~:

142 1. Thirty days after payment of a claim for compensation
143 pursuant to this paragraph, the insurance company may receive a
144 salvage certificate of title or certificate of destruction from
145 the department if the insurance company is unable to obtain a

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146 properly assigned certificate of title from the owner or
147 lienholder of the motor vehicle or mobile home, if the motor
148 vehicle or mobile home does not carry an electronic lien on the
149 title and the insurance company:

150 a. Has obtained the release of all liens on the motor
151 vehicle or mobile home;

152 b. Has provided proof of payment of the total loss claim;
153 and

154 c. Has provided an affidavit on letterhead signed by the
155 insurance company or its authorized agent stating the attempts
156 that have been made to obtain the title from the owner or
157 lienholder and further stating that all attempts are to no
158 avail. The affidavit must include a request that the salvage
159 certificate of title or certificate of destruction be issued in
160 the insurance company's name due to payment of a total loss
161 claim to the owner or lienholder. The attempts to contact the
162 owner may be by written request delivered in person or by first-
163 class mail with a certificate of mailing to the owner's or
164 lienholder's last known address.

165 2. If the owner or lienholder is notified of the request
166 for title in person, the insurance company must provide an
167 affidavit attesting to the in-person request for a certificate
168 of title.

169 3. The request to the owner or lienholder for the
170 certificate of title must include a complete description of the
171 motor vehicle or mobile home and the statement that a total loss
172 claim has been paid on the motor vehicle or mobile home.

173 (d) An electronic signature that is in accordance with
174 chapter 668 satisfies any signature requirement under this

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175 subsection.

176 Section 4. Subsection (2) of section 440.381, Florida
177 Statutes, is amended to read:

178 440.381 Application for coverage; reporting payroll;
179 payroll audit procedures; penalties.—

180 (2) Submission of an application that contains false,
181 misleading, or incomplete information provided with the purpose
182 of avoiding or reducing the amount of premiums for workers'
183 compensation coverage is a felony of the third ~~second~~ degree,
184 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
185 The application must contain a statement that the filing of an
186 application containing false, misleading, or incomplete
187 information provided with the purpose of avoiding or reducing
188 the amount of premiums for workers' compensation coverage is a
189 felony of the third degree, punishable as provided in s.
190 775.082, s. 775.083, or s. 775.084. The application must contain
191 a sworn statement by the employer attesting to the accuracy of
192 the information submitted and acknowledging the provisions of
193 former s. 440.37(4). The application must contain a sworn
194 statement by the agent attesting that the agent explained to the
195 employer or officer the classification codes that are used for
196 premium calculations. The sworn statements by the employer and
197 the agent are not required to be notarized.

198 Section 5. Section 624.1055, Florida Statutes, is created
199 to read:

200 624.1055 Right of contribution among insurers for defense
201 costs.—A liability insurer that owes a duty to defend an insured
202 and that defends the insured against a claim, suit, or other
203 action has a right of contribution for defense costs against any

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204 other liability insurer that owes a duty to defend the insured
205 against the same claim, suit, or other action, provided that
206 contribution may not be sought from any insurer for defense
207 costs incurred before the insurer's receipt of notice of the
208 claim, suit, or other action.

209 (1) APPORTIONMENT OF COSTS.—The court shall allocate
210 defense costs among insurers that owe a duty to defend the
211 insured against the same claim, suit, or other action in
212 accordance with the terms of the insurance policies. The court
213 may use such equitable factors as the court determines are
214 appropriate in making such allocation.

215 (2) ENFORCEMENT OF RIGHT OF CONTRIBUTION.—A liability
216 insurer that is entitled to contribution from another insurer
217 under this section may file an action for contribution in a
218 court of competent jurisdiction.

219 (3) CONSTRUCTION.—

220 (a) This section is not intended to alter any term of a
221 liability insurance policy or to create any additional duty on
222 the part of an insurer to an insured.

223 (b) An insured may not rely on this section as grounds for
224 a complaint against an insurer.

225 (4) APPLICABILITY.—

226 (a) This section applies to liability insurance policies
227 issued for delivery in this state or to liability insurance
228 policies under which an insurer has a duty to defend an insured
229 against claims asserted or suits or actions filed in this state.
230 Such liability insurance policies include surplus lines
231 insurance policies authorized under the Surplus Lines Law, ss.
232 626.913-626.937. This section does not apply to motor vehicle

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233 liability insurance or medical professional liability insurance.

