

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 costs to be paid by applicants who request
13 examinations in Spanish; providing a requirement with
14 respect to whether an examination in Spanish should be
15 allowed; amending s. 626.321, F.S.; revising
16 provisions relating to limited licenses for travel
17 insurance; providing that a full-time salaried
18 employee of a licensed general lines agent or a
19 business entity that offers travel planning services
20 may be issued such license under certain
21 circumstances; amending s. 626.753, F.S.; specifying
22 circumstances constituting an unlawful rebate for crop
23 hail or multiple-peril crop insurance; providing that
24 agents engaging in commission sharing with certain
25 associations under specified circumstances are
26 participating in a commission sharing violation;
27 providing penalties; creating s. 626.8685, F.S.;
28 exempting certain employees who conduct data entry

29 from licensure as insurance adjusters under certain
30 circumstances; defining the term "automated claims
31 adjudication system" with respect to application of
32 such exemption; prohibiting residents of Canada from
33 licensure as nonresident independent adjusters under
34 certain circumstances; amending s. 626.916, F.S.;
35 revising the disclosure statement signed by an insured
36 placing coverage in the surplus lines market; amending
37 s. 626.9541, F.S.; providing that specified acts
38 constituting an unlawful rebate under certain
39 circumstances meet the definition of unfair methods of
40 competition and unfair or deceptive acts or practices;
41 amending s. 627.351, F.S.; increasing the amount of
42 surplus as to policyholders that certain insurers who
43 are members of a plan to equitably apportion or share
44 windstorm coverage may have in order to petition the
45 Department of Financial Services to qualify as a
46 limited apportionment company; amending s. 627.7015,
47 F.S.; revising provisions relating to alternative
48 procedures for the resolution of disputed property
49 insurance claims; amending s. 627.706, F.S.; providing
50 for renewal of property insurance policies maintaining
51 sinkhole coverage; amending s. 627.7295, F.S.;
52 clarifying provisions relating to cancellation for
53 nonpayment of premiums for motor vehicle insurance;
54 allowing the cancellation of such policies under
55 certain circumstances; amending s. 627.736, F.S.;
56 specifying the interest rate applicable to the accrual

CS/HB 1101

2012

57 of interest on overdue payments of personal injury
58 protection benefits; providing effective dates.

59
60 Be It Enacted by the Legislature of the State of Florida:

61
62 Section 1. Subsection (3) of section 320.27, Florida
63 Statutes, is amended to read:

64 320.27 Motor vehicle dealers.—

65 (3) APPLICATION AND FEE.—The application for the license
66 shall be in such form as may be prescribed by the department and
67 shall be subject to such rules with respect thereto as may be so
68 prescribed by it. Such application shall be verified by oath or
69 affirmation and shall contain a full statement of the name and
70 birth date of the person or persons applying therefor; the name
71 of the firm or copartnership, with the names and places of
72 residence of all members thereof, if such applicant is a firm or
73 copartnership; the names and places of residence of the
74 principal officers, if the applicant is a body corporate or
75 other artificial body; the name of the state under whose laws
76 the corporation is organized; the present and former place or
77 places of residence of the applicant; and prior business in
78 which the applicant has been engaged and the location thereof.
79 Such application shall describe the exact location of the place
80 of business and shall state whether the place of business is
81 owned by the applicant and when acquired, or, if leased, a true
82 copy of the lease shall be attached to the application. The
83 applicant shall certify that the location provides an adequately
84 equipped office and is not a residence; that the location

CS/HB 1101

2012

85 affords sufficient unoccupied space upon and within which
86 adequately to store all motor vehicles offered and displayed for
87 sale; and that the location is a suitable place where the
88 applicant can in good faith carry on such business and keep and
89 maintain books, records, and files necessary to conduct such
90 business, which will be available at all reasonable hours to
91 inspection by the department or any of its inspectors or other
92 employees. The applicant shall certify that the business of a
93 motor vehicle dealer is the principal business which shall be
94 conducted at that location. Such application shall contain a
95 statement that the applicant is either franchised by a
96 manufacturer of motor vehicles, in which case the name of each
97 motor vehicle that the applicant is franchised to sell shall be
98 included, or an independent (nonfranchised) motor vehicle
99 dealer. Such application shall contain such other relevant
100 information as may be required by the department, including
101 evidence that the applicant is insured under a garage liability
102 insurance policy or a general liability insurance policy coupled
103 with a business automobile policy, which shall include, at a
104 minimum, \$25,000 combined single-limit liability coverage
105 including bodily injury and property damage protection and
106 \$10,000 personal injury protection. However, a salvage motor
107 vehicle dealer as defined in subparagraph (1)(c)5. is exempt
108 from the requirements for garage liability insurance and
109 personal injury protection insurance on those vehicles that have
110 been issued a certificate of destruction and cannot be operated
111 legally on state roads, highways, or streets. Franchise dealers
112 must submit a garage liability insurance policy, and all other

