The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL:	SB 1334
INTRODUCER:	Senator Brandes
SUBJECT:	Financial Services
DATE:	February 3, 2020
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	**Pre-meeting**
2.			IS	
3.			RC	

I. Summary:

SB 1334 addresses various statutes governing financial services.

The bill makes the following changes related to the Florida Hurricane Catastrophe Fund:

- Directs the Florida Hurricane Catastrophe Fund (Cat Fund) to reimburse collateral protection (force-placed) insurance policy losses that cover the amount requested by the mortgage lender, which may be limited to the remaining indebtedness on the property.
- Directs the OIR to retain an independent consultant to audit the reimbursement premium formula of the Cat Fund.

The bill makes the following changes to the statutory civil remedy for insurer bad faith:

- Specifies that the 60 days' written civil remedy notice of the violation required under the statute must be delivered to the name and address designated by the insurer under s. 624.422(2), F.S.
- Revises the 60 day period for the insurer to cure an alleged bad faith violation by starting upon the insurer's receipt of notice, rather than starting upon the filing of the notice.
- Requires that the civil remedy notice specify the demand for damages available under the policy to be paid by the insurer for the claim, less amounts the insurer has paid on the claim and any applicable deductibles, and prohibits demands for vague remedial action regarding changes to claims-handling procedures or practices.
- Requires the applicable statute of limitations for statutory bad faith actions to be tolled for 60 days after the date appraisal is invoked in a residential property insurance claim.

The bill makes the following changes regarding surplus lines insurers and insurance:

- Allows the formation of a surplus insurer that is wholly owned by an insurer domiciled in Florida that has been authorized in Florida for at least the 3 preceding years as to the kind or kinds of insurance that would be placed with the surplus lines insurer. The bill applies to

such surplus lines insurers certain provisions of the Insurance Code related to insurer solvency, the fitness of management, and accounting requirements.
- Requires that alternative dispute resolution such as appraisal or arbitration must be conducted in Florida under any policy placed with an eligible surplus lines insurer that is wholly owned by a Florida-domiciled insurer.
- Repeals the requirement that each surplus lines agent must, within 45 days of the end of the calendar quarter, file an affidavit with the Florida Surplus Lines Service Office (FSLSO) attesting that the agent met reporting and diligent effort requirements.
- Provides that surplus lines agents must remit the surplus lines tax to the FSLSO at the same time as the agent pays the surplus lines service fee.
- Allows surplus lines agents to export flood coverage to eligible surplus lines insurers without meeting the diligent effort requirement.

The bill makes the following changes regarding the rates and forms that may be used by property insurers:
- Allows an insurer to offer a policy or endorsement providing that a non-hurricane claim on a roof older than 10 years will be adjusted on the basis of actual cash value, and not replacement cost.
- Prohibits the OIR from disapproving a rate for homeowners' insurance solely because the rate filing uses a modeling indication that is the weighted or straight average of two or more models found accurate or reliable by the Florida Commission on Hurricane Loss Projection Methodology.
- Provides insurers discretion regarding the utilization of positive and negative rate factors based on a statewide rating organization's building code rating factor plan that evaluates the manner in which building code enforcement in a particular jurisdiction addresses wind risk.
- Provides that when the OIR periods for reviewing specified rates and forms end on a weekend or holiday, period is extended until the conclusion of the next business day.

The bill makes the following changes regarding property insurance claims, their adjustment, and litigation related to such claims:
- Repeals the requirement that any person acting on behalf of an insurer must provide at least 48 hours' notice to the insured, claimant, public adjuster or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property.
- Bars any non-sinkhole property insurance claim, supplemental claim, or reopened claim for which notice is not provided to the insurer in accordance with the terms of the insurance policy within 3 years after the date of loss.
- Requires the named insured must serve a written notice of intent to initiate litigation to the insurer at least 10 business days before filing suit under a property insurance policy. The notice must specify the damages in dispute and the amount claimed and must include a detailed written invoice or estimate of services, including itemized information on equipment, materials, and supplies; the number of labor hours; and proof that any work that has been performed was done so in accordance with accepted industry standards.
- Requires a named insured filing suit under a property insurance policy must sign any complaint seeking relief under the policy.

- Provides that the named insured has the burden to demonstrate that the insurer is not prejudiced by a failure to cooperate in the adjustment of a claim when such alleged failure is asserted as a defense by an insurer during litigation.
- Specifies that the notice of intent to initiate litigation that must be sent by an assignee of benefits to an insurer as a condition precedent to filing suit must be sent to the email address or name and address designated by the insurer in the policy forms.

The bill also makes the following changes:

- Requires that an electronic signature used to satisfy the signature requirement for a salvage certificate of title must be executed using a system providing a Level 2 background check.
- Prohibits OIR from disseminating aggregated information if it contains trade secret information that can be individually extrapolated.
- Clarifies that the maximum amount that a condominium unit owner's assessment insurance coverage may be assessed is the loss assessment coverage limit in effect 1 day before the date of the occurrence that gave rise to the loss.
- Reduces from 60 days to 30 days the period during which an insurer may not cancel a new policy or binder of private passenger motor vehicle insurance except for the disallowance of the initial premium payment.
- Provides that a licensed personal lines or general lines agent may solicit, negotiate, advertise, or sell motor vehicle service agreements, service warranties, or home warranties, and need not obtain licensure under the laws governing those respective products.

II. Present Situation:

The Florida Hurricane Catastrophe Fund (FHCF)

The FHCF is a tax-exempt[1] fund created in 1993[2] after Hurricane Andrew[3] as a form of mandatory reinsurance for residential property insurers. The FHCF is administered by the State Board of Administration (SBA)[4] and is a tax-exempt source of reimbursement to property insurers for a selected percentage (45, 75, or 90 percent)[5] of hurricane losses above the insurer's retention (deductible). The FHCF provides insurers an additional source of reinsurance that is less expensive than what is available in the private market, enabling insurers to generally write more residential property insurance in the state than would otherwise be written. Because of the low cost of coverage from the FHCF, the fund acts to lower residential property insurance premiums for consumers.