234 (b) This section applies to any claim, suit, or other
235 action initiated on or after January 1, 2020.

236 Section 6. Subsection (3) of section 624.155, Florida
237 Statutes, is amended to read:

238 624.155 Civil remedy.—

239 (3) (a) As a condition precedent to bringing an action under
240 this section, the department and the authorized insurer must
241 have been given 60 days' written notice of the violation. ~~If the~~
242 ~~department returns a notice for lack of specificity, the 60-day~~
243 ~~time period shall not begin until a proper notice is filed.~~

244 (b) The notice shall be on a form provided by the
245 department and shall state with specificity the following
246 information, and such other information as the department may
247 require:

248 1. The statutory provision, including the specific language
249 of the statute, which the authorized insurer allegedly violated.

250 2. The facts and circumstances giving rise to the
251 violation.

252 3. The name of any individual involved in the violation.

253 4. Reference to specific policy language that is relevant
254 to the violation, if any. If the person bringing the civil
255 action is a third party claimant, she or he shall not be
256 required to reference the specific policy language if the
257 authorized insurer has not provided a copy of the policy to the
258 third party claimant pursuant to written request.

259 5. A statement that the notice is given in order to perfect
260 the right to pursue the civil remedy authorized by this section.

261 ~~(c) Within 20 days of receipt of the notice, the department~~

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262 ~~may return any notice that does not provide the specific~~
263 ~~information required by this section, and the department shall~~
264 ~~indicate the specific deficiencies contained in the notice. A~~
265 ~~determination by the department to return a notice for lack of~~
266 ~~specificity shall be exempt from the requirements of chapter~~
267 ~~120.~~

268 (c)~~(d)~~ No action shall lie if, within 60 days after filing
269 notice, the damages are paid or the circumstances giving rise to
270 the violation are corrected.

271 (d)~~(e)~~ The authorized insurer that is the recipient of a
272 notice filed pursuant to this section shall report to the
273 department on the disposition of the alleged violation.

274 (e)~~(f)~~ The applicable statute of limitations for an action
275 under this section shall be tolled for a period of 65 days by
276 the mailing of the notice required by this subsection or the
277 mailing of a subsequent notice required by this subsection.

278 (f) A notice required under this subsection may not be
279 filed within 60 days after appraisal is invoked by any party in
280 a residential property insurance claim.

281 Section 7. Subsection (2) of section 624.404, Florida
282 Statutes, is amended to read:

283 624.404 General eligibility of insurers for certificate of
284 authority.—To qualify for and hold authority to transact
285 insurance in this state, an insurer must be otherwise in
286 compliance with this code and with its charter powers and must
287 be an incorporated stock insurer, an incorporated mutual
288 insurer, or a reciprocal insurer, of the same general type as
289 may be formed as a domestic insurer under this code; except
290 that:

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291 (2) A ~~No~~ foreign or alien insurer or exchange may not ~~shall~~
292 be authorized to transact insurance in this state unless it is
293 otherwise qualified therefor under this code and has operated
294 satisfactorily for at least 3 years in its state or country of
295 domicile; however, the office may waive the 3-year requirement
296 if the foreign or alien insurer or exchange:

297 (a) Has operated successfully and has capital and surplus
298 of \$5 million;

299 (b) Is the wholly owned subsidiary of an insurer which is
300 an authorized insurer in this state;

301 (c) Is the successor in interest through merger or
302 consolidation of an authorized insurer; ~~or~~

303 (d) Provides a product or service not readily available to
304 the consumers of this state; or

305 (e) Possesses sufficient capital and surplus to support its
306 plan of operation as filed with the office.

307 Section 8. Paragraphs (d) and (e) of subsection (2) of
308 section 624.4085, Florida Statutes, are amended, and paragraph
309 (g) of subsection (1) of that section is republished, to read:

310 624.4085 Risk-based capital requirements for insurers.—

311 (1) As used in this section, the term:

312 (g) "Life and health insurer" means an insurer authorized
313 or eligible under the Florida Insurance Code to underwrite life
314 or health insurance. The term includes a property and casualty
315 insurer that writes accident and health insurance only.

