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1 A bill to be entitled
2 An act relating to insurance; amending s. 320.27,
3 F.S.; exempting salvage motor vehicle dealers from
4 having to carry certain types of insurance coverage
5 under certain circumstances; amending s. 624.501,
6 F.S.; conforming a cross-reference; amending s.
7 624.610, F.S.; revising provisions specifying which
8 insurers are not subject to certain filing
9 requirements relating to reinsurance; amending s.
10 626.261, F.S.; authorizing the Department of Financial
11 Services to provide examinations in Spanish; providing
12 for the proration of costs among applicants who
13 request examinations in Spanish; providing
14 requirements with respect to whether an examination in
15 Spanish should be allowed in a particular county;
16 amending s. 626.321, F.S.; revising provisions
17 relating to limited licenses for travel insurance;
18 providing that a full-time salaried employee of a
19 licensed general lines agent or a business entity that
20 offers travel planning services may be issued such
21 license under certain circumstances; creating s.
22 626.8685, F.S.; exempting certain employees who
23 conduct data entry from licensure as insurance
24 adjusters under certain circumstances; defining the
25 term "automated claims adjudication system" with
26 respect to application of such exemption; prohibiting
27 residents of Canada from licensure as nonresident
28 independent adjusters under certain circumstances;

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 amending s. 626.916, F.S.; revising the disclosure
30 statement signed by an insured placing coverage in the
31 surplus lines market; amending s. 627.0629, F.S.;
32 providing addition factors that an insurer may include
33 in a residential property insurance rate filing;
34 amending s. 627.351, F.S.; increasing the amount of
35 surplus as to policyholders that certain insurers who
36 are members of a plan to equitably apportion or share
37 windstorm coverage may have in order to petition the
38 Department of Financial Services to qualify as a
39 limited apportionment company; amending s. 627.4133,
40 F.S.; increasing the number of days of prior notice
41 that an insurer must give a first-named insured before
42 nonrenewal, cancellation, or termination of a personal
43 lines or commercial insurance policy covering a
44 residential structure or its contents; deleting a
45 provision relating to notice for the nonrenewal,
46 cancellation, or termination of a residential property
47 insurance policy that would take effect during the
48 hurricane season; amending s. 627.43141, F.S.;
49 clarifying provisions relating to changing policy
50 terms in a renewal policy; creating s. 627.6011, F.S.;
51 providing that mandatory health benefits apply only to
52 certain health benefit plans; amending s. 627.7015,
53 F.S.; revising provisions relating to alternative
54 procedures for the resolution of disputed property
55 insurance claims; amending s. 627.7295, F.S.;
56 clarifying provisions relating to cancellation for

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57 nonpayment of premiums for motor vehicle insurance;
58 allowing the cancellation of such policies under
59 certain circumstances; amending s. 627.736, F.S.;
60 specifying the interest rate applicable to the accrual
61 of interest on overdue payments of personal injury
62 protection benefits; providing an effective date.

63
64 Be It Enacted by the Legislature of the State of Florida:

65
66 Section 1. Subsection (3) of section 320.27, Florida
67 Statutes, is amended to read:

68 320.27 Motor vehicle dealers.—

69 (3) APPLICATION AND FEE.—The application for the license
70 shall be in such form as may be prescribed by the department and
71 shall be subject to such rules with respect thereto as may be so
72 prescribed by it. Such application shall be verified by oath or
73 affirmation and shall contain a full statement of the name and
74 birth date of the person or persons applying therefor; the name
75 of the firm or copartnership, with the names and places of
76 residence of all members thereof, if such applicant is a firm or
77 copartnership; the names and places of residence of the
78 principal officers, if the applicant is a body corporate or
79 other artificial body; the name of the state under whose laws
80 the corporation is organized; the present and former place or
81 places of residence of the applicant; and prior business in
82 which the applicant has been engaged and the location thereof.
83 Such application shall describe the exact location of the place
84 of business and shall state whether the place of business is

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owned by the applicant and when acquired, or, if leased, a true copy of the lease shall be attached to the application. The applicant shall certify that the location provides an adequately equipped office and is not a residence; that the location affords sufficient unoccupied space upon and within which adequately to store all motor vehicles offered and displayed for sale; and that the location is a suitable place where the applicant can in good faith carry on such business and keep and maintain books, records, and files necessary to conduct such business, which will be available at all reasonable hours to inspection by the department or any of its inspectors or other employees. The applicant shall certify that the business of a motor vehicle dealer is the principal business which shall be conducted at that location. Such application shall contain a statement that the applicant is either franchised by a manufacturer of motor vehicles, in which case the name of each motor vehicle that the applicant is franchised to sell shall be included, or an independent (nonfranchised) motor vehicle dealer. Such application shall contain such other relevant information as may be required by the department, including evidence that the applicant is insured under a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy, which shall include, at a minimum, \$25,000 combined single-limit liability coverage including bodily injury and property damage protection and \$10,000 personal injury protection. A salvage motor vehicle dealer is exempt from having to carry garage liability insurance coverage or personal injury protection insurance coverage on any

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113 vehicle that has been issued a certificate of destruction if the
114 vehicle may not be legally operated on the roads, highways, or
115 streets of this state. Franchise dealers must submit a garage
116 liability insurance policy, and all other dealers must submit a
117 garage liability insurance policy or a general liability
118 insurance policy coupled with a business automobile policy. Such
119 policy shall be for the license period, and evidence of a new or
120 continued policy shall be delivered to the department at the
121 beginning of each license period. Upon making initial
122 application, the applicant shall pay to the department a fee of
123 \$300 in addition to any other fees now required by law; upon
124 making a subsequent renewal application, the applicant shall pay
125 to the department a fee of \$75 in addition to any other fees now
126 required by law. Upon making an application for a change of
127 location, the person shall pay a fee of \$50 in addition to any
128 other fees now required by law. The department shall, in the
129 case of every application for initial licensure, verify whether
130 certain facts set forth in the application are true. Each
131 applicant, general partner in the case of a partnership, or
132 corporate officer and director in the case of a corporate
133 applicant, must file a set of fingerprints with the department
134 for the purpose of determining any prior criminal record or any
135 outstanding warrants. The department shall submit the
136 fingerprints to the Department of Law Enforcement for state
137 processing and forwarding to the Federal Bureau of Investigation
138 for federal processing. The actual cost of state and federal
139 processing shall be borne by the applicant and is in addition to
140 the fee for licensure. The department may issue a license to an

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applicant pending the results of the fingerprint investigation, which license is fully revocable if the department subsequently determines that any facts set forth in the application are not true or correctly represented.