All insurers admitted to do business in this state writing residential property insurance that includes wind coverage must buy reimbursement coverage (reinsurance) on their residential property exposure through the FHCF.[6] The FHCF is authorized by statute to sell $17 billion of

[1] Section 215.555(1)(f), F.S.
[2] Ch. 93-409, Laws of Fla.
[3] Ed Rappaport, *Preliminary Report, Hurricane Andrew* (updated Dec. 10, 1993; addendum Feb. 7, 2005), https://www.nhc.noaa.gov/1992andrew.html.
[4] State Board of Administration of Florida, *About the SBA*, https://www.sbafla.com/fsb/ (last visited March 27, 2019).
[5] Section 215.555(2)(e), F.S.
[6] *See* s. 215.555(4)(a), F.S.

mandatory layer coverage.[7] Each insurer that purchases coverage may receive up to its proportional share of the $17 billion mandatory layer of coverage based upon the insurer's share of the actual premium paid for the contract year, multiplied by the claims paying capacity of the fund. Each insurer may select a reimbursement contract wherein the FHCF promises to reimburse the insurer for 45 percent, 75 percent, or 90 percent of covered losses, plus 10 percent[8] of the reimbursed losses for loss adjustment expenses.[9]

FHCF Premiums and Ratemaking Formula

The FHCF must charge insurers the actuarially indicated premium[10] for the coverage provided, based on hurricane loss projection models found acceptable by the Florida Commission on Hurricane Loss Projection Methodology.[11] The actuarially indicated premium is an amount determined by the principles of actuarial science to be adequate to pay current and future obligations and expenses of the fund.[12]

The State Board of Administration is required by law to select an independent consultant to develop a formula for determining the actuarially indicated premium to the paid to the fund.[13] The SBA selects an independent actuarial consultant through a competitive procurement process every 5 years, with the most recent contract entered into in 2018.[14] Paragon Strategic Solutions, Inc., is the current independent actuarial consultant. The reimbursement premium formula is adopted by rule.[15] Thus the process of adopting the reimbursement premium formula includes public notice and public meetings as required by the Florida Administrative Code.

In practice, each insurer pays the FHCF annual reimbursement premiums that are proportionate to each insurer's share of the FHCF's risk exposure. Historically, FHCF coverage is generally costs less than private reinsurance because the fund is a tax-exempt non-profit corporation and does not charge a risk load as it relates to overhead and operating expenses incurred by other private insurers.[16]

When the moneys in the FHCF are or will be insufficient to cover losses, the law[17] authorizes the FHCF to issue revenue bonds funded by emergency assessments on all lines of insurance except medical malpractice and workers compensation.[18] Emergency assessments may be levied up to 6 percent of premium for losses attributable to any one contract year, and up to 10 percent of premium for aggregate losses from multiple years. The FHCF's broad-based assessment

[7] Section 215.555(4)(c)1., F.S.
[8] Section 215.555(4)(b)1., F.S.
[9] Loss adjustment expenses are costs incurred by insurers when investigating, adjusting, and processing a claim.
[10] Section 215.555(5)(a), F.S.
[11] *See*, *Florida Commission on Hurricane Loss Methodology*, https://www.sbafla.com/method/ (last visited March 29, 2019).
[12] Section 215.555(2)(a), F.S.
[13] Section 215.555(5)(b), F.S.
[14]
[15] Rule 19-8.028, F.A.C.
[16] State Board of Administration of Florida, Florida Hurricane Catastrophe Fund, *2016 Annual Report*, https://www.sbafla.com/fhcf/Portals/FHCF/Content/Reports/Annual/20170606_FHCF_2016_AnnualReport_A.pdf?ver=2017-07-06-085215-943 (last visited March 29, 2019).
[17] Section 215.555(6), F.S.
[18] Section 215.555(6)(b), F.S.

authority is one of the reasons the FHCF was able to obtain an exemption from federal taxation from the Internal Revenue Service as an integral part of state government.[19]

Reimbursement of Collateral Protection Insurance

Collateral protection insurance, sometimes referred to as "lender-placed" or "force-placed" insurance, is insurance that is placed by a lender, at the expense of the borrower, to protect the lender's security interest in property pursuant to a loan such as a home mortgage. Collateral protection insurance is placed by the lender when it deems the homeowners' insurance insufficient, usually because the borrower's insurance policy is lapsed or cancelled. The FHCF covers policies of collateral protection insurance if the collateral protection insurance covers a personal residence and protects both the borrower's and the lender's financial interests in an amount at least equal to the coverage for the dwelling in place under the lapsed homeowners policy.[20]

Transfer of Title of a "Total Loss" Motor Vehicle or Mobile Home by an Insurer to the Department of Highway Safety and Motor Vehicles (DHSMV)

When an insurance company pays money as compensation for the total loss of a motor vehicle or mobile home, the insurer must obtain the certificate of title and forward it to the DHSMV for processing.[21]

Under s. 319.30, F.S., if an insurance company is unable to obtain a properly assigned certificate of title for the owner or lienholder, then the company may receive a salvage certificate of title or certificate of destruction from the DHSMV.[22] However, the company may only receive this if the motor vehicle or mobile home does not carry an electronic lien on the title and the insurance company has:

- Obtained the release of all liens on the motor vehicle or mobile home;
- Provided proof of payment of the total loss claim; and
- Provided an affidavit, on letterhead signed by the insurance company or its authorized agent, stating the attempts made to obtain the title from the owner or lienholder, and stating that all attempts are to no avail.23

An electronic signature that is consistent with ch. 668, F.S., satisfies the signature requirements of s. 319.30, F.S., except that electronic signature on an odometer disclosure submitted by an insurer must be executed using a system that verifies identity through a background check equivalent to Level 2 for a certificate of destruction, and Level 3, for a salvage certificate of title. The security levels were chosen based on ongoing federal rule development that governs odometer disclosures. The draft federal regulations included the use of Level 2 requirements in certain instances and Level 3 requirements in others. HB 301 mirrored this structure; however,

[19] The U.S. Internal Revenue Service has, by a Private Letter Ruling, authorized the FHCF to issue tax-exempt bonds. The initial ruling was granted on March 27, 1998, for 5 years until June 30, 2003. On May 28, 2008, the Internal Revenue Service issued a private letter ruling holding that the prior exemption, which was to expire on June 30, 2008, could continue to be relied upon on a permanent basis (on file with the Committee on Banking and Insurance).
[20] Section 215.555(2)(c), F.S.
[21] Section 319.30(3)(b), F.S.
[22] Section 319.30(3)(b)1., F.S.
[23] *Id*.

the final federal regulation was published after the 2019 session with an unexpected change. Only Level 2 requirements were implemented. So, the Level 3 requirement of s. 319.30(3)(d), F.S., applicable to odometer disclosures for obtaining salvage certificates of title exceed the federal standard.[24]

Remedies for Insurer Bad Faith

Common Law and Statutory Bad Faith

Bad faith law was designed to protect insureds who have paid their premiums and who have fulfilled their contractual obligations by cooperating fully with their insurer in the resolution of claims. Bad faith jurisprudence holds insurers accountable for failing to fulfill their obligations.[25] There are two distinct but very similar types of bad faith causes of action that may be initiated against an insurer: first-party and third-party.