CS/HB 1101

2012

dealers must submit a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy. Such policy shall be for the license period, and evidence of a new or continued policy shall be delivered to the department at the beginning of each license period. Upon making initial application, the applicant shall pay to the department a fee of \$300 in addition to any other fees now required by law; upon making a subsequent renewal application, the applicant shall pay to the department a fee of \$75 in addition to any other fees now required by law. Upon making an application for a change of location, the person shall pay a fee of \$50 in addition to any other fees now required by law. The department shall, in the case of every application for initial licensure, verify whether certain facts set forth in the application are true. Each applicant, general partner in the case of a partnership, or corporate officer and director in the case of a corporate applicant, must file a set of fingerprints with the department for the purpose of determining any prior criminal record or any outstanding warrants. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and forwarding to the Federal Bureau of Investigation for federal processing. The actual cost of state and federal processing shall be borne by the applicant and is in addition to the fee for licensure. The department may issue a license to an 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.

CS/HB 1101

2012

141 Section 2. Paragraph (b) of subsection (9) of section
142 624.501, Florida Statutes, is amended to read:

143 624.501 Filing, license, appointment, and miscellaneous
144 fees.—The department, commission, or office, as appropriate,
145 shall collect in advance, and persons so served shall pay to it
146 in advance, fees, licenses, and miscellaneous charges as
147 follows:

148 (9)

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

155 Section 3. Paragraph (c) of subsection (11) of section
156 624.610, Florida Statutes, is amended to read:

157 624.610 Reinsurance.—

158 (11)

159 (c) This subsection applies to cessions of directly
160 written risk or loss. This subsection does not apply to
161 contracts of facultative reinsurance or to any ceding insurer
162 that has a with surplus as to policyholders which ~~that~~ exceeds
163 \$100 million as of the immediately preceding December 31. A
164 ~~Additionally, any~~ ceding insurer otherwise subject to this
165 section which had with less than \$500,000 in direct premiums
166 written in this state during the preceding calendar year and no
167 more than \$250,000 in direct premiums written in this state
168 during the preceding calendar quarter, and which had fewer or

CS/HB 1101

2012

169 ~~with less than 1,000 policyholders at the end of the preceding~~
170 ~~calendar year, is exempt from the requirements of this~~
171 ~~subsection. However, any ceding insurer otherwise subject to~~
172 ~~this section with more than \$250,000 in direct premiums written~~
173 ~~in this state during the preceding calendar quarter is not~~
174 ~~exempt from the requirements of this subsection.~~

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

177 626.261 Conduct of examination.—

178 (5) The department may provide licensure examinations in
179 Spanish. Applicants requesting examination or reexamination in
180 Spanish must bear the full cost of the department's development,
181 preparation, administration, grading, and evaluation of the
182 Spanish-language examination. When determining whether it is in
183 the public interest to allow the examination to be translated
184 into and administered in Spanish, the department shall consider
185 the percentage of the population who speak Spanish.

186 Section 5. Paragraph (c) of subsection (1) of section
187 626.321, Florida Statutes, is amended to read:

188 626.321 Limited licenses.—

189 (1) The department shall issue to a qualified individual,
190 or a qualified individual or entity under paragraphs (c), (d),
191 (e), and (i), a license as agent authorized to transact a
192 limited class of business in any of the following categories:

193 (c) Travel insurance.—License covering only policies and
194 certificates of travel insurance, which are subject to review by
195 the office ~~under s. 624.605(1)(g)~~. Policies and certificates of
196 travel insurance may provide coverage for risks incidental to

CS/HB 1101

2012

197 travel, planned travel, or accommodations while traveling,
198 including, but not limited to, accidental death and
199 dismemberment of a traveler; trip or event cancellation,
200 interruption, or delay; loss of or damage to personal effects or
201 travel documents; damages to travel accommodations; baggage
202 delay; emergency medical travel or evacuation of a traveler; or
203 medical, surgical, and hospital expenses related to an illness
204 or emergency of a traveler. ~~Any~~ Such policy or certificate may
205 be issued for terms longer than 90 ~~60~~ days, but ~~each policy or~~
206 ~~certificate~~, other than a policy or certificate providing
207 coverage for air ambulatory services only, each policy or
208 certificate must be limited to coverage for travel or use of
209 accommodations of no longer than 90 ~~60~~ days. The license may be
210 issued only:

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

219 2. To an entity or individual that is:

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

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

224 c. A managing entity operating a timeshare plan approved

CS/HB 1101

2012

225 under chapter 721;

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

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

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

233 a. A license issued to a business entity that offers
234 travel planning services must encompass each office, branch
235 office, or place of business making use of the entity's business
236 name in order to offer, solicit, and sell insurance pursuant to
237 this paragraph.