Section 2. Paragraph (b) of subsection (9) of section 624.501, Florida Statutes, is amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.—The department, commission, or office, as appropriate, shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

(9)

(b) For all limited appointments as agent, as provided ~~for~~ in s. 626.321(1)(c) and (d) ~~626.321(1)(d)~~, the agent's original appointment and biennial renewal or continuation thereof for each insurer is ~~shall be~~ equal to the number of offices, branch offices, or places of business covered by the license multiplied by the fees set forth in paragraph (a).

Section 3. Paragraph (c) of subsection (11) of section 624.610, Florida Statutes, is amended to read:

624.610 Reinsurance.—

(11)

(c) This subsection applies to cessions of directly written risk or loss. This subsection does not apply to contracts of facultative reinsurance or to any ceding insurer that has a with surplus as to policyholders which ~~that~~ exceeds \$100 million as of the immediately preceding December 31. A ~~Additionally, any~~ ceding insurer otherwise subject to this

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169 section which had ~~with~~ less than \$500,000 in direct premiums
170 written in this state during the preceding calendar year and no
171 more than \$250,000 in direct premiums written in this state
172 during the preceding calendar quarter, or which had ~~with~~ less
173 than 1,000 policyholders at the end of the preceding calendar
174 year, is exempt from ~~the requirements of~~ this subsection.
175 ~~However, any ceding insurer otherwise subject to this section~~
176 ~~with more than \$250,000 in direct premiums written in this state~~
177 ~~during the preceding calendar quarter is not exempt from the~~
178 ~~requirements of this subsection.~~

179 Section 4. Subsection (5) is added to section 626.261,
180 Florida Statutes, to read:

181 626.261 Conduct of examination.—

182 (5) The department may provide licensure examinations in
183 Spanish. Applicants requesting examination or reexamination in
184 Spanish must bear the estimated cost of the Spanish-language
185 examination. The department's estimated cost for each
186 examination must be prorated among the applicants based on the
187 estimated number of applicants requesting the Spanish-language
188 examination. When determining whether it is in the public
189 interest to allow the examination to be translated into and
190 administered in Spanish within a particular county, the
191 department shall consider the percentage of the population
192 within the county who speak Spanish.

193 Section 5. Paragraph (c) of subsection (1) of section
194 626.321, Florida Statutes, is amended to read:

195 626.321 Limited licenses.—

196 (1) The department shall issue to a qualified individual,

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197 or a qualified individual or entity under paragraphs (c), (d),
198 (e), and (i), a license as agent authorized to transact a
199 limited class of business in any of the following categories:

200 (c) Travel insurance.—License covering only policies and
201 certificates of travel insurance, which are subject to review by
202 the office ~~under s. 624.605(1)(g)~~. Policies and certificates of
203 travel insurance may provide coverage for risks incidental to
204 travel, planned travel, or accommodations while traveling,
205 including, but not limited to, accidental death and
206 dismemberment of a traveler; trip or event cancellation,
207 interruption, or delay; loss of or damage to personal effects or
208 travel documents; damages to travel accommodations; baggage
209 delay; emergency medical travel or evacuation of a traveler; or
210 medical, surgical, and hospital expenses related to an illness
211 or emergency of a traveler. ~~Any~~ Such policy or certificate may
212 be issued for terms longer than 90 ~~60~~ days, but ~~each policy or~~
213 ~~certificate~~, other than a policy or certificate providing
214 coverage for air ambulatory services only, each policy or
215 certificate must be limited to coverage for travel or use of
216 accommodations of no longer than 90 ~~60~~ days. The license may be
217 issued only:

218 1. To a full-time salaried employee of a common carrier or
219 a full-time salaried employee or owner of a transportation
220 ticket agency and may authorize the sale of such ticket policies
221 only in connection with the sale of transportation tickets, or
222 to the full-time salaried employee of such an agent. ~~No~~ Such
223 policy may not ~~shall~~ be for a ~~duration of~~ more than 48 hours or
224 more than ~~for~~ the duration of a specified one-way trip or round

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trip.

2. To an entity or individual that is:

a. The developer of a timeshare plan that is the subject of an approved public offering statement under chapter 721;

b. An exchange company operating an exchange program approved under chapter 721;

c. A managing entity operating a timeshare plan approved under chapter 721;

d. A seller of travel as defined in chapter 559; or

e. A subsidiary or affiliate of any of the entities described in sub-subparagraphs a.-d.

A licensee shall require each individual ~~employee~~ who offers policies or certificates under this subparagraph to receive initial training from a general lines agent or an insurer authorized under chapter 624 to transact insurance within this state. For an entity applying for a license as a travel insurance agent, the fingerprinting requirement of this section applies only to the president, secretary, and treasurer and to any other officer or person who directs or controls the travel insurance operations of the entity.

3. To a full-time salaried employee of a licensed general lines agent or to a business entity that offers travel planning services if insurance sales activities authorized by the license are in connection with, and incidental to, travel.

a. A license issued to a business entity that offers travel planning services must encompass each office, branch office, or place of business making use of the entity's business

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253 name in order to offer, solicit, and sell insurance pursuant to
254 this paragraph.