Florida courts have recognized common law third-party bad faith causes of action since 1938.[26] A third-party bad faith cause of action arises when an insurer fails in good faith to settle a third party's claim against the insured within policy limits and exposes the insured to liability in excess of his or her insurance coverage.[27] Third-party bad faith causes of actions arose in response to the argument that there was a practice in the insurance industry of rejecting without sufficient investigation or consideration claims presented by third parties against an insured, thereby exposing the insured individual to judgments exceeding the coverage limits of the policy while the insurer remained protected by a policy limit.[28] With no actionable remedy, insureds in this state and elsewhere were left personally responsible for the excess judgment amount.[29] Florida courts recognized common law third-party bad faith causes of action in part because the insurers had the power and authority to litigate or settle any claim, and thus owed the insured a corresponding duty of good faith and fair dealing in handling these third-party claims.[30]

In contrast to common law third-party bad faith causes of action, Florida courts do not recognize a common law first-party bad faith cause of action by the insured against its own insurer.[31] If an insurer acts in bad faith in settling a claim filed by its insured, the only common law remedy available to the insured is a breach of contract action against its own insurer with recoverable damages limited to those contemplated by the parties to the policy.[32]

Civil Remedy for First-Party Bad Faith

The 1982 Legislature's enactment of s. 624.155, F.S., created a statutory first-party bad faith cause of action,[33] codified Florida Supreme Court precedent authorizing a common-law third-

[24] 84 Fed. Reg. 52664, at 52665 (Oct. 2, 2019).
[25] *Harvey v. GEICO General Insurance Company*, 251 So.3d 1, 6, (Fla. 2018)(quoting *Berges v. Infinity Insurance Company*, 896 So.2d 665 at 682).
[26] *Auto Mut. Indem. Co. v. Shaw*, 184, So. 852 (Fla. 1938).
[27] *Opperman v. Nationwide Mutual Fire Insurance Company*, 515 So.2d 263, 265 (Fla. 5th DCA 1987).
[28] *Allstate Indem. Co. v. Ruiz*, 899 So.2d 1121, 1125 (Fla. 2005).
[29] *Id*.
[30] *Id*.
[31] *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So.2d 55, 58-59 (Fla. 1995).
[32] *Talat Enterprises, Inc. v. Aetna Cas. and Sur. Co.*, 753 So.2d 1278, 1281 (Fla. 2000).
[33] Chapter 82-243, s. 9, L.O.F.

party bad faith cause of action,[34] and eliminated the distinction between statutory first- and third-party bad faith causes of action.[35]

Section 624.155, F.S., provides that any party may bring a bad faith action against an insurer, and defines bad faith on the part of the insurer as:

- Not attempting in good faith to settle claims when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward its insured with due regard for her or his interests;
- Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made; or
- Except as to liability coverages, failing to promptly settle claims, when the obligation to settle the claim has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.[36]

Civil Remedy Notice - Opportunity for Notice and Cure

Prior to bringing a bad faith action under s. 624.155, F.S., the person seeking to bring the action must give a civil remedy notice to the insurer and Department of Financial Services. The notice is a condition precedent to bringing the bad faith action and must be given 60 days prior to bringing the statutory bad faith action. The civil remedy notice is on a form provided by the DFS and must include the statutory provision the insurer allegedly violated, the facts and circumstances giving rise to the violation, the name of any individual involved in the violation, and must[37] reference any specific policy language relevant to the violation.

A bad faith action may not be brought under s. 624.155, F.S., if within 60 days after the civil remedy notice is filed, the damages are paid or the circumstances giving rise to the violation are corrected.[38]

The applicable statute of limitations for an action under s. 624.155, F.S., is tolled for 65 days by the mailing of a civil remedy notice.

Collection and Dissemination of Information by the Office of Insurance Regulation and Department of Financial Services

One of the general powers possessed by both the Office of Insurance Regulation and the Department of Financial Services is that each may collect, propose, publish, and disseminate information relating to the subject matter of any duties imposed upon it by law.
One of the duties imposed upon the OIR is in s. 624.315, F.S., which requires the OIR with assistance from the DFS produce a written annual report and submit it to the Legislature and Governor. The report must include various types of information including abstracts of the

[34] *Macola v. Government Employees Ins. Co.*, 953 So.2d 451, 456 (Fla. 2006). *See also State Farm Fire & Cas. Co. v. Zebrowski*, 706 So.2d 275, 277 (Fla. 1997).
[35] *Id*.
[36] Section 624.155(1)(b)(1)-(3), F.S.
[37] Third party claimants not provided a copy of the policy are exempted from this requirement.
[38] Section 624.155(3)(c), F.S.

financial statements of all Florida-authorized insurers, a summary of all delinquency proceedings against such insurers, and other pertinent information and matters the OIR deems to be in the public interest. Similarly, s. 624.313, F.S., directs the OIR to annually create a statistical report that contains various required information including the financial condition of insurers, the market share of various insurers, the profitability of insurers, an analysis of the impact of the insurance industry on the state economy, information regarding complaints and market examinations, an analysis of lines of insurance that the OIR determines lack availability in this state, and other information the OIR determines is relevant.

In addition to having the power to publish and disseminate information, the OIR and DFS are subject to ch. 119, F.S., the Public Records Act, which requires every state agency that "has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records."[39] The Public Records Act provides the framework for the application Art. I, Sect. 24 of the Florida Constitution, which provides that "[e]very person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state…."