316 Effective January 1, 2015, the term also includes a health
317 maintenance organization that is authorized in this state and
318 one or more other states, jurisdictions, or countries and a
319 prepaid limited health service organization that is authorized

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320 in this state and one or more other states, jurisdictions, or
321 countries.

322 (2)

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

- 327 1. The risk with respect to the insurer's assets;
- 328 2. The risk of adverse insurance experience with respect to
329 the insurer's liabilities and obligations;
- 330 3. The interest rate risk with respect to the insurer's
331 business; and
- 332 4. Any other business or other relevant risk set out in the
333 risk-based capital instructions,

334
335 determined in each case by applying the factors in the manner
336 set forth in the risk-based capital instructions. This paragraph
337 does not apply to a health maintenance organization or a prepaid
338 limited health service organization.

339 (e) The risk-based capital of a property and casualty
340 insurer, and, if a health maintenance organization or prepaid
341 limited health service organization is subject to this section
342 pursuant to paragraph (1) (g), the risk-based capital of such
343 organization, insurer's risk-based capital is determined in
344 accordance with the formula set forth in the risk-based capital
345 instructions. The formula takes into account and may adjust for
346 the covariance between:

- 347 1. The asset risk;
- 348 2. The credit risk;

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349 3. The underwriting risk; and
350 4. Any other business or other relevant risk set out in the
351 risk-based capital instructions,
352
353 determined in each case by applying the factors in the manner
354 set forth in the risk-based capital instructions.

355 Section 9. Subsection (4) of section 626.914, Florida
356 Statutes, is amended to read:

357 626.914 Definitions.—As used in this Surplus Lines Law, the
358 term:

359 (4) "Diligent effort" means seeking coverage from and
360 having been rejected by at least three authorized insurers
361 currently writing this type of coverage and documenting these
362 rejections. However, if the residential structure has a dwelling
363 replacement cost of \$700,000 ~~\$1 million~~ or more, the term means
364 seeking coverage from and having been rejected by at least one
365 authorized insurer currently writing this type of coverage and
366 documenting this rejection.

367 Section 10. Paragraph (d) of subsection (3) of section
368 627.062, Florida Statutes, is amended to read:

369 627.062 Rate standards.—

370 (3)

371 (d)1. Personal lines residential property insurance with a
372 dwelling replacement limit of \$700,000 or more which is written
373 or renewed pursuant to s. 627.1711 and the following categories
374 or kinds of insurance and types of commercial lines risks are
375 not subject to paragraph (2) (a) or paragraph (2) (f):

376 a. Excess or umbrella.

377 b. Surety and fidelity.

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- 378 c. Boiler and machinery and leakage and fire extinguishing
379 equipment.
- 380 d. Errors and omissions.
- 381 e. Directors and officers, employment practices, fiduciary
382 liability, and management liability.
- 383 f. Intellectual property and patent infringement liability.
- 384 g. Advertising injury and Internet liability insurance.
- 385 h. Property risks rated under a highly protected risks
386 rating plan.
- 387 i. General liability.
- 388 j. Nonresidential property, except for collateral
389 protection insurance as defined in s. 624.6085.
- 390 k. Nonresidential multiperil.
- 391 l. Excess property.
- 392 m. Burglary and theft.
- 393 n. Travel insurance, if issued as a master group policy
394 with a situs in another state where each certificateholder pays
395 less than \$30 in premium for each covered trip and where the
396 insurer has written less than \$1 million in annual written
397 premiums in the travel insurance product in this state during
398 the most recent calendar year.
- 399 o. Medical malpractice for a facility that is not a
400 hospital licensed under chapter 395, a nursing home licensed
401 under part II of chapter 400, or an assisted living facility
402 licensed under part I of chapter 429.
- 403 p. Medical malpractice for a health care practitioner who
404 is not a dentist licensed under chapter 466, a physician
405 licensed under chapter 458, an osteopathic physician licensed
406 under chapter 459, a chiropractic physician licensed under

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407 chapter 460, a podiatric physician licensed under chapter 461, a
408 pharmacist licensed under chapter 465, or a pharmacy technician
409 registered under chapter 465.

