

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	_____	(Y/N)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

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee

3 Representative Rommel offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (a) of subsection (2) of section

8 624.316, Florida Statutes, is amended to read:

9 Section 624.316 Examination of insurers.—

10 (2) (a) Except as provided in paragraph (f), the office

11 may

12 examine each insurer, including affiliates, as often as may be

13 warranted for the protection of the policyholders and in the

14 public interest, and shall examine each domestic insurer not

15 less frequently than once every 5 years. The examination shall

16 cover the preceding 5 fiscal years of the insurer and shall be

Amendment No. 1

17 commenced within 12 months after the end of the most recent
18 fiscal year being covered by the examination. The examination
19 may cover any period of the insurer's operations since the last
20 previous examination. The examination may include examination of
21 events subsequent to the end of the most recent fiscal year and
22 the events of any prior period that affect the present financial
23 condition of the insurer.

24 Section 2. Subsection (2) section 624.318, Florida
25 Statutes, is amended to read:

26 624.318 Conduct of examination or investigation; access to
27 records; correction of accounts; appraisals.—

28 (2) Every person being examined or investigated, including
29 affiliates, and its officers, attorneys, employees, agents, and
30 representatives, shall make freely available to the department
31 or office or its examiners or investigators the accounts,
32 records, documents, files, information, assets, and matters in
33 their possession or control relating to the subject of the
34 examination or investigation. An agent who provides other
35 products or services or maintains customer information not
36 related to insurance must maintain records relating to insurance
37 products and transactions separately if necessary to give the
38 department or office access to such records. If records relating
39 to the insurance transactions are maintained by an agent on
40 premises owned or operated by a third party, the agent and the

Amendment No. 1

41 third party must provide access to the records by the department
42 or office.

43 Section 3. Subsection (11) of section 624.424, Florida
44 Statutes, is renumbered as subsection (12), and new subsections
45 (11) and (13) are added to that section, to read:

46 624.424 Annual statement and other information.—

47 (11) Each insurer or insurer group doing business in this
48 state shall file on a quarterly basis in conjunction with
49 financial reports required by paragraph (1)(a) a supplemental
50 report on an individual and group basis on a form prescribed by
51 the commission with the following information for each claim
52 closed, excluding liability only claims, within the reporting
53 period on personal lines and commercial lines residential
54 property insurance policies in this state:

55 (a) Unique claim identification number;

56 (b) Type of policy;

57 (c) Zip code of the property where the claim occurred;

58 (d) County where the claim occurred;

59 (e) Date of loss;

60 (f) Peril or type of loss;

61 (g) Date reported to insurer;

62 (h) Initial date closed;

63 (i) Date claim most recently re-opened (if applicable);

64 (j) Most recent date closed;

65 (k) Public adjuster on the claim;

033235 - h305-strike.docx

Published On: 3/16/2021 7:47:34 PM

Amendment No. 1

- 66 (l) Attorney for the claimant;
67 (m) Water mitigation firm utilized;
68 (n) Total indemnity paid by the insurer;
69 (o) Total loss adjustment expenses paid by the insurer;
70 (p) Amount paid for insured's attorney fees;
71 (q) Contingency fee multiplier requested to be applied to
72 the calculation of the insured's attorney fees payment; if so,
73 what contingency risk multiplier was requested;
74 (r) Contingency risk multiplier applied to
75 calculation of the insured's attorney fees payment; if so, what
76 contingency fee multiplier was applied; and
77 (s) Other information deemed necessary by the Commission to
78 provide the Office with the ability to track litigation and
79 claims trends occurring in the property market.
80 ~~(11)~~(12) Each insurer doing business in this state which
81 reinsures through a captive insurance company as defined in s.
82 628.901, but without regard to domiciliary status, shall, in
83 conjunction with the annual financial statement required under
84 paragraph (1)(a), file a report with the office containing
85 financial information specific to reinsurance assumed by each
86 captive.
87 (a) The report shall be filed as a separate schedule
88 designed to avoid duplication of disclosures required by the
89 NAIC's annual statement and instructions.
90 (b) Insurers must:

033235 - h305-strike.docx

Published On: 3/16/2021 7:47:34 PM

Amendment No. 1

91 1. Identify the products ceded to the captive and whether
92 the products are subject to rule 690-164.020, Florida
93 Administrative Code, the NAIC Valuation of Life Insurance
94 Policies Regulation (Model #830), or the NAIC Actuarial
95 Guideline XXXVIII (AG 38).

96 2. Disclose the assets of the captive in the format
97 prescribed in the NAIC annual statement schedules.