The obligation that the OIR and DFS allow the inspection of all records and their power to publish and disseminate information may be limited when the Legislature enacts a public records exemption by a two-thirds vote of each house, or the information is confidential proprietary business information or a trade secret. Proprietary business information is information owned or controlled by an insurer that is intended to be private because the disclosure of the information would bring harm, and that has not been voluntarily disclosed to the public by the insurer.[40] Proprietary business information includes trade secret information that meets the definition in s. 688.002, F.S., if properly submitted to the OIR pursuant to s. 624.4213, F.S. Section 688.002, F.S., defines a trade secret as:

> "Information, including a formula, pattern, compilation, program, device method, technique, or process that:
>
> (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
>
> (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Proprietary business information held by the OIR is confidential and exempt from public disclosure pursuant to the public records exemption in s. 624.4212, F.S. Such information may only be disclosed upon prior written consent of the insurer or pursuant to a court order. The OIR may disclose to the Actuarial Board for Counseling and Discipline for the purpose of professional disciplinary proceedings or to other governmental or law enforcement agencies that agree to maintain confidentiality. The OIR may also aggregate proprietary business information on an industrywide basis and disclose it to the public if the specific identities of the insurers, or persons or affiliated persons, are not revealed.

[39] Section 119.07(1), F.S.
[40] See s. 624.4212(1), F.S.

Any person to submit documents or information to the OIR or DFS pursuant to the Insurance Code or agency rule may file a notice of trade secret with the agency that the submission contains a trade secret under s. 624.4213, F.S. Failure to do so is a waiver of the claim of trade secret protection. To file a notice of trade secret, each page or specific portion of a document claimed to be a trade secret must be clearly marked as "trade secret" and all such material must be separately submitted in a separate envelope clearly marked as trade secret. The submitting party must include a sworn affidavit that the information is trade secret information. If OIR or DFS receives a public records request for information marked a trade secret, it must promptly notify the person that certified the document as a trade secret has 30 days to file an action in circuit court seeking an order barring public disclosure. The agency may not release the information during the 30 day period or while the legal action is pending.

Public Adjusters

Public adjusters prepare, complete, and file insurance claims, and engage in settlement negotiations with insurers, on behalf of insureds or third-party claimants in return for compensation. Public adjusters are subject to licensure under the Insurance Adjusters Law in part VI, ch. 626, F.S. Section 626.854, F.S., contains a number of provisions that govern the practice of public adjusting and insurers' interactions with public adjusters. An example of the latter is in subsection (13) of s. 626.854, F.S., which provides that a company employee adjuster, independent adjuster, attorney, investigator, or other persons acting on behalf of an insurer that needs access to an insured, claimant, or the insured property, must provide at least 48 hours' notice to the insured or claimant, public adjuster, or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. If such notice is not provided, the insured or claimant may deny access to the insured property.

Surplus Lines Insurance

Surplus lines insurance refers to a category of insurance for which the admitted market is unable or unwilling to provide coverage.[41] There are three basic categories of surplus lines risks:

- Specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
- Niche risks for which admitted carriers do not have a filed policy form or rate; and
- Capacity risks that are risks where an insured needs higher coverage limits than those that are available in the admitted market.

Surplus lines insurers are not "authorized" insurers as defined in the Florida Insurance Code,[42] which means they do not obtain a certificate of authority from the OIR to transact insurance in Florida.[43] Rather, surplus lines insurers are "unauthorized" insurers,[44] but may transact surplus lines insurance if they are made eligible by the OIR. To be made eligible to transact insurance, a surplus lines insurer must meet the following requirements related to regulatory oversight in other jurisdictions and solvency:

[41] The admitted market is comprised of insurance companies licensed to transact insurance in Florida. The administration of surplus lines insurance business is managed by the Florida Surplus Lines Service Office. S. 626.921, F.S.
[42] Section 624.01, F.S., provides that the Florida Insurance Code is chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S.
[43] Section 624.09(1), F.S.
[44] Section 624.09(2), F.S.

- An authorized insurer in the state or county of its domicile as to the kind or kinds of insurance proposed to be placed with the surplus lines insurer.
  - The insurer must have been an authorized insurer for at least the 3 preceding years. The OIR may waive the 3-year requirement if the insurer provides a product or service not readily available to Florida consumers or has operated successfully for a period of at least 1 year and has capital and surplus of not less than $25 million.
- The surplus lines insurer or an agent requesting to export a policy to the surplus lines insurer must provide the OIR with a duly authenticated copy of the surplus lines insurer's current annual financial statement, and also must provide any additional information regarding the insurer that the OIR requests.
- The surplus lines insurer must maintain a surplus as to policyholders of at least $15 million.
  - Alien surplus lines insurers (insurers formed under laws other than those of Florida or any state, district, territory, or commonwealth of the United States) must also maintain in the United States a trust fund for the protection of policyholders deemed adequate by the OIR of at least $5.4 million.
  - A surplus lines insurer which is a member of an insurance holding company that includes a member which is a Florida domestic insurer may elect to maintain surplus as to policyholders in an amount equal to the requirements of s. 624.408, F.S., and must be in compliance with ch. 625, F.S.
- The insurer must be of good reputation as to the providing of service to its policyholders and the payment of losses and claims.
- The officers and directors of the insurer must be competent and trustworthy, meeting the requirements of s. 624.404(3), F.S.

Policies issued by an impaired or insolvent surplus lines insurer are not covered by any of Florida's guaranty associations.

Placement of Insurance With an Eligible Surplus Lines Insurer

"To export" a policy means an insurance agent,[45] with the consent of the insurance applicant, placing a policy with an unauthorized insurer under the Surplus Lines Law through a surplus lines agent.[46] Unless an exception applies, before an insurance agent can place insurance in the surplus lines market, the insurance agent must make a diligent effort to procure the desired coverage from admitted insurers.[47] "Diligent effort" means seeking and coverage being rejected from at least three authorized insurers in the admitted market; however, if the cost to replace a residential dwelling is one million dollars or more, then only one coverage rejection is needed prior to export. In that case, diligent effort is seeking and being denied coverage from at least one authorized insurer in the admitted market.[48] The law further specifies that:[49]

- The premium rate for policies written by a surplus lines insurer cannot be less than the premium rate used by a majority of authorized insurers for the same coverage on similar risks;

[45] Typically, the applicant's usual insurance agent works with the surplus lines agent to arrange the placement, rather than the applicant working directly with the surplus lines agent.
[46] Section 626.914(3), F.S.
[47] Section 626.916(1)(a), F.S.
[48] Section 626.914(4), F.S.
[49] Section 626.916(1), F.S.