410 q. Any other commercial lines categories or kinds of
411 insurance or types of commercial lines risks that the office
412 determines should not be subject to paragraph (2) (a) or
413 paragraph (2) (f) because of the existence of a competitive
414 market for such insurance or similarity of such insurance to
415 other categories or kinds of insurance not subject to paragraph
416 (2) (a) or paragraph (2) (f), or to improve the general
417 operational efficiency of the office.

418 2. Insurers or rating organizations shall establish and use
419 rates, rating schedules, or rating manuals to allow the insurer
420 a reasonable rate of return on insurance and risks described in
421 subparagraph 1. which are written in this state.

422 3. An insurer shall notify the office of any changes to
423 rates for insurance and risks described in subparagraph 1.
424 within 30 days after the effective date of the change. The
425 notice must include the name of the insurer, the type or kind of
426 insurance subject to rate change, and the average statewide
427 percentage change in rates. Actuarial data with regard to rates
428 for such risks must be maintained by the insurer for 2 years
429 after the effective date of changes to those rates and are
430 subject to examination by the office. The office may require the
431 insurer to incur the costs associated with an examination. Upon
432 examination, the office, in accordance with generally accepted
433 and reasonable actuarial techniques, shall consider the rate
434 factors in paragraphs (2) (b), (c), and (d) and the standards in
435 paragraph (2) (e) to determine if the rate is excessive,

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436 inadequate, or unfairly discriminatory.

437 4. A rating organization shall notify the office of any
438 changes to loss cost for insurance and risks described in
439 subparagraph 1. within 30 days after the effective date of the
440 change. The notice must include the name of the rating
441 organization, the type or kind of insurance subject to a loss
442 cost change, loss costs during the immediately preceding year
443 for the type or kind of insurance subject to the loss cost
444 change, and the average statewide percentage change in loss
445 cost. Actuarial data with regard to changes to loss cost for
446 risks not subject to paragraph (2) (a) or paragraph (2) (f) must
447 be maintained by the rating organization for 2 years after the
448 effective date of the change and are subject to examination by
449 the office. The office may require the rating organization to
450 incur the costs associated with an examination. Upon
451 examination, the office, in accordance with generally accepted
452 and reasonable actuarial techniques, shall consider the rate
453 factors in paragraphs (2) (b)-(d) and the standards in paragraph
454 (2) (e) to determine if the rate is excessive, inadequate, or
455 unfairly discriminatory.

456 Section 11. Section 627.1711, Florida Statutes, is created
457 to read:

458 627.1711 Alternative personal lines residential property
459 insurance rates.—In each calendar year, the sum of personal
460 lines residential property insurance policies issued or renewed
461 by an insurer using rates established under s. 627.062(3)(d)
462 plus personal lines residential property insurance policies
463 issued or renewed using rates established under s. 627.171 may
464 not exceed 5 percent of all personal lines residential insurance

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465 policies written or renewed by the insurer.

466 Section 12. Subsection (1) of section 627.4102, Florida
467 Statutes, is amended to read:

468 627.4102 Informational filing of forms.—

469 (1) Property and casualty forms, excluding ~~except~~ workers'
470 compensation and personal lines forms, but including residential
471 property insurance with rates established pursuant to s.
472 627.062(3)(d), are exempt from the approval process required
473 under s. 627.410 if:

474 (a) The form has been electronically submitted to the
475 office in an informational filing made through I-File 30 days
476 before the delivery or issuance for delivery of the form within
477 this state; and

478 (b) At the time the informational filing is made, a
479 notarized certification is attached to the filing that certifies
480 that each form within the filing is in compliance with all
481 applicable state laws and rules. The certification must be on
482 the insurer's letterhead and signed and dated by the insurer's
483 president, chief executive officer, general counsel, or an
484 employee of the insurer responsible for the filing on behalf of
485 the insurer. The certification must contain the following
486 statement, and no other language: "I, ...(name)..., as
487 ...(title)... of ...(insurer name)..., do hereby certify that
488 this form filing has been thoroughly and diligently reviewed by
489 me and by all appropriate company personnel, as well as company
490 consultants, if applicable, and certify that each form contained
491 within the filing is in compliance with all applicable Florida
492 laws and rules. Should a form be found not to be in compliance
493 with Florida laws and rules, I acknowledge that the Office of

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494 Insurance Regulation shall disapprove the form.”