98 3. Include a stand-alone actuarial opinion or
99 certification identifying the differences between the assets the
100 ceding company would be required to hold and the assets held by
101 the captive.

102 (13) Each insurer doing business in this state which pays
103 a fee, commission, or other financial consideration or payment
104 to any affiliate directly or indirectly is required upon request
105 to provide to the office any information the office deems
106 necessary. The fee, commission or other financial consideration
107 or payment to any affiliate must be fair and reasonable. In
108 determining whether the fee, commission or other financial
109 consideration or payment is fair and reasonable, the office
110 shall consider, among other things, the actual cost of the
111 service being provided.

112 Section 4. Subsection (6) of section 626.7451, Florida
113 Statutes, is amended to read:

114 626.7451 Managing general agents; required contract
115 provisions.—No person acting in the capacity of a managing

Amendment No. 1

116 general agent shall place business with an insurer unless there
117 is in force a written contract between the parties which sets
118 forth the responsibility for a particular function, specifies
119 the division of responsibilities, and contains the following
120 minimum provisions:

121 (6) The contract shall specify appropriate underwriting
122 guidelines, including:

- 123 (a) The maximum annual premium volume.
- 124 (b) The basis of the rates to be charged.
- 125 (c) The types of risks which may be written.
- 126 (d) Maximum limits of liability.
- 127 (e) Applicable exclusions.
- 128 (f) Territorial limitations.
- 129 (g) Policy cancellation provisions.
- 130 (h) The maximum policy period.

131 ~~This subsection shall not apply when the managing general~~
132 ~~agent is a controlled or controlling person.~~

133 Section 5. Section 626.7452 is amended to read:

134 Section 626.7452 Managing general agents; examination
135 authority.—The acts of the managing general agent are considered
136 to be the acts of the insurer on whose behalf it is acting. A
137 managing general agent may be examined as if it were the
138 insurer. ~~except in the case where the managing general agent~~
139 ~~solely represents a single domestic insurer.~~

Amendment No. 1

140 Section 6. Paragraphs (e) through (ii) of subsection (6)
141 of section 627.351, Florida Statutes, are redesignated as
142 paragraphs (f) through (jj), respectively, paragraph (c) and
143 present paragraph (n) of that subsection are amended, and a new
144 paragraph (e) is added to that subsection, to read:

145 627.351 Insurance risk apportionment plans.—

146 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

147 (c) The corporation's plan of operation:

148 5. Must provide a procedure for determining the eligibility
149 of a risk for coverage, as follows:

150 a. Subject to s. 627.3517, with respect to personal
151 lines residential risks, if the risk is offered coverage from an
152 authorized insurer at the insurer's approved rate under a
153 standard policy including wind coverage or, if consistent with
154 the insurer's underwriting rules as filed with the office, a
155 basic policy including wind coverage, for a new application to
156 the corporation for coverage, the risk is not eligible for any
157 policy issued by the corporation unless the premium for coverage
158 from the authorized insurer is more than ~~15~~20 percent greater
159 than the premium for comparable coverage from the corporation.
160 Whenever an offer of coverage for a personal lines residential
161 risk is received for a policyholder of the corporation at
162 renewal from an authorized insurer, if the offer is equal to or
163 less than the corporation's renewal premium for comparable
164 coverage, the risk is not eligible for coverage with the

033235 - h305-strike.docx

Published On: 3/16/2021 7:47:34 PM

Amendment No. 1

165 corporation. If the risk is not able to obtain such offer, the
166 risk is eligible for a standard policy including wind coverage
167 or a basic policy including wind coverage issued by the
168 corporation; however, if the risk could not be insured under a
169 standard policy including wind coverage regardless of market
170 conditions, the risk is eligible for a basic policy including
171 wind coverage unless rejected under subparagraph 8. However, a
172 policyholder removed from the corporation through an assumption
173 agreement remains eligible for coverage from the corporation
174 until the end of the assumption period. The corporation shall
175 determine the type of policy to be provided on the basis of
176 objective standards specified in the underwriting manual and
177 based on generally accepted underwriting practices.

178 9. Must provide that the corporation make its best efforts
179 to procure catastrophe reinsurance at reasonable rates, to cover
180 its projected 100-year probable maximum loss as determined by
181 the board of governors. If catastrophe reinsurance is not
182 available at reasonable rates, the corporation need not purchase
183 it, but the corporation shall include the costs of reinsurance
184 to cover its projected 100-year probable maximum loss in its
185 rate calculations even if it does not purchase it.