- The policy exported cannot provide coverage or rates that are more favorable than those that are used by the majority of authorized insurers actually writing similar coverages on similar risks;
- The deductibles must be the same as those used by one or more authorized insurers, unless the coverage is for fire or windstorm; and
- For personal residential property risks, [50] the policyholder must be advised in writing that coverage may be available and less expensive from Citizens Property Insurance Corporation (Citizens).

All licensed surplus lines agents are members of the Florida Surplus Lines Service Office (FSLSO), a nonprofit association created by statute and directed by a board of governors.[51] The FSLSO receives, records, and reviews all surplus lines insurance policies and documents, maintains records of such policies, produces monthly reports to the OIR, collects from surplus lines agents the surplus lines premium tax[52] and surplus lines service fee,[53] and other specified duties.[54] Each surplus lines agent that transacts business during a calendar quarter must file an affidavit stating that all surplus lines insurance the agent transacted during that quarter has been submitted to the FSLSO.[55] The affidavit must also include the diligent efforts the agent made to place coverages with authorized insurers.

Regulation of Property Insurance Rates

Part I of ch. 627, F.S., is the Rating Law[56] governing property, casualty, and surety insurance that covers subject of insurance resident, located, or to be performed in this state.[57] The Rating Law provides that the rates for all classes of insurance it governs may not be excessive, inadequate, or unfairly discriminatory.[58] Though the terms "rate" and "premium" are often used interchangeably, the rating law specifies that "rate" is the unit charge that is multiplied by the measure of exposure or amount of insurance specified in the policy to determine the premium, which is the consideration paid by the consumer.[59]

All insurers or rating organizations must file rates with the OIR either 90 days before the proposed effective date of a new rate, which is considered a "file and use" rate filing, or 30 days after the effective date of a new rate, which is considered a "use and file" rate filing.

Upon receiving a rate filing, the OIR reviews the filing to determine if the rate is excessive, inadequate, or unfairly discriminatory. The office makes that determination in accordance with generally acceptable actuarial techniques and, in a property insurance rate filing, considers the following:

[50] Personal residential policies include homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners, and similar policies.
[51] Section 626.921, F.S.
[52] *See* Section 626.932, F.S.
[53] *See* Section 626.9325, F.S.
[54] Section 626.921(3), F.S.
[55] Section 626.931, F.S.
[56] Section 627.011, F.S.
[57] Section 627.021, F.S.
[58] Section 627.062(1), F.S.
[59] Section 627.041, F.S.

- Past and prospective loss experience.
- Past and prospective expenses.
- The degree of competition among insurers for the risk insured.
- Investment income reasonably expected by the insurer.
- The reasonableness of the judgment reflected in the rate filing.
- Dividends, savings, or unabsorbed premium deposits returned to policyholders.
- The adequacy of loss reserves.
- The cost of reinsurance.
- Trend factors, including trends in actual losses per insured unit for the insurer.
- Conflagration and catastrophe hazards.
- Projected hurricane losses.
- Projected flood losses, if the policy covers the risk of flood.
- A reasonable margin for underwriting profit and contingencies.
- Other relevant factors that affect the frequency or severity of claims or expenses.

Projected hurricane losses in a rate filing must be estimated using a model or method found to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology.[60] The commission consists of 12 members, with expertise in the elements, are used to develop computer models to estimate hurricane and flood loss. Members of the commission include State University System faculty experts in insurance finance, statistics, computer system design, meteorology, and structural engineering; three actuaries; the insurance consumer advocate; the director of the Cat Fund; the Executive Director of Citizens Property Insurance Corporation; and the Director of the Division of Emergency Management.[61]

Homeowner's Property Insurance Policies – Offer of Replacement Cost Coverage

Insurers are required under s. 627.7011, F.S., to offer homeowner's insurance policies providing that any loss will be adjusted on the basis of replacement costs to the dwelling. Such policyholders must also be provided an offer of replacement cost coverage that includes law and ordinances coverage of 25 percent or 50 percent of the dwelling limit.

Time limit for Filing Property Insurance Claims

Section 95.11(2), F.S., provides a 5-year statute of limitations on legal or equitable civil actions on contracts, examples of which include insurance policies. Though this technically does not bar the filing of a claim 5 years after the date of loss, it has the effect of baring a legal action to challenge a breach of the insurance contract. Florida law in s. 627.70132, F.S., requires each windstorm or hurricane claim, supplemental claim, or reopened claim under a property insurance policy to be given to the insurer within 3 years of the hurricane's landfall or the date the windstorm caused the covered damage. Section 627.706(5), F.S., requires that sinkhole claims must be made within 2 years after the policyholder knew or should have known of the sinkhole loss.

[60] Section 627.062(2)(b)11., F.S.
[61] Section 627.0628(2)(b), F.S.

Notice of Claims and Litigations Under Assignment Agreements

An assignment is the voluntary transfer of the rights of one party under a contract to another party. Current law generally allows an insurance policyholder to assign the benefits of the policy, such as the right to be paid, to another party. This assignment is often called an "assignment of benefits" or "AOB." Once an assignment is made, the assignee can take action to enforce the contract. Accordingly, if the benefits are assigned and the insurer refuses to pay, the assignee may file a lawsuit against the insurer to recover the insurance benefits.[62]

The Legislature in 2019 enacted s. 627.7152, F.S., which governs the execution of assignments, provides duties that assignees must meet when filing a claim under a property insurance policy, provides requirements pursuant to litigation brought by assignees under property insurance policies, and revises the standards for awarding attorney fees in such litigation.

Prior to litigation, under s. 627.7152(9), F.S., an assignee must provide the named insured and the assignor a written notice of intent to initiate litigation, delivered at least 10 business days before filing suit, but not before the insurer has made a determination of coverage. The notice must also include a detailed written invoice or estimate of services that includes itemized information and proof work was performed in accordance with accepted industry standards.

In a claim arising under an assignment agreement, the assignee has the burden under s. 627.7152(3)(b), F.S., to demonstrate that the insurer is not prejudiced by the assignee's failure to cooperate with the insurer in the claim investigation.