238 b. The application for licensure must list the name,
239 address, and phone number for each office, branch office, or
240 place of business that is to be covered by the license. The
241 licensee shall notify the department of the name, address, and
242 phone number of any new location that is to be covered by the
243 license before the new office, branch office, or place of
244 business engages in the sale of insurance pursuant to this
245 paragraph. The licensee shall notify the department within 30
246 days after the closing or terminating of an office, branch
247 office, or place of business. Upon receipt of the notice, the
248 department shall delete the office, branch office, or place of
249 business from the license.

250 c. A licensed and appointed entity is directly responsible
251 and accountable for all acts of the licensee's employees and
252 parties with whom the licensee has entered into a contractual

CS/HB 1101

2012

253 agreement to offer travel insurance.

254
255 A licensee shall require each individual ~~employee~~ who offers
256 policies or certificates under this subparagraph to receive
257 initial training from a general lines agent or an insurer
258 authorized under chapter 624 to transact insurance within this
259 state. For an entity applying for a license as a travel
260 insurance agent, the fingerprinting requirement of this section
261 applies only to the president, secretary, and treasurer and to
262 any other officer or person who directs or controls the travel
263 insurance operations of the entity.

264 Section 6. Subsection (3) of section 626.753, Florida
265 Statutes, is amended to read:

266 626.753 Sharing commissions; penalty.—

267 (3)(a) A general lines agent may share commissions derived
268 from the sale of crop hail or multiple-peril crop insurance with
269 a production credit association organized under 12 U.S.C.A. ss.
270 2071-2077 or a federal land bank association organized under
271 U.S.C.A. ss. 2091-2098 if the association has specifically
272 approved the insurance activity by its employees. The amount of
273 commission to be shared shall be determined by the general lines
274 agent and the company paying the commission.

275 (b) Any patronage dividend or other payment, discount, or
276 credit provided to a member of a production credit association
277 or federal land bank association, which dividend, payment,
278 discount, or credit is directly or indirectly calculated on the
279 basis of the premium charged to that member for crop hail or
280 multiple-peril crop insurance, constitutes an unlawful rebate in

CS/HB 1101

2012

violation of ss. 626.572 and 626.9541(1)(h).

(c) Any agent who engages in commission sharing with a production credit association or federal land bank association, with the knowledge that the association provides patronage dividends or other payments, discounts, or credits that constitute unlawful rebates as described in this subsection, is deemed to be participating in the violation of this section.

Section 7. Section 626.8685, Florida Statutes, is created to read:

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

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

CS/HB 1101

2012

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 8. 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 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,

CS/HB 1101

2012

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 9. Paragraph (h) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

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

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

(h) Unlawful rebates.—

1. Except as otherwise expressly provided by law, or in an applicable filing with the office, knowingly:

a. Permitting, or offering to make, or making, any contract or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon;

b. Paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance contract, any unlawful rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract;

c. Giving, selling, or purchasing, or offering to give, sell, or purchase, as inducement to such insurance contract or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or

365 anything of value whatsoever not specified in the insurance
366 contract.

367 2. Nothing in paragraph (g) or subparagraph 1. of this
368 paragraph shall be construed as including within the definition
369 of discrimination or unlawful rebates:

370 a. In the case of any contract of life insurance or life
371 annuity, paying bonuses to all policyholders or otherwise
372 abating their premiums in whole or in part out of surplus
373 accumulated from nonparticipating insurance; provided that any
374 such bonuses or abatement of premiums is fair and equitable to
375 all policyholders and for the best interests of the company and
376 its policyholders.

377 b. In the case of life insurance policies issued on the
378 industrial debit plan, making allowance to policyholders who
379 have continuously for a specified period made premium payments
380 directly to an office of the insurer in an amount which fairly
381 represents the saving in collection expenses.

382 c. Readjustment of the rate of premium for a group
383 insurance policy based on the loss or expense thereunder, at the
384 end of the first or any subsequent policy year of insurance
385 thereunder, which may be made retroactive only for such policy
386 year.

387 d. Issuance of life insurance policies or annuity
388 contracts at rates less than the usual rates of premiums for
389 such policies or contracts, as group insurance or employee
390 insurance as defined in this code.

391 e. Issuing life or disability insurance policies on a
392 salary savings, bank draft, preauthorized check, payroll

CS/HB 1101

2012

deduction, or other similar plan at a reduced rate reasonably related to the savings made by the use of such plan.