495 Section 13. Paragraph (b) of subsection (3) and subsection
496 (4) of section 626.916, Florida Statutes, are amended, and
497 subsection (5) is added to that section, to read:

498 626.916 Eligibility for export.—

499 (3)

500 (b) Except for personal lines insurance covering a
501 residential structure that has a dwelling replacement cost of
502 \$700,000 or more, paragraphs (1)(a)-(d) do not apply to classes
503 of insurance which are subject to s. 627.062(3)(d)1. These
504 classes may be exportable under the following conditions:

505 1. The insurance must be placed only by or through a
506 surplus lines agent licensed in this state;

507 2. The insurer must be made eligible under s. 626.918; and

508 3. The insured must sign a disclosure that substantially
509 provides the following: “You are agreeing to place coverage in
510 the surplus lines market. Superior coverage may be available in
511 the admitted market and at a lesser cost. Persons insured by
512 surplus lines carriers are not protected under the Florida
513 Insurance Guaranty Act with respect to any right of recovery for
514 the obligation of an insolvent unlicensed insurer.” If the
515 notice is signed by the insured, the insured is presumed to have
516 been informed and to know that other coverage may be available,
517 and, with respect to the diligent-effort requirement under
518 subsection (1), there is no liability on the part of, and no
519 cause of action arises against, the retail agent presenting the
520 form.

521 (4) A reasonable per-policy fee, ~~not to exceed \$35,~~ may be
522 charged by the filing surplus lines agent for each policy

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523 certified for export. The per-policy fee must be itemized
524 separately to the customer before purchase and must be
525 enumerated in the policy.

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

530 Section 14. Paragraph (m) of subsection (1) of section
531 626.9541, Florida Statutes, is amended to read:

532 626.9541 Unfair methods of competition and unfair or
533 deceptive acts or practices defined.—

534 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
535 ACTS.—The following are defined as unfair methods of competition
536 and unfair or deceptive acts or practices:

537 (m) Permissible advertising and promotional gifts, and
538 charitable contributions, and loss mitigation services or loss
539 control items permitted.—

540 1. ~~The provisions of~~ Paragraph (f), paragraph (g), or
541 paragraph (h) do not prohibit a licensed insurer or its agent
542 from:

543 a. Giving to insureds, prospective insureds, or others any
544 article of merchandise, goods, wares, store gift cards, gift
545 certificates, event tickets, anti-fraud ~~or loss mitigation~~
546 services, or other items having a total value of \$100 or less
547 per insured or prospective insured in any calendar year.

548 b. Making charitable contributions, as defined in s. 170(c)
549 of the Internal Revenue Code, on behalf of insureds or
550 prospective insureds, of up to \$100 per insured or prospective
551 insured in any calendar year.

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552 c. Giving to insureds, for free or at a discounted price,
553 loss mitigation services or loss control items of value that
554 relate to the risks covered under the policy.

555 2. ~~The provisions of~~ Paragraph (f), paragraph (g), or
556 paragraph (h) do not prohibit a title insurance agent or title
557 insurance agency, as those terms are defined in s. 626.841, or a
558 title insurer, as defined in s. 627.7711, from giving to
559 insureds, prospective insureds, or others, for the purpose of
560 advertising, any article of merchandise having a value of not
561 more than \$25. A person or entity governed by this subparagraph
562 is not subject to subparagraph 1.

563 Section 15. Section 627.0655, Florida Statutes, is amended
564 to read:

565 627.0655 Policyholder loss or expense-related premium
566 discounts.—An insurer or person authorized to engage in the
567 business of insurance in this state may include, in the premium
568 charged an insured for any policy, contract, or certificate of
569 insurance, an actuarially sound a discount based on the fact
570 that another policy, contract, or certificate of any type has
571 been purchased by the insured from:

572 (1) The same insurer or insurer group, or another insurer
573 under a joint marketing agreement;

574 (2) The Citizens Property Insurance Corporation created
575 under s. 627.351(6), if the same insurance agent is servicing
576 both policies; ~~or~~

577 (3) An insurer that has removed the policy from the
578 Citizens Property Insurance Corporation or issued a policy
579 pursuant to the clearinghouse program under s. 627.3518, if the
580 same insurance agent is servicing both policies; or

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581 (4) An insurer, if the same insurance agent is servicing
582 the policies.