Condominium Unit Owner Loss Assessment Coverage

Loss assessment coverage is insurance coverage for condominium unit owners that provides protection for situations where the owner of a condominium unit, as the owner of shared property, is held financially responsible for: deductibles owed when a claim is made under a condominium association's property insurance policy; damage that occurs to the condominium building or the common areas of a condominium property; or injuries that occur in the common areas of a condominium property.[63] Florida law requires that property insurance policies held by condominium unit owners include a minimum property loss assessment coverage of $2000 for all assessments made as a result of the same direct loss to the condominium property.[64] The law further establishes that the maximum amount of any unit owner's coverage that can be assessed for any loss is an amount equal to the unit owner's loss assessment coverage limit in effect 1 day before the date of an occurrence, but it does not specify exactly what occurrence is referenced.[65]

Cancellation of Motor Vehicle Insurance For Non-Payment of Premium

Section 627.7295(7), F.S., provides that policies or binders of private passenger motor vehicle insurance may only be issued if the insurer or agent collects at least 1 month's premium. Prior to

[62] *Nationwide Mutual Insurance Company v. Pinnacle Medical, Inc.* 753 So.2d 55, 57 (Fla. 2000)("The right of assignee to sue for breach of contract to enforce assigned rights predates the Florida Constitution").
[63] The Balance, *Loss Assessment Explained for Condo Insurance*, https://www.thebalance.com/loss-assessment-explained-for-condo-insurance-4060435 (last visited Jan. 8, 2020).
[64] S. 627.714(1), F.S.
[65] Section 627.714(2), F.S.

a 2019 legislative revision of this requirement, the insurer or agent had to collect at least 2 month's premium. The prohibition against cancelling a new policy for nonpayment of premium unless the initial payment was dishonored lasts for 60 days, however, corresponding to the previous requirement of prepayment of at least 2 month's premium.

Agent Licensing

General Lines Agent

A general lines agent[66] is one who sells the following lines of insurance: property,[67] casualty,[68] including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund,[69] or a workers' compensation self-insurance fund;[70] surety;[71] health;[72] and marine.[73] The general lines agent may only transact health insurance for an insurer that the general lines agent also represents for property and casualty insurance.[74] If the general lines agent wishes to represent health insurers that are not also property and casualty insurers, they must be licensed as a health insurance agent.[75]

Personal Lines Agent

A personal lines agent is a general lines agent who is limited to transacting business related to property and casualty insurance sold to individuals and families for noncommercial purposes.[76]

Motor Vehicle Servicing Agreements

Motor vehicle service agreements provide vehicle owners with protection when the manufacturer's warranty expires. A motor vehicle service agreement indemnifies the vehicle owner (or holder of the agreement) against loss caused by failure of any mechanical or other component part, or any mechanical or other component part that does not function as it was originally intended.[77] Motor vehicle service agreements can only be sold by a licensed and appointed salesperson.[78] Salespersons are licensed in the same manner as insurance representatives under ch. 626, F.S., with some exceptions to the requirements applied to insurance representatives.[79]

Service Warranty Contracts

A service warranty is an agreement or maintenance service contract equal to or greater than 1 year in length to repair, replace, or maintain a consumer product, or for indemnification for

[66] Section 626.015(5), F.S.
[67] Section 624.604, F.S.
[68] Section 624.605, F.S.
[69] As defined in s. 624.462, F.S.
[70] Pursuant to s. 624.4621, F.S.
[71] Section 626.606, F.S.
[72] Section 624.603, F.S.
[73] Section 624.607, F.S.
[74] Section 626.827, F.S.
[75] Section 626.829, F.S.
[76] Section 626.015(17), F.S.
[77] Section 634.011(8), F.S.
[78] Section 634.031, F.S.
[79] Section 634.171, F.S.

repair, replacement, or maintenance, for operational or structural failure due to a defect in materials or workmanship, normal wear and tear, power surge, or accidental damage from handling in return for the payment of a segregated charge by the consumer.[80] No person or entity shall solicit, negotiate, advertise, or effectuate service warranty contracts in this state unless such person or entity is licensed and appointed as a sales representative.[81]

Home Warranty Contracts

A home warranty is any contract or agreement whereby a person undertakes to indemnify the warranty holder against the cost of repair or replacement, or actually furnishes repair or replacement, of any structural component or appliance of a home, necessitated by wear and tear or an inherent defect of any such structural component or appliance or necessitated by the failure of an inspection to detect the likelihood of any such loss.[82] No person shall solicit, negotiate, or effectuate home warranty contracts for remuneration in this state unless such person is licensed and appointed as a sales representative.[83]

III. Effect of Proposed Changes:

Section 1 amends s. 215.555, F.S., governing the Florida Hurricane Catastrophe Fund.

Revising Cat Fund Reimbursement of Collateral Protection (Force-Placed) Insurance

Paragraph (2)(c) is amended to revise the requirements for Cat Fund reimbursement of collateral protection ("force-placed") insurance. Currently the Cat Fund provides reimbursement for a loss under force-placed coverage if the coverage is in an amount at least equal to the coverage amount for the dwelling under the lapsed policy. The bill directs the Cat Fund to also make reimbursement available if the force-placed policy covers the amount requested by the mortgage lender, which may be limited to the remaining indebtedness on the property. Cat Fund reimbursement must also be available if the homeowner requested the coverage amount on the force-placed policy.

Requiring a Third-Party Audit of the Cat Fund Reimbursement Premium Formula

The reimbursement premium formula is developed by an independent consultant selected by the SBA. The reimbursement premium is the proper actuarially indicated premium paid by the insurer for the insurer's reimbursement contract.

The bill creates a new paragraph (5)(f), which directs the OIR to retain an independent consultant to audit the reimbursement premium formula of the Cat Fund. The consultant retained by the

[80] Section 634.401(13), F.S.
[81] Section 634.419, F.S. A "sales representative" is any person, retail store, corporation, partnership, or sole proprietorship utilized by an insurer or service warranty association for the purpose of selling or issuing service warranties. However, in the case of service warranty associations selling service warranties from one or more business locations, the person in charge of each location may be considered the sales representative. Section 634.401(12), F.S.
[82] Section 634.301, F.S.
[83] Section 634.317, F.S. "Sales representative" is any person with whom an insurer or home inspection or warranty association has a contract and who is utilized by such insurer or association for the purpose of selling or issuing home warranties. The term includes all employees of an insurer or association engaged directly in the sale or issuance of home warranties. Section 634.301(12), F.S.

OIR may not be the consultant that developed the formula. The audit must evaluate whether the formula uses actuarially sound principles and whether insurers are paying an actuarially sound premium. The OIR must also recommend any factors which would enhance the actuarial sophistication of ratemaking for the fund. The audit will be first performed to evaluate the premium formula for the 2021 contract year and every 3 years thereafter. The audit report must be presented to the Financial Services Commission and the Legislature on or before March 1 of the year after the contract year audited (March 1, 2022, for the audit of the 2021 premium formula).