255 b. The application for licensure must list the name,
256 address, and phone number for each office, branch office, or
257 place of business that is to be covered by the license. The
258 licensee shall notify the department of the name, address, and
259 phone number of any new location that is to be covered by the
260 license before the new office, branch office, or place of
261 business engages in the sale of insurance pursuant to this
262 paragraph. The licensee shall notify the department within 30
263 days after the closing or terminating of an office, branch
264 office, or place of business. Upon receipt of the notice, the
265 department shall delete the office, branch office, or place of
266 business from the license.

267 c. A licensed and appointed entity is directly responsible
268 and accountable for all acts of the licensee's employees and
269 parties with whom the licensee has entered into a contractual
270 agreement to offer travel insurance.

271 Section 6. Section 626.8685, Florida Statutes, is created
272 to read:

273 626.8685 Portable electronics insurance claims; exemption;
274 licensure restriction.—

275 (1) This part does not apply to any individual who
276 collects claims information from, or furnishes claims
277 information to, insureds or claimants, and who conducts data
278 entry, including entering data into an automated claims
279 adjudication system, provided that the individual is an employee
280 of a business entity licensed under this chapter, or its

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affiliate, and no more than 25 such persons are under the supervision of one licensed independent adjuster or licensed agent who is exempt from licensure pursuant to s. 626.862. For purposes of this subsection, the term "automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation, and final resolution of portable electronics insurance claims that:

(a) May be used only by a licensed independent adjuster, licensed agent, or supervised individual operating pursuant to this subsection;

(b) Must comply with all claims payment requirements of the insurance code; and

(c) Must be certified as compliant with this subsection by a licensed independent adjuster that is an officer of a licensed business entity under this chapter.

(2) Notwithstanding any other provision of law, a resident of Canada may not be licensed as a nonresident independent adjuster for purposes of adjusting portable electronics insurance claims unless the person has successfully obtained an adjuster's license in another state.

Section 7. Paragraph (b) of subsection (3) of section 626.916, Florida Statutes, is amended to read:

626.916 Eligibility for export.—

(3)

(b) Paragraphs (1)(a)-(d) do not apply to classes of insurance which are subject to s. 627.062(3)(d)1. These classes may be exportable under the following conditions:

1. The insurance must be placed only by or through a

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surplus lines agent licensed in this state;

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

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

Section 8. Subsection (5) of section 627.0629, Florida Statutes, is amended to read:

627.0629 Residential property insurance; rate filings.—

(5) In order to provide an appropriate transition period, an insurer may implement an approved rate filing for residential property insurance over a period of years. Such insurer must provide an informational notice to the office setting out its schedule for implementation of the phased-in rate filing. The insurer may include an adjustment for reinsurance, the costs of financing products used as a replacement for reinsurance, financing costs incurred in the purchase of reinsurance, and the actual cost paid due to the application of the cash build-up factor in accordance with s. 215.555(5) (b) in its rate filing.

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337 The insurer may also include the actual cost of private market
338 reinsurance that corresponds to available coverage of the
339 Temporary Increase in Coverage Limits, (TICL), from the Florida
340 Hurricane Catastrophe Fund as well as. ~~The insurer may also~~
341 ~~include~~ the cost of reinsurance to replace the TICL reduction
342 implemented under ~~pursuant to~~ s. 215.555(17)(d)9. However, the
343 ~~this~~ cost for reinsurance may not ~~include any expense or profit~~
344 ~~load or~~ result in a total annual base rate increase in excess of
345 10 percent.

346 Section 9. Paragraph (b) of subsection (2) of section
347 627.351, Florida Statutes, is amended to read:

348 627.351 Insurance risk apportionment plans.—

349 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

350 (b) The department shall require all insurers holding a
351 certificate of authority to transact property insurance on a
352 direct basis in this state, other than joint underwriting
353 associations and other entities formed pursuant to this section,
354 to provide windstorm coverage to applicants from areas
355 determined to be eligible pursuant to paragraph (c) who in good
356 faith are entitled to, but are unable to procure, such coverage
357 through ordinary means; or it shall adopt a reasonable plan or
358 plans for the equitable apportionment or sharing among such
359 insurers of windstorm coverage, which may include formation of
360 an association for this purpose. As used in this subsection, the
361 term "property insurance" means insurance on real or personal
362 property, as defined in s. 624.604, including insurance for
363 fire, industrial fire, allied lines, farmowners multiperil,
364 homeowners' multiperil, commercial multiperil, and mobile homes,

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and including liability coverages on all such insurance, but excluding inland marine as defined in s. 624.607(3) and excluding vehicle insurance as defined in s. 624.605(1)(a) other than insurance on mobile homes used as permanent dwellings. The department shall adopt rules that provide a formula for the recovery and repayment of any deferred assessments.

1. For the purpose of this section, properties eligible for such windstorm coverage are defined as dwellings, buildings, and other structures, including mobile homes which are used as dwellings and which are tied down in compliance with mobile home tie-down requirements prescribed by the Department of Highway Safety and Motor Vehicles pursuant to s. 320.8325, and the contents of all such properties. An applicant or policyholder is eligible for coverage only if an offer of coverage cannot be obtained by or for the applicant or policyholder from an admitted insurer at approved rates.

2.a.(I) All insurers required to be members of such association shall participate in its writings, expenses, and losses. Surplus of the association shall be retained for the payment of claims and shall not be distributed to the member insurers. Such participation by member insurers shall be in the proportion that the net direct premiums of each member insurer written for property insurance in this state during the preceding calendar year bear to the aggregate net direct premiums for property insurance of all member insurers, as reduced by any credits for voluntary writings, in this state during the preceding calendar year. For the purposes of this subsection, the term "net direct premiums" means direct written

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393 premiums for property insurance, reduced by premium for
394 liability coverage and for the following if included in allied
395 lines: rain and hail on growing crops; livestock; association
396 direct premiums booked; National Flood Insurance Program direct
397 premiums; and similar deductions specifically authorized by the
398 plan of operation and approved by the department. A member's
399 participation shall begin on the first day of the calendar year
400 following the year in which it is issued a certificate of
401 authority to transact property insurance in the state and shall
402 terminate 1 year after the end of the calendar year during which
403 it no longer holds a certificate of authority to transact
404 property insurance in the state. The commissioner, after review
405 of annual statements, other reports, and any other statistics
406 that the commissioner deems necessary, shall certify to the
407 association the aggregate direct premiums written for property
408 insurance in this state by all member insurers.