583 Section 16. Subsection (2) of section 627.426, Florida
584 Statutes, is amended to read:

585 627.426 Claims administration.—

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

588 (a) Within 30 days after the liability insurer knew or
589 should have known of the coverage defense, written notice of
590 reservation of rights to assert a coverage defense is given to
591 the named insured by United States postal proof of mailing,
592 registered or certified mail, or other mailing using the
593 Intelligent Mail barcode or other similar tracking method used
594 or approved by the United States Postal Service, sent to the
595 last known address of the insured, or by hand delivery; and

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

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

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

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

614 Section 17. Section 627.4555, Florida Statutes, is amended
615 to read:

616 627.4555 Secondary notice.—

617 (1) Except as provided in this section, a contract for life
618 insurance issued or issued for delivery in this state on or
619 after October 1, 1997, covering a natural person 64 years of age
620 or older, which has been in force for at least 1 year, may not
621 be lapsed for nonpayment of premium unless, after expiration of
622 the grace period, and at least 21 days before the effective date
623 of any such lapse, the insurer has mailed a notification of the
624 impending lapse in coverage to the policyowner and to a
625 specified secondary addressee if such addressee has been
626 designated in writing by name and address by the policyowner. An
627 insurer issuing a life insurance contract on or after October 1,
628 1997, shall notify the applicant of the right to designate a
629 secondary addressee at the time of application for the policy,
630 on a form provided by the insurer, and at any time the policy is
631 in force, by submitting a written notice to the insurer
632 containing the name and address of the secondary addressee. For
633 purposes of any life insurance policy that provides a grace
634 period of more than 51 days for nonpayment of premiums, the
635 notice of impending lapse in coverage required by this section
636 must be mailed to the policyowner and the secondary addressee at
637 least 21 days before the expiration of the grace period provided
638 in the policy. This section does not apply to any life insurance

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639 contract under which premiums are payable monthly or more
640 frequently and are regularly collected by a licensed agent or
641 are paid by credit card or any preauthorized check processing or
642 automatic debit service of a financial institution.

643 (2) If the policyowner has a life agent of record or any
644 agent of record, the insurer must also notify the agent of the
645 impending lapse in coverage or mail or send electronically a
646 copy of the notification of the impending lapse in coverage
647 under subsection (1) to the agent at least 21 days before the
648 effective date of any such lapse. Receipt of such notice does
649 not make the agent responsible for any lapse in coverage. An
650 insurer is not required to notify the agent under this
651 subsection if any of the following applies:

652 (a) The insurer maintains an online system that allows an
653 agent to independently determine if a policy has lapsed.

654 (b) The insurer maintains a procedure that allows an agent
655 to independently determine whether the notice of lapse has been
656 sent to the insured.

657 (c) The insurer has no record of the current agent of
658 record.

659 (d) The agent is employed by the insurer or an affiliate of
660 the insurer.

661 Section 18. Subsection (2) of section 627.7015, Florida
662 Statutes, is amended to read:

663 627.7015 Alternative procedure for resolution of disputed
664 property insurance claims.—

665 (2) At the time of issuance and renewal of a policy or at
666 the time a first-party claim within the scope of this section is
667 filed by the policyholder, the insurer shall notify the

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668 policyholder of its right to participate in the mediation
669 program under this section. The department shall prepare a
670 consumer information pamphlet for distribution to persons
671 participating in mediation.

672 Section 19. Subsection (7) of section 627.7295, Florida
673 Statutes, is amended to read:

674 627.7295 Motor vehicle insurance contracts.—

675 (7) A policy of private passenger motor vehicle insurance
676 or a binder for such a policy may be initially issued in this
677 state only if, before the effective date of such binder or
678 policy, the insurer or agent has collected from the insured an
679 amount equal to at least 1 month's ~~2 months'~~ premium. An
680 insurer, agent, or premium finance company may not, directly or
681 indirectly, take any action resulting in the insured having paid
682 from the insured's own funds an amount less than the 1 month's ~~2~~
683 ~~months'~~ premium required by this subsection. This subsection
684 applies without regard to whether the premium is financed by a
685 premium finance company or is paid pursuant to a periodic
686 payment plan of an insurer or an insurance agent. This
687 subsection does not apply if an insured or member of the
688 insured's family is renewing or replacing a policy or a binder
689 for such policy written by the same insurer or a member of the
690 same insurer group. This subsection does not apply to an insurer
691 that issues private passenger motor vehicle coverage primarily
692 to active duty or former military personnel or their dependents.
693 This subsection does not apply if all policy payments are paid
694 pursuant to a payroll deduction plan, an automatic electronic
695 funds transfer payment plan from the policyholder, or a
696 recurring credit card or debit card agreement with the insurer.