Revising the Signature Requirement for Obtaining a Salvage Certificate of Title or Certificate of Destruction

Section 2 amends s. 319.30, F.S., to require that an electronic signature used to satisfy the signature requirement for a salvage certificate of title must use a system providing a level 2 background check.

Revisions Regarding the Civil Remedy Notice for Insurer Bad Faith

Section 3 amends s. 624.155(3), F.S., which provides the notice requirements that are a condition precedent to bringing a bad faith action against an insurer under the statute.

The bill specifies that the 60 days' written civil remedy notice of the violation required under the statute must be delivered to the name and address designated by the insurer under s. 624.422(2), F.S. Under s. 624.422(2), F.S., each authorized insurer must designate a person to whom service of process may be forwarded when process is served against the CFO because each authorized insurer is deemed to have appointed the CFO as an attorney for the purpose of receiving service of legal process.

Under current law, no bad faith action may be brought if, within 60 days after the civil remedy notice is filed, the damages are paid or the circumstances giving rise to the violation are corrected. The bill revises the 60 day period for the insurer to cure the alleged violation by starting upon the insurer's receipt of notice, which the bill requires must be delivered to the name and address designated under s. 624.422(2), F.S.

The bill requires the civil remedy notice to specify the damages to be paid by the insurer for the claim that are available under the policy, less amounts the insurer has paid on the claim and any applicable deductibles. The bill prohibits demands for vague remedial action regarding changes to claims-handling procedures or practices.

The bill also requires the applicable statute of limitations for bad faith actions under the statute to be tolled for 60 days after the date appraisal is invoked in a residential property insurance claim. This conforms to the existing requirement in paragraph (3)(f) that prohibits the filing of a civil remedy notice within 60 days after appraisal is invoked by any party in a residential property insurance claim.

Limiting the Release of Aggregated Trade Secret Information

Sections 4 and 5 amend ss. 624.307 and 624.315, F.S., to specify that the OIR and DFS may only disseminate aggregated trade secret information pursuant to their general powers, within the OIR annual report, or pursuant to a request for information regarding certain insurer financial and insurance marketplace metrics that must be maintained by the OIR, if such trade secret information cannot be individually extrapolated. If the trade secret information can be individually extrapolated, it remains protected as provided under s. 624.4213, F.S., which provides that when the OIR requires the submission of trade secrets, it must notify an insurer of any request for such information and refuse to release the alleged trade secret information for at least 30 days or until the outcome of a legal action brought by the insurer barring public disclosure of the trade secrets.

Repeal of Requirement to Provide 48 Hour Notice to the Insured, Claimant, Public Adjuster, or Attorney Prior to Meeting the Insured or Claimant or Inspecting the Insured Property

Section 6 amends 626.854, F.S., to repeal the requirement that any person acting on behalf of an insurer must provide at least 48 hours' notice to the insured, claimant, public adjuster or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. Currently, the insured or claimant may waive the notice requirement or, if there is no waiver, may deny access to the property if notice was not provided.

Allowing Florida-Domiciled Insurers to Wholly Own a Surplus Lines Insurer

Section 8 amends s. 626.918, F.S., to allow a surplus insurer to be eligible to have policies placed with it if it is wholly owned by an insurer domiciled in Florida that has been authorized in Florida for at least the 3 preceding years as to the kind or kinds of insurance that would be placed with the surplus lines insurer. The bill also provides that an eligible surplus lines insurer wholly owned by a Florida-domiciled insurer must comply with the following solvency requirements under Florida law:

- Section 624.404, F.S., regarding compliance with the Florida Insurance Code and fitness of management, officers, or directors.
- Section 624.407, F.S., regarding surplus requirements for new insurers.
- Section 624.4073, F.S., generally prohibiting officers and directors of insolvent insurers from serving as an officer or director of an authorized insurer or having control over the selection of officers or directors.
- Section 624.408, F.S., regarding surplus requirements for existing insurers.
- Section 624.4085, F.S., regarding risk-based capital requirements for insurers.
- Section 624.40851, F.S., regarding the confidentiality of risk-based capital information.
- Section 624.4095, F.S., providing required premium to surplus ratios.
- Section 624.424, F.S., requiring each authorized insurer to file an annual financial statement with the OIR.
- Chapter 625, F.S., providing standards for accounting, investments, and deposits by insurers.

Section 7 amends s. 626.916(1), F.S., to require that alternative dispute resolution such as appraisal or arbitration must be conducted in Florida under any policy placed with an eligible surplus lines insurer that is wholly owned by a Florida-domiciled insurer.

Repeal of the Surplus Lines Agent Affidavit Requirement

Section 9 amends s. 626.931, F.S., to repeal the requirement that each surplus lines agent currently transacting business must, within 45 days of the end of the calendar quarter, file an affidavit with the Florida Surplus Lines Service Office. The affidavit must state that all surplus lines insurance transacted by the agent during the calendar quarter was submitted to the FSLSO and must include efforts made to place coverage with authorized insurers and the results of those efforts.

Section 10 amends s. 626.932(2), F.S., to provide that surplus lines agents must remit the surplus lines tax to the FSLSO at the same time as the agent pays the surplus lines service fee required by s. 626.9325, F.S. The change is necessitated by the repeal of the agent affidavit requirement, but will not change the time frame for remission of the surplus lines tax because the service fee is due 45 days after each calendar quarter, which is when agent affidavits are due.

Section 11 provides a conforming amendment to s. 626.935, F.S., to provide that failure to make and file surplus lines agent affidavits is no longer grounds for disciplinary action against a surplus lines agent's license and appointments.

Section 23 provides a conforming amendment to s. 629.401, F.S., regarding insurance exchanges created to underwrite surplus lines insurance.

Calculating Homeowners' Property Rates Using Modeling Indications that are the Weighted or Straight Average of Multiple Models

Section 12 amends s. 627.062(2)(j), F.S., to provide that the OIR may not disapprove a rate for homeowners' insurance solely because the rate filing uses a modeling indication that is the weighted or straight average of two or more models found accurate or reliable under s. 627.0628, F.S., by the Florida Commission on Hurricane Loss Projection Methodology.