409 (II) Effective July 1, 2002, the association shall operate
410 subject to the supervision and approval of a board of governors
411 who are the same individuals that have been appointed by the
412 Treasurer to serve on the board of governors of the Citizens
413 Property Insurance Corporation.

414 (III) The plan of operation shall provide a formula
415 whereby a company voluntarily providing windstorm coverage in
416 affected areas will be relieved wholly or partially from
417 apportionment of a regular assessment pursuant to sub-sub-
418 subparagraph d.(I) or sub-sub-subparagraph d.(II).

419 (IV) A company which is a member of a group of companies
420 under common management may elect to have its credits applied on

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421 a group basis, and any company or group may elect to have its
422 credits applied to any other company or group.

423 (V) There shall be no credits or relief from apportionment
424 to a company for emergency assessments collected from its
425 policyholders under sub-sub-subparagraph d.(III).

426 (VI) The plan of operation may also provide for the award
427 of credits, for a period not to exceed 3 years, from a regular
428 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
429 subparagraph d.(II) as an incentive for taking policies out of
430 the Residential Property and Casualty Joint Underwriting
431 Association. In order to qualify for the exemption under this
432 sub-sub-subparagraph, the take-out plan must provide that at
433 least 40 percent of the policies removed from the Residential
434 Property and Casualty Joint Underwriting Association cover risks
435 located in Miami-Dade, Broward, and Palm Beach Counties or at
436 least 30 percent of the policies so removed cover risks located
437 in Miami-Dade, Broward, and Palm Beach Counties and an
438 additional 50 percent of the policies so removed cover risks
439 located in other coastal counties, and must also provide that no
440 more than 15 percent of the policies so removed may exclude
441 windstorm coverage. With the approval of the department, the
442 association may waive these geographic criteria for a take-out
443 plan that removes at least the lesser of 100,000 Residential
444 Property and Casualty Joint Underwriting Association policies or
445 15 percent of the total number of Residential Property and
446 Casualty Joint Underwriting Association policies, provided the
447 governing board of the Residential Property and Casualty Joint
448 Underwriting Association certifies that the take-out plan will

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449 materially reduce the Residential Property and Casualty Joint
450 Underwriting Association's 100-year probable maximum loss from
451 hurricanes. With the approval of the department, the board may
452 extend such credits for an additional year if the insurer
453 guarantees an additional year of renewability for all policies
454 removed from the Residential Property and Casualty Joint
455 Underwriting Association, or for 2 additional years if the
456 insurer guarantees 2 additional years of renewability for all
457 policies removed from the Residential Property and Casualty
458 Joint Underwriting Association.

459 b. Assessments to pay deficits in the association under
460 this subparagraph shall be included as an appropriate factor in
461 the making of rates as provided in s. 627.3512.

462 c. The Legislature finds that the potential for unlimited
463 deficit assessments under this subparagraph may induce insurers
464 to attempt to reduce their writings in the voluntary market, and
465 that such actions would worsen the availability problems that
466 the association was created to remedy. It is the intent of the
467 Legislature that insurers remain fully responsible for paying
468 regular assessments and collecting emergency assessments for any
469 deficits of the association; however, it is also the intent of
470 the Legislature to provide a means by which assessment
471 liabilities may be amortized over a period of years.

472 d.(I) When the deficit incurred in a particular calendar
473 year is 10 percent or less of the aggregate statewide direct
474 written premium for property insurance for the prior calendar
475 year for all member insurers, the association shall levy an
476 assessment on member insurers in an amount equal to the deficit.

477 (II) When the deficit incurred in a particular calendar
478 year exceeds 10 percent of the aggregate statewide direct
479 written premium for property insurance for the prior calendar
480 year for all member insurers, the association shall levy an
481 assessment on member insurers in an amount equal to the greater
482 of 10 percent of the deficit or 10 percent of the aggregate
483 statewide direct written premium for property insurance for the
484 prior calendar year for member insurers. Any remaining deficit
485 shall be recovered through emergency assessments under sub-sub-
486 subparagraph (III).

487 (III) Upon a determination by the board of directors that
488 a deficit exceeds the amount that will be recovered through
489 regular assessments on member insurers, pursuant to sub-sub-
490 subparagraph (I) or sub-sub-subparagraph (II), the board shall
491 levy, after verification by the department, emergency
492 assessments to be collected by member insurers and by
493 underwriting associations created pursuant to this section which
494 write property insurance, upon issuance or renewal of property
495 insurance policies other than National Flood Insurance policies
496 in the year or years following levy of the regular assessments.
497 The amount of the emergency assessment collected in a particular
498 year shall be a uniform percentage of that year's direct written
499 premium for property insurance for all member insurers and
500 underwriting associations, excluding National Flood Insurance
501 policy premiums, as annually determined by the board and
502 verified by the department. The department shall verify the
503 arithmetic calculations involved in the board's determination
504 within 30 days after receipt of the information on which the

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determination was based. Notwithstanding any other provision of law, each member insurer and each underwriting association created pursuant to this section shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. The emergency assessments so collected shall be transferred directly to the association on a periodic basis as determined by the association. The aggregate amount of emergency assessments levied under this sub-sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for property insurance written by member insurers and underwriting associations for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit. The board may pledge the proceeds of the emergency assessments under this sub-sub-subparagraph as the source of revenue for bonds, to retire any other debt incurred as a result of the deficit or events giving rise to the deficit, or in any other way that the board determines will efficiently recover the deficit. The emergency assessments under this sub-sub-subparagraph shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the document governing such bonds or other indebtedness. Emergency

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assessments collected under this sub-sub-subparagraph are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium.