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697 This subsection and subsection (4) do not apply if all policy
 698 payments to an insurer are paid pursuant to an automatic
 699 electronic funds transfer payment plan from an agent, a managing
 700 general agent, or a premium finance company and if the policy
 701 includes, at a minimum, personal injury protection pursuant to
 702 ss. 627.730-627.7405; motor vehicle property damage liability
 703 pursuant to s. 627.7275; and bodily injury liability in at least
 704 the amount of \$10,000 because of bodily injury to, or death of,
 705 one person in any one accident and in the amount of \$20,000
 706 because of bodily injury to, or death of, two or more persons in
 707 any one accident. This subsection and subsection (4) do not
 708 apply if an insured has had a policy in effect for at least 6
 709 months, the insured's agent is terminated by the insurer that
 710 issued the policy, and the insured obtains coverage on the
 711 policy's renewal date with a new company through the terminated
 712 agent.

713 Section 20. Paragraph (e) of subsection (3) of section
 714 921.0022, Florida Statutes, is amended to read:

715 921.0022 Criminal Punishment Code; offense severity ranking
 716 chart.—

717 (3) OFFENSE SEVERITY RANKING CHART

718 (e) LEVEL 5

719

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily

720

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injury, failure to stop;
leaving scene.

721

316.1935 (4) (a)

2nd

Aggravated fleeing or
eluding.

722

316.80 (2)

2nd

Unlawful conveyance of
fuel; obtaining fuel
fraudulently.

723

322.34 (6)

3rd

Careless operation of
motor vehicle with
suspended license,
resulting in death or
serious bodily injury.

724

327.30 (5)

3rd

Vessel accidents
involving personal
injury; leaving scene.

725

379.365 (2) (c) 1.

3rd

Violation of rules
relating to: willful
molestation of stone
crab traps, lines, or
buoys; illegal
bartering, trading, or
sale, conspiring or
aiding in such barter,
trade, or sale, or

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supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.

726

379.367(4)

3rd

Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

727

379.407(5)(b)3.

3rd

Possession of 100 or more undersized spiny lobsters.

728

381.0041(11)(b)

3rd

Donate blood, plasma, or organs knowing HIV

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positive.

729

440.10 (1) (g)

2nd

Failure to obtain workers' compensation coverage.

730

440.105 (5)

2nd

Unlawful solicitation for the purpose of making workers' compensation claims.

731

440.381 (2)

3rd ~~2nd~~

Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.

732

624.401 (4) (b) 2.

2nd

Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

733

626.902 (1) (c)

2nd

Representing an unauthorized insurer; repeat offender.

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734

790.01 (2) 3rd Carrying a concealed
firearm.

735

790.162 2nd Threat to throw or
discharge destructive
device.

736

790.163 (1) 2nd False report of bomb,
explosive, weapon of
mass destruction, or use
of firearms in violent
manner.

737

790.221 (1) 2nd Possession of short-
barreled shotgun or
machine gun.

738

790.23 2nd Felons in possession of
firearms, ammunition, or
electronic weapons or
devices.

739

796.05 (1) 2nd Live on earnings of a
prostitute; 1st offense.

740

800.04 (6) (c) 3rd Lewd or lascivious
conduct; offender less
than 18 years of age.

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741

800.04 (7) (b) 2nd Lewd or lascivious
exhibition; offender 18
years of age or older.

742

806.111 (1) 3rd Possess, manufacture, or
dispense fire bomb with
intent to damage any
structure or property.

743

812.0145 (2) (b) 2nd Theft from person 65
years of age or older;
\$10,000 or more but less
than \$50,000.

744

812.015 (8) 3rd Retail theft; property
stolen is valued at \$300
or more and one or more
specified acts.

745

812.019 (1) 2nd Stolen property; dealing
in or trafficking in.