3.a. No title insurer, or any member, employee, attorney, agent, or agency thereof, shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as inducement to title insurance, or after such insurance has been effected, any rebate or abatement of the premium or any other charge or fee, or provide any special favor or advantage, or any monetary consideration or inducement whatever.

b. Nothing in this subparagraph shall be construed as prohibiting the payment of fees to attorneys at law duly licensed to practice law in the courts of this state, for professional services, or as prohibiting the payment of earned portions of the premium to duly appointed agents or agencies who actually perform services for the title insurer. Nothing in this subparagraph shall be construed as prohibiting a rebate or abatement of an attorney ~~attorney's~~ fee charged for professional services, or that portion of the premium that is not required to be retained by the insurer pursuant to s. 627.782(1), or any other agent charge or fee to the person responsible for paying the premium, charge, or fee.

c. No insured named in a policy, or any other person directly or indirectly connected with the transaction involving the issuance of such policy, including, but not limited to, any mortgage broker, real estate broker, builder, or attorney, any employee, agent, agency, or representative thereof, or any other person whatsoever, shall knowingly receive or accept, directly or indirectly, any rebate or abatement of any portion of the

CS/HB 1101

2012

421 title insurance premium or of any other charge or fee or any
422 monetary consideration or inducement whatsoever, except as set
423 forth in sub-subparagraph b.; provided, in no event shall any
424 portion of the attorney ~~attorney's~~ fee, any portion of the
425 premium that is not required to be retained by the insurer
426 pursuant to s. 627.782(1), any agent charge or fee, or any other
427 monetary consideration or inducement be paid directly or
428 indirectly for the referral of title insurance business.

429 4. Providing a patronage dividend or other payment,
430 discount, or credit to a member of a production credit
431 association organized under 12 U.S.C.A. ss. 2071-2077 or a
432 federal land bank association organized under 12 U.S.C.A. ss.
433 2091-2098 constitutes an unlawful rebate if the dividend or
434 other payment, discount, or credit is directly or indirectly
435 calculated on the basis of the premium charged to that member
436 for crop hail or multiple-peril crop insurance.

437 Section 10. Paragraph (b) of subsection (2) of section
438 627.351, Florida Statutes, is amended to read:

439 627.351 Insurance risk apportionment plans.—

440 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

441 (b) The department shall require all insurers holding a
442 certificate of authority to transact property insurance on a
443 direct basis in this state, other than joint underwriting
444 associations and other entities formed pursuant to this section,
445 to provide windstorm coverage to applicants from areas
446 determined to be eligible pursuant to paragraph (c) who in good
447 faith are entitled to, but are unable to procure, such coverage
448 through ordinary means; or it shall adopt a reasonable plan or

449 plans for the equitable apportionment or sharing among such
450 insurers of windstorm coverage, which may include formation of
451 an association for this purpose. As used in this subsection, the
452 term "property insurance" means insurance on real or personal
453 property, as defined in s. 624.604, including insurance for
454 fire, industrial fire, allied lines, farmowners multiperil,
455 homeowners' multiperil, commercial multiperil, and mobile homes,
456 and including liability coverages on all such insurance, but
457 excluding inland marine as defined in s. 624.607(3) and
458 excluding vehicle insurance as defined in s. 624.605(1)(a) other
459 than insurance on mobile homes used as permanent dwellings. The
460 department shall adopt rules that provide a formula for the
461 recovery and repayment of any deferred assessments.

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

472 2.a.(I) All insurers required to be members of such
473 association shall participate in its writings, expenses, and
474 losses. Surplus of the association shall be retained for the
475 payment of claims and shall not be distributed to the member
476 insurers. Such participation by member insurers shall be in the

CS/HB 1101

2012

477 proportion that the net direct premiums of each member insurer
478 written for property insurance in this state during the
479 preceding calendar year bear to the aggregate net direct
480 premiums for property insurance of all member insurers, as
481 reduced by any credits for voluntary writings, in this state
482 during the preceding calendar year. For the purposes of this
483 subsection, the term "net direct premiums" means direct written
484 premiums for property insurance, reduced by premium for
485 liability coverage and for the following if included in allied
486 lines: rain and hail on growing crops; livestock; association
487 direct premiums booked; National Flood Insurance Program direct
488 premiums; and similar deductions specifically authorized by the
489 plan of operation and approved by the department. A member's
490 participation shall begin on the first day of the calendar year
491 following the year in which it is issued a certificate of
492 authority to transact property insurance in the state and shall
493 terminate 1 year after the end of the calendar year during which
494 it no longer holds a certificate of authority to transact
495 property insurance in the state. The commissioner, after review
496 of annual statements, other reports, and any other statistics
497 that the commissioner deems necessary, shall certify to the
498 association the aggregate direct premiums written for property
499 insurance in this state by all member insurers.