(IV) Each member insurer's share of the total regular assessments under sub-sub-subparagraph (I) or sub-sub-subparagraph (II) shall be in the proportion that the insurer's net direct premium for property insurance in this state, for the year preceding the assessment bears to the aggregate statewide net direct premium for property insurance of all member insurers, as reduced by any credits for voluntary writings for that year.

(V) If regular deficit assessments are made under sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by the Residential Property and Casualty Joint Underwriting Association under sub-subparagraph (6)(b)3.a. or sub-subparagraph (6)(b)3.b., the association shall levy upon the association's policyholders, as part of its next rate filing, or by a separate rate filing solely for this purpose, a market equalization surcharge in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for property insurance for member insurers for the prior calendar year. Market equalization surcharges under this sub-sub-subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

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e. The governing body of any unit of local government, any residents of which are insured under the plan, may issue bonds as defined in s. 125.013 or s. 166.101 to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the association, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue bonds as will provide relief to claimants and policyholders of the association and insurers responsible for apportionment of plan losses. Any such unit of local government may enter into such contracts with the association and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the association from assessments under this

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subparagraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the department shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the department determines that the purchase would endanger or impair the solvency of the insurer. The authority granted by this subparagraph is additional to any bonding authority granted by subparagraph 6.

3. The plan shall also provide that any member with a surplus as to policyholders of \$25 ~~\$20~~ million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the department, within the first 90 days of each calendar year, to qualify as a limited apportionment company. The apportionment of such a member company in any calendar year for which it is qualified shall not exceed its gross participation, which shall not be affected by the formula for voluntary writings. In no event shall a limited apportionment company be required to participate in any apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds

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617 \$50 million after payment of available plan funds in any
618 calendar year. However, a limited apportionment company shall
619 collect from its policyholders any emergency assessment imposed
620 under sub-sub-subparagraph 2.d.(III). The plan shall provide
621 that, if the department determines that any regular assessment
622 will result in an impairment of the surplus of a limited
623 apportionment company, the department may direct that all or
624 part of such assessment be deferred. However, there shall be no
625 limitation or deferment of an emergency assessment to be
626 collected from policyholders under sub-sub-subparagraph
627 2.d.(III).

628 4. The plan shall provide for the deferment, in whole or
629 in part, of a regular assessment of a member insurer under sub-
630 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but
631 not for an emergency assessment collected from policyholders
632 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the
633 commissioner, payment of such regular assessment would endanger
634 or impair the solvency of the member insurer. In the event a
635 regular assessment against a member insurer is deferred in whole
636 or in part, the amount by which such assessment is deferred may
637 be assessed against the other member insurers in a manner
638 consistent with the basis for assessments set forth in sub-sub-
639 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

640 5.a. The plan of operation may include deductibles and
641 rules for classification of risks and rate modifications
642 consistent with the objective of providing and maintaining funds
643 sufficient to pay catastrophe losses.

644 b. It is the intent of the Legislature that the rates for

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645 coverage provided by the association be actuarially sound and
646 not competitive with approved rates charged in the admitted
647 voluntary market such that the association functions as a
648 residual market mechanism to provide insurance only when the
649 insurance cannot be procured in the voluntary market. The plan
650 of operation shall provide a mechanism to assure that, beginning
651 no later than January 1, 1999, the rates charged by the
652 association for each line of business are reflective of approved
653 rates in the voluntary market for hurricane coverage for each
654 line of business in the various areas eligible for association
655 coverage.

656 c. The association shall provide for windstorm coverage on
657 residential properties in limits up to \$10 million for
658 commercial lines residential risks and up to \$1 million for
659 personal lines residential risks. If coverage with the
660 association is sought for a residential risk valued in excess of
661 these limits, coverage shall be available to the risk up to the
662 replacement cost or actual cash value of the property, at the
663 option of the insured, if coverage for the risk cannot be
664 located in the authorized market. The association must accept a
665 commercial lines residential risk with limits above \$10 million
666 or a personal lines residential risk with limits above \$1
667 million if coverage is not available in the authorized market.
668 The association may write coverage above the limits specified in
669 this subparagraph with or without facultative or other
670 reinsurance coverage, as the association determines appropriate.

671 d. The plan of operation must provide objective criteria
672 and procedures, approved by the department, to be uniformly

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applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

(I) Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

(II) Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the association pursuant to such criteria and procedures must be construed as the private placement of insurance, and the provisions of chapter 120 do not apply.

e. If the risk accepts an offer of coverage through the market assistance program or through a mechanism established by the association, either before the policy is issued by the association or during the first 30 days of coverage by the association, and the producing agent who submitted the application to the association is not currently appointed by the insurer, the insurer shall:

(I) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(II) Offer to allow the producing agent of record of the

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701 policy to continue servicing the policy for a period of not less
702 than 1 year and offer to pay the agent the greater of the
703 insurer's or the association's usual and customary commission
704 for the type of policy written.

705
706 If the producing agent is unwilling or unable to accept
707 appointment, the new insurer shall pay the agent in accordance
708 with sub-sub-subparagraph (I). Subject to the provisions of s.
709 627.3517, the policies issued by the association must provide
710 that if the association obtains an offer from an authorized
711 insurer to cover the risk at its approved rates under either a
712 standard policy including wind coverage or, if consistent with
713 the insurer's underwriting rules as filed with the department, a
714 basic policy including wind coverage, the risk is no longer
715 eligible for coverage through the association. Upon termination
716 of eligibility, the association shall provide written notice to
717 the policyholder and agent of record stating that the
718 association policy must be canceled as of 60 days after the date
719 of the notice because of the offer of coverage from an
720 authorized insurer. Other provisions of the insurance code
721 relating to cancellation and notice of cancellation do not apply
722 to actions under this sub-subparagraph.