746

812.131 (2) (b) 3rd Robbery by sudden
snatching.

747

812.16 (2) 3rd Owning, operating, or
conducting a chop shop.

748

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817.034 (4) (a) 2.

2nd

Communications fraud,
value \$20,000 to
\$50,000.

749

817.234 (11) (b)

2nd

Insurance fraud;
property value \$20,000
or more but less than
\$100,000.

750

817.2341 (1),

3rd

Filing false financial
statements, making false
entries of material fact
or false statements
regarding property
values relating to the
solvency of an insuring
entity.

(2) (a) & (3) (a)

751

817.568 (2) (b)

2nd

Fraudulent use of
personal identification
information; value of
benefit, services
received, payment
avoided, or amount of
injury or fraud, \$5,000
or more or use of
personal identification
information of 10 or
more persons.

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752

817.611 (2) (a) 2nd Traffic in or possess 5 to 14 counterfeit credit cards or related documents.

753

817.625 (2) (b) 2nd Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.

754

825.1025 (4) 3rd Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

755

827.071 (4) 2nd Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

756

827.071 (5) 3rd Possess, control, or intentionally view any photographic material, motion picture, etc.,

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which includes sexual
conduct by a child.

757

828.12 (2)

3rd

Tortures any animal with
intent to inflict
intense pain, serious
physical injury, or
death.

758

839.13 (2) (b)

2nd

Falsifying records of an
individual in the care
and custody of a state
agency involving great
bodily harm or death.

759

843.01

3rd

Resist officer with
violence to person;
resist arrest with
violence.

760

847.0135 (5) (b)

2nd

Lewd or lascivious
exhibition using
computer; offender 18
years or older.

761

847.0137

3rd

Transmission of
pornography by
electronic device or
equipment.

(2) & (3)

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762

847.0138 3rd Transmission of material
harmful to minors to a
(2) & (3) minor by electronic
device or equipment.

763

874.05 (1) (b) 2nd Encouraging or
recruiting another to
join a criminal gang;
second or subsequent
offense.

764

874.05 (2) (a) 2nd Encouraging or
recruiting person under
13 years of age to join
a criminal gang.

765

893.13 (1) (a) 1. 2nd Sell, manufacture, or
deliver cocaine (or
other s. 893.03(1) (a),
(1) (b), (1) (d), (2) (a),
(2) (b), or (2) (c) 5.
drugs).

766

893.13 (1) (c) 2. 2nd Sell, manufacture, or
deliver cannabis (or
other s. 893.03(1) (c),
(2) (c) 1., (2) (c) 2.,
(2) (c) 3., (2) (c) 6.,

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(2) (c) 7., (2) (c) 8.,
 (2) (c) 9., (2) (c) 10.,
 (3), or (4) drugs)
 within 1,000 feet of a
 child care facility,
 school, or state,
 county, or municipal
 park or publicly owned
 recreational facility or
 community center.

767

893.13(1)(d)1.

1st

Sell, manufacture, or
 deliver cocaine (or
 other s. 893.03(1)(a),
 (1)(b), (1)(d), (2)(a),
 (2)(b), or (2)(c) 5.
 drugs) within 1,000 feet
 of university.

768

893.13(1)(e)2.

2nd

Sell, manufacture, or
 deliver cannabis or
 other drug prohibited
 under s. 893.03(1)(c),
 (2)(c) 1., (2)(c) 2.,
 (2)(c) 3., (2)(c) 6.,
 (2)(c) 7., (2)(c) 8.,
 (2)(c) 9., (2)(c) 10.,
 (3), or (4) within 1,000
 feet of property used

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for religious services
or a specified business
site.

769

893.13(1)(f)1.

1st

Sell, manufacture, or
deliver cocaine (or
other s. 893.03(1)(a),
(1)(b), (1)(d), or
(2)(a), (2)(b), or
(2)(c)5. drugs) within
1,000 feet of public
housing facility.

770

893.13(4)(b)

2nd

Use or hire of minor;
deliver to minor other
controlled substance.

771

893.1351(1)

3rd

Ownership, lease, or
rental for trafficking
in or manufacturing of
controlled substance.

772

773

774

775

776

Section 21. Except as otherwise expressly provided in this
act and except for this section, which shall take effect upon
this act becoming a law, this act shall take effect July 1,
2019.