500 (II) Effective July 1, 2002, the association shall operate
501 subject to the supervision and approval of a board of governors
502 who are the same individuals that have been appointed by the
503 Treasurer to serve on the board of governors of the Citizens
504 Property Insurance Corporation.

505 (III) The plan of operation shall provide a formula
506 whereby a company voluntarily providing windstorm coverage in
507 affected areas will be relieved wholly or partially from
508 apportionment of a regular assessment pursuant to sub-sub-
509 subparagraph d.(I) or sub-sub-subparagraph d.(II).

510 (IV) A company which is a member of a group of companies
511 under common management may elect to have its credits applied on
512 a group basis, and any company or group may elect to have its
513 credits applied to any other company or group.

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

517 (VI) The plan of operation may also provide for the award
518 of credits, for a period not to exceed 3 years, from a regular
519 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
520 subparagraph d.(II) as an incentive for taking policies out of
521 the Residential Property and Casualty Joint Underwriting
522 Association. In order to qualify for the exemption under this
523 sub-sub-subparagraph, the take-out plan must provide that at
524 least 40 percent of the policies removed from the Residential
525 Property and Casualty Joint Underwriting Association cover risks
526 located in Miami-Dade, Broward, and Palm Beach Counties or at
527 least 30 percent of the policies so removed cover risks located
528 in Miami-Dade, Broward, and Palm Beach Counties and an
529 additional 50 percent of the policies so removed cover risks
530 located in other coastal counties, and must also provide that no
531 more than 15 percent of the policies so removed may exclude
532 windstorm coverage. With the approval of the department, the

CS/HB 1101

2012

533 association may waive these geographic criteria for a take-out
534 plan that removes at least the lesser of 100,000 Residential
535 Property and Casualty Joint Underwriting Association policies or
536 15 percent of the total number of Residential Property and
537 Casualty Joint Underwriting Association policies, provided the
538 governing board of the Residential Property and Casualty Joint
539 Underwriting Association certifies that the take-out plan will
540 materially reduce the Residential Property and Casualty Joint
541 Underwriting Association's 100-year probable maximum loss from
542 hurricanes. With the approval of the department, the board may
543 extend such credits for an additional year if the insurer
544 guarantees an additional year of renewability for all policies
545 removed from the Residential Property and Casualty Joint
546 Underwriting Association, or for 2 additional years if the
547 insurer guarantees 2 additional years of renewability for all
548 policies removed from the Residential Property and Casualty
549 Joint Underwriting Association.

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

553 c. The Legislature finds that the potential for unlimited
554 deficit assessments under this subparagraph may induce insurers
555 to attempt to reduce their writings in the voluntary market, and
556 that such actions would worsen the availability problems that
557 the association was created to remedy. It is the intent of the
558 Legislature that insurers remain fully responsible for paying
559 regular assessments and collecting emergency assessments for any
560 deficits of the association; however, it is also the intent of

CS/HB 1101

2012

the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.

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

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

(III) Upon a determination by the board of directors that a deficit exceeds the amount that will be recovered through regular assessments on member insurers, pursuant to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the board shall levy, after verification by the department, emergency assessments to be collected by member insurers and by underwriting associations created pursuant to this section which write property insurance, upon issuance or renewal of property insurance policies other than National Flood Insurance policies in the year or years following levy of the regular assessments. The amount of the emergency assessment collected in a particular

CS/HB 1101

2012

589 year shall be a uniform percentage of that year's direct written
590 premium for property insurance for all member insurers and
591 underwriting associations, excluding National Flood Insurance
592 policy premiums, as annually determined by the board and
593 verified by the department. The department shall verify the
594 arithmetic calculations involved in the board's determination
595 within 30 days after receipt of the information on which the
596 determination was based. Notwithstanding any other provision of
597 law, each member insurer and each underwriting association
598 created pursuant to this section shall collect emergency
599 assessments from its policyholders without such obligation being
600 affected by any credit, limitation, exemption, or deferment. The
601 emergency assessments so collected shall be transferred directly
602 to the association on a periodic basis as determined by the
603 association. The aggregate amount of emergency assessments
604 levied under this sub-sub-subparagraph in any calendar year may
605 not exceed the greater of 10 percent of the amount needed to
606 cover the original deficit, plus interest, fees, commissions,
607 required reserves, and other costs associated with financing of
608 the original deficit, or 10 percent of the aggregate statewide
609 direct written premium for property insurance written by member
610 insurers and underwriting associations for the prior year, plus
611 interest, fees, commissions, required reserves, and other costs
612 associated with financing the original deficit. The board may
613 pledge the proceeds of the emergency assessments under this sub-
614 sub-subparagraph as the source of revenue for bonds, to retire
615 any other debt incurred as a result of the deficit or events
616 giving rise to the deficit, or in any other way that the board

CS/HB 1101

2012

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 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

CS/HB 1101

2012

645 regular assessments divided by the aggregate statewide direct
646 written premium for property insurance for member insurers for
647 the prior calendar year. Market equalization surcharges under
648 this sub-sub-subparagraph are not considered premium and are not
649 subject to commissions, fees, or premium taxes; however, failure
650 to pay a market equalization surcharge shall be treated as
651 failure to pay premium.