723 f. When the association enters into a contractual
724 agreement for a take-out plan, the producing agent of record of
725 the association policy is entitled to retain any unearned
726 commission on the policy, and the insurer shall:

727 (I) Pay to the producing agent of record of the
728 association policy, for the first year, an amount that is the

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greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(II) Offer to allow the producing agent of record of the association policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the association's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I).

6.a. The plan of operation may authorize the formation of a private nonprofit corporation, a private nonprofit unincorporated association, a partnership, a trust, a limited liability company, or a nonprofit mutual company which may be empowered, among other things, to borrow money by issuing bonds or by incurring other indebtedness and to accumulate reserves or funds to be used for the payment of insured catastrophe losses. The plan may authorize all actions necessary to facilitate the issuance of bonds, including the pledging of assessments or other revenues.

b. Any entity created under this subsection, or any entity formed for the purposes of this subsection, may sue and be sued, may borrow money; issue bonds, notes, or debt instruments; pledge or sell assessments, market equalization surcharges and other surcharges, rights, premiums, contractual rights, projected recoveries from the Florida Hurricane Catastrophe

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757 Fund, other reinsurance recoverables, and other assets as
758 security for such bonds, notes, or debt instruments; enter into
759 any contracts or agreements necessary or proper to accomplish
760 such borrowings; and take other actions necessary to carry out
761 the purposes of this subsection. The association may issue bonds
762 or incur other indebtedness, or have bonds issued on its behalf
763 by a unit of local government pursuant to subparagraph (6)(q)2.,
764 in the absence of a hurricane or other weather-related event,
765 upon a determination by the association subject to approval by
766 the department that such action would enable it to efficiently
767 meet the financial obligations of the association and that such
768 financings are reasonably necessary to effectuate the
769 requirements of this subsection. Any such entity may accumulate
770 reserves and retain surpluses as of the end of any association
771 year to provide for the payment of losses incurred by the
772 association during that year or any future year. The association
773 shall incorporate and continue the plan of operation and
774 articles of agreement in effect on the effective date of chapter
775 76-96, Laws of Florida, to the extent that it is not
776 inconsistent with chapter 76-96, and as subsequently modified
777 consistent with chapter 76-96. The board of directors and
778 officers currently serving shall continue to serve until their
779 successors are duly qualified as provided under the plan. The
780 assets and obligations of the plan in effect immediately prior
781 to the effective date of chapter 76-96 shall be construed to be
782 the assets and obligations of the successor plan created herein.

783 c. In recognition of s. 10, Art. I of the State
784 Constitution, prohibiting the impairment of obligations of

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785 contracts, it is the intent of the Legislature that no action be
786 taken whose purpose is to impair any bond indenture or financing
787 agreement or any revenue source committed by contract to such
788 bond or other indebtedness issued or incurred by the association
789 or any other entity created under this subsection.

790 7. On such coverage, an agent's remuneration shall be that
791 amount of money payable to the agent by the terms of his or her
792 contract with the company with which the business is placed.
793 However, no commission will be paid on that portion of the
794 premium which is in excess of the standard premium of that
795 company.

796 8. Subject to approval by the department, the association
797 may establish different eligibility requirements and operational
798 procedures for any line or type of coverage for any specified
799 eligible area or portion of an eligible area if the board
800 determines that such changes to the eligibility requirements and
801 operational procedures are justified due to the voluntary market
802 being sufficiently stable and competitive in such area or for
803 such line or type of coverage and that consumers who, in good
804 faith, are unable to obtain insurance through the voluntary
805 market through ordinary methods would continue to have access to
806 coverage from the association. When coverage is sought in
807 connection with a real property transfer, such requirements and
808 procedures shall not provide for an effective date of coverage
809 later than the date of the closing of the transfer as
810 established by the transferor, the transferee, and, if
811 applicable, the lender.

812 9. Notwithstanding any other provision of law:

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813 a. The pledge or sale of, the lien upon, and the security
814 interest in any rights, revenues, or other assets of the
815 association created or purported to be created pursuant to any
816 financing documents to secure any bonds or other indebtedness of
817 the association shall be and remain valid and enforceable,
818 notwithstanding the commencement of and during the continuation
819 of, and after, any rehabilitation, insolvency, liquidation,
820 bankruptcy, receivership, conservatorship, reorganization, or
821 similar proceeding against the association under the laws of
822 this state or any other applicable laws.

823 b. No such proceeding shall relieve the association of its
824 obligation, or otherwise affect its ability to perform its
825 obligation, to continue to collect, or levy and collect,
826 assessments, market equalization or other surcharges, projected
827 recoveries from the Florida Hurricane Catastrophe Fund,
828 reinsurance recoverables, or any other rights, revenues, or
829 other assets of the association pledged.

830 c. Each such pledge or sale of, lien upon, and security
831 interest in, including the priority of such pledge, lien, or
832 security interest, any such assessments, emergency assessments,
833 market equalization or renewal surcharges, projected recoveries
834 from the Florida Hurricane Catastrophe Fund, reinsurance
835 recoverables, or other rights, revenues, or other assets which
836 are collected, or levied and collected, after the commencement
837 of and during the pendency of or after any such proceeding shall
838 continue unaffected by such proceeding.

839 d. As used in this subsection, the term "financing
840 documents" means any agreement, instrument, or other document

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841 now existing or hereafter created evidencing any bonds or other
842 indebtedness of the association or pursuant to which any such
843 bonds or other indebtedness has been or may be issued and
844 pursuant to which any rights, revenues, or other assets of the
845 association are pledged or sold to secure the repayment of such
846 bonds or indebtedness, together with the payment of interest on
847 such bonds or such indebtedness, or the payment of any other
848 obligation of the association related to such bonds or
849 indebtedness.