Property Insurance Rating Factors Based on Building Code Enforcement

Section 13 amends s. 627.0629, F.S., to provide insurers discretion regarding the utilization of positive and negative rate factors based on a statewide rating organization's building code rating factor plan that evaluates the manner in which building code enforcement in a particular jurisdiction addresses wind risk. Currently, insurers must include positive and negative rate factors based on the aforementioned evaluation of how a jurisdiction's building code enforcement addresses wind risk.

Extension of OIR Periods for Review of Rates and Forms

Sections 12, 14, and 15 amend ss. 627.062(2)(a)1., F.S., 627.0651(1)(a), F.S., and s. 627.410(2), F.S., to provide that when the OIR periods for reviewing rates and forms under those sections

end on a weekend or holiday, the review period must be extended until the conclusion of the next business day.

Actual Cash Value Adjustment of Non-Hurricane Claims on Roofs Older than 10 Years

Section 16 amends s. 627.7011, F.S., to allow an insurer to offer a policy or endorsement providing that a non-hurricane claim on a roof older than 10 years will be adjusted on the basis of actual cash value, and not replacement cost.

Notice of Property Insurance Claims

Section 17 amends s. 627.70132, F.S., to bar any non-sinkhole property insurance claim, supplemental claim, or reopened claim for which notice is not provided to the insurer in accordance with the terms of the insurance policy within 3 years after the date of loss. This expands the existing requirement for property insurance losses caused by a windstorm or hurricane, which are barred if notice is not provided within 3 years of the hurricane's landfall or the windstorm caused the covered damage. Under the bill, sinkhole loss claims continue to be subject to the 2 year time limitation under s. 627.706(5), F.S.

Requirements Insureds Must Meet When Litigating Suits Arising Under a Property Insurance Policy

Section 18 creates s. 627.70152, F.S., which provides requirements insureds must meet when litigating suits under a property insurance policy.

The bill creates two conditions precedent that the named insured must meet prior to filing suit under a property insurance policy. The first condition precedent is that the named insured must serve a written notice of intent to initiate litigation to the insurer at least 10 business days before filing suit under the policy. The notice must specify the damages in dispute and the amount claimed. The notice may not be served before the insurer makes a determination of coverage under s. 627.70131, F.S., which generally provides that a property insurer must pay or deny a claim, or a portion of the claim, within 90 days of receiving notice of the claim. The notice must be served by electronic delivery or certified mail, return receipt requested to the name and address or email designed by the insurer in the policy.

The second condition precedent is that the named insured, concurrent with the aforementioned notice, must provide a detailed written invoice or estimate of services, including itemized information on equipment, materials, and supplies; the number of labor hours; and proof that any work that has been performed was done so in accordance with accepted industry standards. The bill requires a named insured filing suit under a property insurance policy must sign any complaint seeking relief under the policy.

If during litigation an insurer asserts a defense that the named insured or the named insured's attorney or public adjuster failed to cooperate with the insurer in the claim investigation, including, but not limited to, by not allowing the insurer to inspect the property, the bill provides that the named insured has the burden to demonstrate that the insurer is not prejudiced by such failure to cooperate. Currently, the insurer has the burden to demonstrate both that a named

insured failed to cooperate with the adjustment of the claim and that such failure prejudiced the insurer.

Condominium Unit Owner's Loss Assessment Insurance Coverage

Section 19 amends s. 627.714(2), F.S., to clarify that the maximum amount that a condominium unit owner's assessment insurance coverage may be assessed is the loss assessment coverage limit in effect 1 day before the date of the occurrence that gave rise to the loss. Such coverage is applicable to any loss assessment regardless of the date of the assessment by the condominium association.

Placement of Private-Market Flood Insurance With Surplus Lines Insurance Carriers

Section 20 revives, reenacts, and amends s. 627.715(4), F.S., to allow surplus lines agents to export flood coverage to eligible surplus lines insurers without meeting the diligent effort requirement of s. 626.916(1)(a), F.S. The diligent effort requirement requires surplus lines agents to attempt to place coverage with at least three Florida-admitted insurance carriers prior to placing the coverage with an eligible surplus lines carrier.

The exemption from the diligent effort requirement lasts until July 1, 2025, or on the date the Insurance Commissioner determines that there is an adequate admitted market to provide private flood insurance.

Delivery of Notice to Initiate Litigation Under an Assignment of Benefits

Section 21 amends s. 627.7152, F.S., to specify that the notice of intent to initiate litigation that must be sent by an assignee of benefits to an insurer as a condition precedent to filing suit must be sent to the email address or name and address designated by the insurer in the policy forms.

Cancellation of Motor Vehicle Insurance For Non-Payment of Premium

Section 22 amends s. 627.7295(4), F.S., to reduce from 60 days to 30 days the period during which an insurer may not cancel a new policy or binder of private passenger motor vehicle insurance except for the disallowance of the initial premium payment. This corresponds to a revision to s. 627.7295(7) in ch. 2019-108, Laws of Florida, that allows private passenger motor vehicle insurance to be issued upon the collection of at least 1 month's premium. The current 60 day noncancellation period corresponds to the previous requirement that 2 month's premium had to be collected before issuing the policy.

Transaction of Motor Vehicle Service Agreements, Home Warranties, and Service Warranties by Licensed Personal Lines Agents and General Lines Agents

Section 24 amends s. 634.171, F.S., to provide that a licensed personal lines or general lines agent may solicit, negotiate, advertise, or sell motor vehicle service agreements and need not be licensed under the section. **Section 25** amends s. 634.317, F.S., to the same effect for home warranty contracts and **section 26** amends s. 634.419, F.S., to the same effect for service warranty contracts.

Effective Date

Section 27 provides that, except as otherwise expressly provided, the act is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of Insurance regulation estimates that the requirement that the OIR retain an independent consultant to audit the Florida Hurricane Catastrophe Fund reimbursement premium formula once every 3 years, beginning with the 2021 contract year, will require the OIR to expend $200,000 in recurring funds during those years when audits are required.[84]

VI. Technical Deficiencies:

None.

[84] Office of Insurance Regulation, *2020 Agency Legislative Bill Analysis HB 359*, pg. 4 (Nov. 1, 2019).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 215.555, 319.30, 624.155, 624.307, 624.315, 626.854, 626.916, 626.918, 626.931, 626.932, 626.935, 627.062, 627.0629, 627.0651, 627.410, 627.7011, 627.70132, 627.714, 627.715, 627.7152, 627.7295, 629.401, 634.171, 634.317, and 634.419.

This bill creates section 627.70152 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.