652 e. The governing body of any unit of local government, any
653 residents of which are insured under the plan, may issue bonds
654 as defined in s. 125.013 or s. 166.101 to fund an assistance
655 program, in conjunction with the association, for the purpose of
656 defraying deficits of the association. In order to avoid
657 needless and indiscriminate proliferation, duplication, and
658 fragmentation of such assistance programs, any unit of local
659 government, any residents of which are insured by the
660 association, may provide for the payment of losses, regardless
661 of whether or not the losses occurred within or outside of the
662 territorial jurisdiction of the local government. Revenue bonds
663 may not be issued until validated pursuant to chapter 75, unless
664 a state of emergency is declared by executive order or
665 proclamation of the Governor pursuant to s. 252.36 making such
666 findings as are necessary to determine that it is in the best
667 interests of, and necessary for, the protection of the public
668 health, safety, and general welfare of residents of this state
669 and the protection and preservation of the economic stability of
670 insurers operating in this state, and declaring it an essential
671 public purpose to permit certain municipalities or counties to
672 issue bonds as will provide relief to claimants and

CS/HB 1101

2012

673 policyholders of the association and insurers responsible for
674 apportionment of plan losses. Any such unit of local government
675 may enter into such contracts with the association and with any
676 other entity created pursuant to this subsection as are
677 necessary to carry out this paragraph. Any bonds issued under
678 this sub-subparagraph shall be payable from and secured by
679 moneys received by the association from assessments under this
680 subparagraph, and assigned and pledged to or on behalf of the
681 unit of local government for the benefit of the holders of such
682 bonds. The funds, credit, property, and taxing power of the
683 state or of the unit of local government shall not be pledged
684 for the payment of such bonds. If any of the bonds remain unsold
685 60 days after issuance, the department shall require all
686 insurers subject to assessment to purchase the bonds, which
687 shall be treated as admitted assets; each insurer shall be
688 required to purchase that percentage of the unsold portion of
689 the bond issue that equals the insurer's relative share of
690 assessment liability under this subsection. An insurer shall not
691 be required to purchase the bonds to the extent that the
692 department determines that the purchase would endanger or impair
693 the solvency of the insurer. The authority granted by this sub-
694 subparagraph is additional to any bonding authority granted by
695 subparagraph 6.

696 3. The plan shall also provide that any member with a
697 surplus as to policyholders of \$25 ~~\$20~~ million or less writing
698 25 percent or more of its total countrywide property insurance
699 premiums in this state may petition the department, within the
700 first 90 days of each calendar year, to qualify as a limited

CS/HB 1101

2012

701 apportionment company. The apportionment of such a member
702 company in any calendar year for which it is qualified shall not
703 exceed its gross participation, which shall not be affected by
704 the formula for voluntary writings. In no event shall a limited
705 apportionment company be required to participate in any
706 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
707 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
708 \$50 million after payment of available plan funds in any
709 calendar year. However, a limited apportionment company shall
710 collect from its policyholders any emergency assessment imposed
711 under sub-sub-subparagraph 2.d.(III). The plan shall provide
712 that, if the department determines that any regular assessment
713 will result in an impairment of the surplus of a limited
714 apportionment company, the department may direct that all or
715 part of such assessment be deferred. However, there shall be no
716 limitation or deferment of an emergency assessment to be
717 collected from policyholders under sub-sub-subparagraph
718 2.d.(III).

719 4. The plan shall provide for the deferment, in whole or
720 in part, of a regular assessment of a member insurer under sub-
721 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but
722 not for an emergency assessment collected from policyholders
723 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the
724 commissioner, payment of such regular assessment would endanger
725 or impair the solvency of the member insurer. In the event a
726 regular assessment against a member insurer is deferred in whole
727 or in part, the amount by which such assessment is deferred may
728 be assessed against the other member insurers in a manner

CS/HB 1101

2012

729 consistent with the basis for assessments set forth in sub-sub-
730 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

731 5.a. The plan of operation may include deductibles and
732 rules for classification of risks and rate modifications
733 consistent with the objective of providing and maintaining funds
734 sufficient to pay catastrophe losses.