850 e. Any such pledge or sale of assessments, revenues,
851 contract rights or other rights or assets of the association
852 shall constitute a lien and security interest, or sale, as the
853 case may be, that is immediately effective and attaches to such
854 assessments, revenues, contract, or other rights or assets,
855 whether or not imposed or collected at the time the pledge or
856 sale is made. Any such pledge or sale is effective, valid,
857 binding, and enforceable against the association or other entity
858 making such pledge or sale, and valid and binding against and
859 superior to any competing claims or obligations owed to any
860 other person or entity, including policyholders in this state,
861 asserting rights in any such assessments, revenues, contract, or
862 other rights or assets to the extent set forth in and in
863 accordance with the terms of the pledge or sale contained in the
864 applicable financing documents, whether or not any such person
865 or entity has notice of such pledge or sale and without the need
866 for any physical delivery, recordation, filing, or other action.

867 f. There shall be no liability on the part of, and no
868 cause of action of any nature shall arise against, any member

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insurer or its agents or employees, agents or employees of the association, members of the board of directors of the association, or the department or its representatives, for any action taken by them in the performance of their duties or responsibilities under this subsection. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance, or any willful tort.

Section 10. Paragraph (b) of subsection (2) of section 627.4133, Florida Statutes, is amended to read:

627.4133 Notice of cancellation, nonrenewal, or renewal premium.—

(2) With respect to any personal lines or commercial residential property insurance policy, including, but not limited to, any homeowner's, mobile home owner's, farmowner's, condominium association, condominium unit owner's, apartment building, or other policy covering a residential structure or its contents:

(b) The insurer shall give the first-named insured written notice of nonrenewal, cancellation, or termination at least 120 ~~100~~ days before the effective date of the nonrenewal, cancellation, or termination. ~~However, the insurer shall give at least 100 days' written notice, or written notice by June 1, whichever is earlier, for any nonrenewal, cancellation, or termination that would be effective between June 1 and November 30.~~ The notice must include the ~~reason or~~ reasons for the nonrenewal, cancellation, or termination, except that:

1. The insurer must ~~shall~~ give the first-named insured written notice of nonrenewal, cancellation, or termination at

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897 least 120 days before ~~prior to~~ the effective date of the
898 nonrenewal, cancellation, or termination for a first-named
899 insured whose residential structure has been insured by that
900 insurer or an affiliated insurer for at least the 5 years before
901 ~~a 5-year period immediately prior to~~ the date of the written
902 notice.

903 2. If cancellation is for nonpayment of premium, at least
904 10 days' written notice of cancellation accompanied by the
905 reason therefor must be given. As used in this subparagraph, the
906 term "nonpayment of premium" means failure of the named insured
907 to discharge when due her or his obligations for ~~in connection~~
908 ~~with~~ the payment of premiums on a policy or any installment of
909 such premium, whether the premium is payable directly to the
910 insurer or its agent or indirectly under any premium finance
911 plan or extension of credit, or failure to maintain membership
912 in an organization if such membership is a condition precedent
913 to insurance coverage. The term also means the failure of a
914 financial institution to honor an insurance applicant's check
915 after delivery to a licensed agent for payment of a premium,
916 even if the agent has previously delivered or transferred the
917 premium to the insurer. If a dishonored check represents the
918 initial premium payment, the contract and all contractual
919 obligations are void ab initio unless the nonpayment is cured
920 within the earlier of 5 days after actual notice by certified
921 mail is received by the applicant or 15 days after notice is
922 sent to the applicant by certified mail or registered mail, ~~and~~
923 If the contract is void, any premium received by the insurer
924 from a third party must be refunded to that party in full.

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925 3. If ~~such~~ cancellation or termination occurs during the
926 first 90 days the insurance is in force and the insurance is
927 canceled or terminated for reasons other than nonpayment of
928 premium, at least 20 days' written notice of cancellation or
929 termination accompanied by the reason therefor must be given
930 unless there has been a material misstatement or
931 misrepresentation or failure to comply with the underwriting
932 requirements established by the insurer.

933 4. The requirement for providing written notice by June 1
934 of any nonrenewal that would be effective between June 1 and
935 November 30 does not apply to the following situations, but the
936 insurer remains subject to the requirement to provide such
937 notice at least 100 days before the effective date of
938 nonrenewal:

939 a. A policy that is nonrenewed due to a revision in the
940 coverage for sinkhole losses and catastrophic ground cover
941 collapse pursuant to s. 627.706.

942 b. A policy that is nonrenewed by Citizens Property
943 Insurance Corporation, pursuant to s. 627.351(6), for a policy
944 that has been assumed by an authorized insurer offering
945 replacement coverage to the policyholder is exempt from the
946 notice requirements of paragraph (a) and this paragraph. In such
947 cases, the corporation must give the named insured written
948 notice of nonrenewal at least 45 days before the effective date
949 of the nonrenewal.

950
951 After the policy has been in effect for 90 days, the policy may
952 not be canceled by the insurer unless there has been a material

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misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days after the date of effectuation of coverage, or a substantial change in the risk covered by the policy or if the cancellation is for all insureds under such policies for a given class of insureds. This paragraph does not apply to individually rated risks having a policy term of less than 90 days.

5. Notwithstanding any other provision of law, an insurer may cancel or nonrenew a property insurance policy after at least 45 days' notice if the office finds that the early cancellation of some or all of the insurer's policies is necessary to protect the best interests of the public or policyholders and the office approves the insurer's plan for early cancellation or nonrenewal of some or all of its policies. The office may base such finding upon the financial condition of the insurer, lack of adequate reinsurance coverage for hurricane risk, or other relevant factors. The office may condition its finding on the consent of the insurer to be placed under administrative supervision pursuant to s. 624.81 or to the appointment of a receiver under chapter 631.

6. A policy covering both a home and motor vehicle may be nonrenewed for any reason applicable to ~~either~~ the property or motor vehicle insurance after providing 90 days' notice.