186 (e) An employee of the corporation may not receive an
187 annual salary, whether base pay or base pay combined with any
188 bonus or incentive payments, in excess of 150 percent of the

Amendment No. 1

189 annual salary paid to the head of the office, subject to the
190 following:

191 1. Anyone employed by the corporation as July 1, 2021,
192 shall be permitted to retain his or her current salary, but
193 shall not be entitled to receive a raise if his or her salary
194 exceeds the salary limits in this paragraph.

195 2. Anyone employed by the corporation as July 1, 2021,
196 whose salary does not exceed the salary limits of this paragraph
197 shall not receive a raise such that his or her salary exceeds
198 the salary limits.

199 3. Anyone hired, with a start date, by the corporation on
200 or after July 1, 2021, shall be subject to the salary limits in
201 this paragraph.

202 (o)1. Rates for coverage provided by the corporation must
203 be actuarially sound and subject to s. 627.062, except as
204 otherwise provided in this paragraph. The corporation shall file
205 its recommended rates with the office at least annually. The
206 corporation shall provide any additional information regarding
207 the rates which the office requires. The office shall consider
208 the recommendations of the board and issue a final order
209 establishing the rates for the corporation within 45 days after
210 the recommended rates are filed. The corporation may not pursue
211 an administrative challenge or judicial review of the final
212 order of the office.

213 2. In addition to the rates otherwise determined pursuant

033235 - h305-strike.docx

Published On: 3/16/2021 7:47:34 PM

Amendment No. 1

214 to this paragraph, the corporation shall impose and collect an
215 amount equal to the premium tax provided in s. 624.509 to
216 augment the financial resources of the corporation.

217 3. After the public hurricane loss-projection model under
218 s. 627.06281 has been found to be accurate and reliable by the
219 Florida Commission on Hurricane Loss Projection Methodology, the
220 model shall be considered when establishing the windstorm
221 portion of the corporation's rates. The corporation may use the
222 public model results in combination with the results of private
223 models to calculate rates for the windstorm portion of the
224 corporation's rates. This subparagraph does not require or allow
225 the corporation to adopt rates lower than the rates otherwise
226 required or allowed by this paragraph.

227 ~~4. The rate filings for the corporation which were~~
228 ~~approved~~
229 ~~by the office and took effect January 1, 2007, are rescinded,~~
230 ~~except for those rates that were lowered. As soon as possible,~~
231 ~~the corporation shall begin using the lower rates that were in~~
232 ~~effect on December 31, 2006, and provide refunds to~~
233 ~~policyholders who paid higher rates as a result of that rate~~
234 ~~filing. The rates in effect on December 31, 2006, remain in~~
235 ~~effect for the 2007 and 2008 calendar years except for any rate~~
236 ~~change that results in a lower rate. The next rate change that~~
237 ~~may increase rates shall take effect pursuant to a new rate~~

033235 - h305-strike.docx

Published On: 3/16/2021 7:47:34 PM

Amendment No. 1

238 ~~filing recommended by the corporation and established by the~~
239 ~~office, subject to this paragraph.~~

240 ~~4. Beginning on July 15, 2009, and annually thereafter, t~~
241 ~~The corporation must make a recommended actuarially sound rate~~
242 ~~filing for each personal and commercial line of business it~~
243 ~~writes., to be effective no earlier than January 1, 2010.~~

244 ~~5. Beginning on or after January 1, 2010, and~~
245 ~~Notwithstanding the board's recommended rates and the~~
246 ~~office's final order regarding the corporation's filed rates~~
247 ~~under subparagraph 1., the corporation shall annually implement~~
248 ~~a rate increase which, except for sinkhole coverage, does not~~
249 ~~exceed the following 10 percent for any single policy issued by~~
250 ~~the corporation, excluding coverage changes and surcharges:~~

- 251 a. Eleven percent for 2022.
- 252 b. Twelve percent for 2023.
- 253 c. Thirteen percent for 2024.
- 254 d. Fourteen percent for 2025.
- 255 e. Fifteen percent for 2026 and all subsequent years.