735 b. It is the intent of the Legislature that the rates for
736 coverage provided by the association be actuarially sound and
737 not competitive with approved rates charged in the admitted
738 voluntary market such that the association functions as a
739 residual market mechanism to provide insurance only when the
740 insurance cannot be procured in the voluntary market. The plan
741 of operation shall provide a mechanism to assure that, beginning
742 no later than January 1, 1999, the rates charged by the
743 association for each line of business are reflective of approved
744 rates in the voluntary market for hurricane coverage for each
745 line of business in the various areas eligible for association
746 coverage.

747 c. The association shall provide for windstorm coverage on
748 residential properties in limits up to \$10 million for
749 commercial lines residential risks and up to \$1 million for
750 personal lines residential risks. If coverage with the
751 association is sought for a residential risk valued in excess of
752 these limits, coverage shall be available to the risk up to the
753 replacement cost or actual cash value of the property, at the
754 option of the insured, if coverage for the risk cannot be
755 located in the authorized market. The association must accept a
756 commercial lines residential risk with limits above \$10 million

757 or a personal lines residential risk with limits above \$1
758 million if coverage is not available in the authorized market.
759 The association may write coverage above the limits specified in
760 this subparagraph with or without facultative or other
761 reinsurance coverage, as the association determines appropriate.

762 d. The plan of operation must provide objective criteria
763 and procedures, approved by the department, to be uniformly
764 applied for all applicants in determining whether an individual
765 risk is so hazardous as to be uninsurable. In making this
766 determination and in establishing the criteria and procedures,
767 the following shall be considered:

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

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

774
775 The acceptance or rejection of a risk by the association
776 pursuant to such criteria and procedures must be construed as
777 the private placement of insurance, and the provisions of
778 chapter 120 do not apply.

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

CS/HB 1101

2012

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 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). Subject to the provisions of s. 627.3517, the policies issued by the association must provide that if the association obtains an offer from an authorized insurer to cover the risk at its approved rates under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the department, a basic policy including wind coverage, the risk is no longer eligible for coverage through the association. Upon termination of eligibility, the association shall provide written notice to the policyholder and agent of record stating that the association policy must be canceled as of 60 days after the date of the notice because of the offer of coverage from an authorized insurer. Other provisions of the insurance code relating to cancellation and notice of cancellation do not apply

CS/HB 1101

2012

to actions under this sub-subparagraph.

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

(I) Pay to the producing agent of record of the association 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 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

CS/HB 1101

2012

841 other revenues.

842 b. Any entity created under this subsection, or any entity
843 formed for the purposes of this subsection, may sue and be sued,
844 may borrow money; issue bonds, notes, or debt instruments;
845 pledge or sell assessments, market equalization surcharges and
846 other surcharges, rights, premiums, contractual rights,
847 projected recoveries from the Florida Hurricane Catastrophe
848 Fund, other reinsurance recoverables, and other assets as
849 security for such bonds, notes, or debt instruments; enter into
850 any contracts or agreements necessary or proper to accomplish
851 such borrowings; and take other actions necessary to carry out
852 the purposes of this subsection. The association may issue bonds
853 or incur other indebtedness, or have bonds issued on its behalf
854 by a unit of local government pursuant to subparagraph (6)(q)2.,
855 in the absence of a hurricane or other weather-related event,
856 upon a determination by the association subject to approval by
857 the department that such action would enable it to efficiently
858 meet the financial obligations of the association and that such
859 financings are reasonably necessary to effectuate the
860 requirements of this subsection. Any such entity may accumulate
861 reserves and retain surpluses as of the end of any association
862 year to provide for the payment of losses incurred by the
863 association during that year or any future year. The association
864 shall incorporate and continue the plan of operation and
865 articles of agreement in effect on the effective date of chapter
866 76-96, Laws of Florida, to the extent that it is not
867 inconsistent with chapter 76-96, and as subsequently modified
868 consistent with chapter 76-96. The board of directors and

CS/HB 1101

2012

869 officers currently serving shall continue to serve until their
870 successors are duly qualified as provided under the plan. The
871 assets and obligations of the plan in effect immediately prior
872 to the effective date of chapter 76-96 shall be construed to be
873 the assets and obligations of the successor plan created herein.

874 c. In recognition of s. 10, Art. I of the State
875 Constitution, prohibiting the impairment of obligations of
876 contracts, it is the intent of the Legislature that no action be
877 taken whose purpose is to impair any bond indenture or financing
878 agreement or any revenue source committed by contract to such
879 bond or other indebtedness issued or incurred by the association
880 or any other entity created under this subsection.

881 7. On such coverage, an agent's remuneration shall be that
882 amount of money payable to the agent by the terms of his or her
883 contract with the company with which the business is placed.
884 However, no commission will be paid on that portion of the
885 premium which is in excess of the standard premium of that
886 company.