Section 11. Subsection (2) of section 627.43141, Florida Statutes, is amended to read:

627.43141 Notice of change in policy terms.—

(2) Notwithstanding any other provision of law, a renewal policy may contain a change in policy terms. If a renewal policy

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contains ~~does contain~~ such change, the insurer must give the named insured written notice of the change, which must be enclosed along with the written notice of renewal premium required under ~~by~~ ss. 627.4133 and 627.728. Such notice shall be entitled "Notice of Change in Policy Terms."

Section 12. Section 627.6011, Florida Statutes, is created to read:

627.6011 Mandated coverages.—Mandatory health benefits regulated under this chapter which must be covered by an insurer are intended to apply only to the type of health benefit plan defined in s. 627.6699(3), issued in any market, unless specifically designated otherwise. For purposes of this section, the term "mandatory health benefits" mean those benefits set forth in ss. 627.6401-627.64193 and any cross-references to these sections, and any other mandatory treatment or health coverages or benefits enacted on or after July 1, 2012.

Section 13. Subsections (1), (2), (7), and (9) of section 627.7015, Florida Statutes, are amended to read:

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

(1) ~~PURPOSE AND SCOPE.—~~This section sets forth a nonadversarial alternative dispute resolution procedure for a mediated claim resolution conference prompted by the need for effective, fair, and timely handling of property insurance claims. There is a particular need for an informal, nonthreatening forum for helping parties who elect this procedure to resolve their claims disputes because most homeowner's and commercial residential insurance policies

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obligate policyholders ~~insureds~~ to participate in a potentially expensive and time-consuming adversarial appraisal process before ~~prior to~~ litigation. The procedure set forth in this section is designed to bring the parties together for a mediated claims settlement conference without any of the trappings or drawbacks of an adversarial process. Before resorting to these procedures, policyholders ~~insureds~~ and insurers are encouraged to resolve claims as quickly and fairly as possible. This section is available with respect to claims under personal lines and commercial residential policies before ~~for all claimants and insurers prior to~~ commencing the appraisal process, or before commencing litigation. Mediation may be requested only by the policyholder, as a first-party claimant, or the insurer. If requested by the policyholder ~~insured~~, participation by legal counsel is ~~shall be~~ permitted. Mediation under this section is also available to litigants referred to the department by a county court or circuit court. This section does not apply to commercial coverages, to private passenger motor vehicle insurance coverages, or to disputes relating to liability coverages in policies of property insurance.

(2) At the time a first-party claim within the scope of this section is filed by the policyholder, the insurer shall notify the policyholder ~~all first-party claimants~~ of its ~~their~~ right to participate in the mediation program under this section. The department shall prepare a consumer information pamphlet for distribution to persons participating in mediation ~~under this section.~~

(7) If the insurer fails to comply with subsection (2) by

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1037 failing to notify a policyholder ~~first-party claimant~~ of its
1038 right to participate in the mediation program under this section
1039 or if the insurer requests the mediation, and the mediation
1040 results are rejected by either party, the policyholder is
1041 ~~insured shall~~ not be required to submit to or participate in any
1042 contractual loss appraisal process of the property loss damage
1043 as a precondition to legal action for breach of contract against
1044 the insurer for its failure to pay the policyholder's claims
1045 covered by the policy.

1046 (9) For purposes of this section, the term "claim" refers
1047 to any dispute between an insurer and a policyholder ~~an insured~~
1048 relating to a material issue of fact other than a dispute:

1049 (a) With respect to which the insurer has a reasonable
1050 basis to suspect fraud;

1051 (b) Where, based on agreed-upon facts as to the cause of
1052 loss, there is no coverage under the policy;

1053 (c) With respect to which the insurer has a reasonable
1054 basis to believe that the policyholder ~~claimant~~ has
1055 intentionally made a material misrepresentation of fact which is
1056 relevant to the claim, and the entire request for payment of a
1057 loss has been denied on the basis of the material
1058 misrepresentation; ~~or~~

1059 (d) With respect to which the amount in controversy is
1060 less than \$500, unless the parties agree to mediate a dispute
1061 involving a lesser amount; or.

1062 (e) Where the notice of loss is reported to the insurer
1063 more than 36 months after the declaration of a state of
1064 emergency by the Governor in response to a hurricane that makes

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landfall in this state.

Section 14. Subsection (4) of section 627.7295, Florida Statutes, is amended to read:

627.7295 Motor vehicle insurance contracts.—

(4) ~~If subsection (7) does not apply,~~ The insurer may cancel the policy in accordance with this code except that, notwithstanding s. 627.728, an insurer may not cancel a new policy or binder during the first 60 days immediately following the effective date of the policy or binder ~~except~~ for nonpayment of premium unless the reason for the cancellation is the issuance of a check for the premium that is dishonored for any reason or any other type of premium payment that was subsequently determined to be rejected or invalid.

Section 15. Paragraph (d) of subsection (4) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.—

(4) BENEFITS; WHEN DUE.—Benefits due from an insurer under ss. 627.730-627.7405 shall be primary, except that benefits received under any workers' compensation law shall be credited against the benefits provided by subsection (1) and shall be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730-627.7405. When the Agency for Health Care Administration provides, pays, or becomes liable for medical assistance under the Medicaid program related to injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle, benefits

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1093 under ss. 627.730-627.7405 shall be subject to the provisions of
1094 the Medicaid program.

1095 (d) All overdue payments shall bear simple interest fixed
1096 at the rate established under s. 55.03 or the rate established
1097 in the insurance contract, whichever is greater, in effect on
1098 the date ~~for the year in which~~ the payment became overdue,
1099 calculated from the date the insurer was furnished with written
1100 notice of the amount of covered loss. Interest shall be due at
1101 the time payment of the overdue claim is made.

1102 Section 16. This act shall take effect July 1, 2012.