256 ~~6. At no time may the corporation file for approval of a~~
257 ~~rate reduction by the office.~~

258 Section 7. Section 627.70132, Florida Statutes, is amended
259 to read:

260 627.70132 Notice of property insurance ~~windstorm or~~
261 ~~hurricane~~ claim.— A claim, supplemental claim, or reopened claim
262 under an insurance policy that provides property insurance, as

033235 - h305-strike.docx

Published On: 3/16/2021 7:47:34 PM

Amendment No. 1

263 defined in s. 624.604, including property insurance policy
264 issued by an eligible surplus lines insurer, for loss or damage
265 caused by any ~~the peril of windstorm or hurricane~~ is barred
266 unless notice of the claim, supplemental claim, or reopened
267 claim was given to the insurer in accordance with the terms of
268 the policy within 2 ~~3~~ years after the date of loss ~~hurricane~~
269 ~~first made landfall or the windstorm caused the covered damage.~~
270 For claims resulting from hurricanes, tornadoes, windstorms,
271 severe rain or other weather-related events that are tracked by
272 weather services and media, the date of loss is the date that
273 the hurricane made landfall, or the windstorm, tornado, or
274 severe rain event is verified by NOAA or another disinterested
275 verifiable third party to have occurred, in the location of the
276 property which is the subject of the claim. For purposes of this
277 section, the term "supplemental claim" or "reopened claim" means
278 any additional claim for recovery from the insurer for losses
279 from the same peril ~~hurricane or windstorm~~ which the insurer has
280 previously adjusted pursuant to the initial claim. This section
281 does not affect any applicable limitation on civil actions
282 provided in s. 95.11 for claims, supplemental claims, or
283 reopened claims timely filed under this section.

284 Section 8. Paragraph (e) of subsection (9) of section
285 627.7015, Florida Statutes, is amended to read:

286 627.7015 Alternative procedure for resolution of disputed
287 property insurance claims.—

033235 - h305-strike.docx

Published On: 3/16/2021 7:47:34 PM

Amendment No. 1

288 (9) For purposes of this section, the term "claim" refers
289 to any dispute between an insurer and a policyholder relating to
290 a material issue of fact other than a dispute:

291 (e) With respect to a ~~windstorm or hurricane~~ loss that
292 does not comply with s. 627.70132.

293 Section 9. Section 627.70152, Florida Statutes, is created
294 to read:

295 627.70152 Suits arising under a property insurance
296 policy.-

297 (1) APPLICATION.-This section applies to all residential
298 or commercial property suits not brought by an assignee.

299 (2) DEFINITIONS.-As used in this section, the term:

300 (a) "Claimant" means an insured who is filing suit under a
301 residential or commercial property insurance policy.

302 (b) "Demand" means the specific amount alleged to be owed
303 by the insurer to the claimant under the residential or
304 commercial property insurance policy.

305 (c) "Notice" means claimant presuit notice.

306 (3) NOTICE.-

307 (a) As a condition precedent to filing a suit under a
308 property insurance policy, a claimant or the claimant's attorney
309 must provide the insurer with a written notice of intent to
310 initiate litigation before filing suit under the policy. Such
311 notice must be served by certified mail, return receipt
312 requests, or electronic delivery at least 10 business days

033235 - h305-strike.docx

Published On: 3/16/2021 7:47:34 PM

Amendment No. 1

313 before filing suit, but may not be served before the insurer has
314 made a determination of coverage under s. 627.70131. The notice
315 must specify:

316 1. That the notice is being provided pursuant to this
317 section;

318 2. The alleged acts or omissions of the insurer giving
319 rise to the action;

320 3. The damages in dispute;

321 4. The demand;

322 5. The amount of reasonable and necessary attorney fees
323 and costs incurred by the claimant, to be calculated by
324 multiplying the number of hours actually worked on the claim as
325 of the date of the notice by the claimant's attorney by a
326 reasonable hourly rate; and

327 6. If provided by an attorney or other representative,
328 that a copy of the notice was provided to the claimant.

329 (b) A notice of intent to initiate litigation must be
330 served within the time limits provided in s. 95.11 and is not
331 required if the action is a counterclaim. Service of a notice
332 tolls the time limits provided in s. 95.11 for 10 days if such
333 time limits will expire before the end of the 10-day notice
334 period.

335 (c) An insurer must respond in writing to the notice
336 within 10 business days after receiving the notice specified in
337 paragraph (a) by making a settlement offer or requiring the

033235 - h305-strike.docx

Published On: 3/16/2021 7:47:34 PM

Amendment No. 1

338 claimant to participate in appraisal or another method of
339 alternative dispute resolution under the policy. The time limits
340 provided in s. 95.11 are tolled as long as appraisal or other
341 alternative dispute resolution are ongoing. An insurer must have
342 a procedure for the prompt investigation, review, and evaluation
343 of the dispute stated in the notice and must investigate each
344 claim contained in the notice in accordance with the Florida
345 Insurance Code.

346 (d) A court must dismiss without prejudice any action
347 relating to a claim for which a notice of intent to initiate
348 litigation is given as required by this subsection if such
349 action is commenced before the expiration of the 10-day notice
350 period, is brought by an insurer to whom notice was given, and
351 is against the claimant giving notice.

352 (4) ADMISSIBILITY OF NOTICE AND RESPONSE.—The notice
353 provided pursuant to subsection (3) and the submissions provided
354 pursuant to subparagraph (3) (a):

355 (a) is admissible as evidence in a civil action or an
356 alternative dispute resolution proceeding relating to the claim
357 for which the notice is given;

358 (b) Does not limit the evidence of attorney fees or costs,
359 damages, or loss which may be offered at trial; and

360 (c) Does not relieve any obligation that an insured or
361 assignee has to give notice under any other provision of law.

Amendment No. 1

362 (5) ATTORNEY FEES.—If a court dismisses a claimant's suit
363 pursuant to paragraph (3) (d) of this section, the court shall
364 not award to the claimant any incurred attorney fees for
365 services rendered prior to the dismissal of the suit.

366 Section 10. This act shall take effect July 1, 2021.

367
368 -----

369 **T I T L E A M E N D M E N T**

370 Remove everything before the enacting clause and insert:

371 A bill to be entitled

372 An act relating to property insurance; amending s. 624.316,
373 F.S.; authorizing the Office of Insurance regulation to examine
374 insurer affiliates; amending s. 624.318, F.S.; requiring insurer
375 affiliates to provide certain items and information to the
376 Office of Insurance Regulation upon request during examination;
377 amending s. 624.424, F.S.; requiring insurers to include certain
378 data regarding litigated property insurance claims in their
379 quarterly reports to the Office of Insurance Regulation;
380 requiring insurers to provide information regarding payments to
381 affiliates upon request by the Office of Insurance regulation;
382 allow the Office of Insurance regulation to determine whether
383 payments made by an insurer to an affiliate are fair and
384 reasonable; amending s. 626.7451, F.S; requiring that managing
385 general agents enter into specified contracts with insurers even
386 when the managing general agent controls, or is controlled by,

Amendment No. 1

387 an insurer; amending s. 626.7452, F.S.; establishing that a
388 managing general agent may be examined by the Office of
389 Insurance regulation as if it were the insurer even if the
390 managing general agent solely represents a single domestic
391 insurer; amending s. 627.351, F.S.; requires Citizens Property
392 Insurance Corporation to include the costs of reinsurance to its
393 projected 100-year probable maximum loss in its rate
394 calculations even if the corporation does not purchase such
395 reinsurance; placing salary caps on new employees of the
396 corporation; allowing current employees of the corporation to
397 keep their salaries until they vacate their current positions
398 even if the salaries exceed the caps; removing obsolete language
399 regarding the corporation's rate filings with Office of
400 Insurance Regulation; requiring the corporation to implement
401 increase that does not exceed a certain percent beginning on a
402 certain date; allowing the corporation to add an additional
403 percent to its rate increase each year until it reaches a
404 certain percent; prohibiting the corporation from seeking
405 approval by the Office of Insurance regulation of a rate
406 reduction; amending s. 627.70132, F.S.; providing that claims,
407 supplemental claims, and reopened claims under certain property
408 insurance policies for loss or damage caused by perils are
409 barred unless notice is given within a specified timeframe;
410 revising the timeframe for notice for loss or damage caused by
411 windstorm or hurricane; revising the definition of the term

033235 - h305-strike.docx

Published On: 3/16/2021 7:47:34 PM

Amendment No. 1

412 "supplemental claim" or "reopened claim" to include all perils;
413 amending s. 627.7015, F.S.; conforming a provision to changes
414 made by the act; creating s. 627.70152, F.S.; defining certain
415 terms; requiring that written notice be provided to an insurer
416 before suit is filed under an insurance policy; specifying
417 certain information be included in that notice; requiring that
418 notice be served within a specified timeframe; requiring that an
419 insurer provide a response to that notice within a specified
420 timeframe; providing for tolling of time where appropriate;
421 requiring an insurer to investigate, review, and evaluate a
422 dispute stated in that notice; requiring an insurer to
423 investigate each claim in that notice in accordance with the
424 Florida Insurance Code; requiring a court to dismiss, with
425 prejudice, any action that fails to comply with the requirements
426 for that notice; providing for evidentiary requirements
427 regarding that notice; prohibiting a court from awarding
428 attorney fees to a claimant under certain circumstances;
429 providing an effective date.