887 8. Subject to approval by the department, the association
888 may establish different eligibility requirements and operational
889 procedures for any line or type of coverage for any specified
890 eligible area or portion of an eligible area if the board
891 determines that such changes to the eligibility requirements and
892 operational procedures are justified due to the voluntary market
893 being sufficiently stable and competitive in such area or for
894 such line or type of coverage and that consumers who, in good
895 faith, are unable to obtain insurance through the voluntary
896 market through ordinary methods would continue to have access to

CS/HB 1101

2012

897 coverage from the association. When coverage is sought in
898 connection with a real property transfer, such requirements and
899 procedures shall not provide for an effective date of coverage
900 later than the date of the closing of the transfer as
901 established by the transferor, the transferee, and, if
902 applicable, the lender.

903 9. Notwithstanding any other provision of law:

904 a. The pledge or sale of, the lien upon, and the security
905 interest in any rights, revenues, or other assets of the
906 association created or purported to be created pursuant to any
907 financing documents to secure any bonds or other indebtedness of
908 the association shall be and remain valid and enforceable,
909 notwithstanding the commencement of and during the continuation
910 of, and after, any rehabilitation, insolvency, liquidation,
911 bankruptcy, receivership, conservatorship, reorganization, or
912 similar proceeding against the association under the laws of
913 this state or any other applicable laws.

914 b. No such proceeding shall relieve the association of its
915 obligation, or otherwise affect its ability to perform its
916 obligation, to continue to collect, or levy and collect,
917 assessments, market equalization or other surcharges, projected
918 recoveries from the Florida Hurricane Catastrophe Fund,
919 reinsurance recoverables, or any other rights, revenues, or
920 other assets of the association pledged.

921 c. Each such pledge or sale of, lien upon, and security
922 interest in, including the priority of such pledge, lien, or
923 security interest, any such assessments, emergency assessments,
924 market equalization or renewal surcharges, projected recoveries

CS/HB 1101

2012

925 from the Florida Hurricane Catastrophe Fund, reinsurance
926 recoverables, or other rights, revenues, or other assets which
927 are collected, or levied and collected, after the commencement
928 of and during the pendency of or after any such proceeding shall
929 continue unaffected by such proceeding.

930 d. As used in this subsection, the term "financing
931 documents" means any agreement, instrument, or other document
932 now existing or hereafter created evidencing any bonds or other
933 indebtedness of the association or pursuant to which any such
934 bonds or other indebtedness has been or may be issued and
935 pursuant to which any rights, revenues, or other assets of the
936 association are pledged or sold to secure the repayment of such
937 bonds or indebtedness, together with the payment of interest on
938 such bonds or such indebtedness, or the payment of any other
939 obligation of the association related to such bonds or
940 indebtedness.

941 e. Any such pledge or sale of assessments, revenues,
942 contract rights or other rights or assets of the association
943 shall constitute a lien and security interest, or sale, as the
944 case may be, that is immediately effective and attaches to such
945 assessments, revenues, contract, or other rights or assets,
946 whether or not imposed or collected at the time the pledge or
947 sale is made. Any such pledge or sale is effective, valid,
948 binding, and enforceable against the association or other entity
949 making such pledge or sale, and valid and binding against and
950 superior to any competing claims or obligations owed to any
951 other person or entity, including policyholders in this state,
952 asserting rights in any such assessments, revenues, contract, or

CS/HB 1101

2012

953 other rights or assets to the extent set forth in and in
954 accordance with the terms of the pledge or sale contained in the
955 applicable financing documents, whether or not any such person
956 or entity has notice of such pledge or sale and without the need
957 for any physical delivery, recordation, filing, or other action.

958 f. There shall be no liability on the part of, and no
959 cause of action of any nature shall arise against, any member
960 insurer or its agents or employees, agents or employees of the
961 association, members of the board of directors of the
962 association, or the department or its representatives, for any
963 action taken by them in the performance of their duties or
964 responsibilities under this subsection. Such immunity does not
965 apply to actions for breach of any contract or agreement
966 pertaining to insurance, or any willful tort.

967 Section 11. Subsections (1), (2), (7), and (9) of section
968 627.7015, Florida Statutes, are amended to read:

969 627.7015 Alternative procedure for resolution of disputed
970 property insurance claims.—

971 (1) ~~PURPOSE AND SCOPE.~~ This section sets forth a
972 nonadversarial alternative dispute resolution procedure for a
973 mediated claim resolution conference prompted by the need for
974 effective, fair, and timely handling of property insurance
975 claims. There is a particular need for an informal,
976 nonthreatening forum for helping parties who elect this
977 procedure to resolve their claims disputes because most
978 homeowner's and commercial residential insurance policies
979 obligate policyholders ~~insureds~~ to participate in a potentially
980 expensive and time-consuming adversarial appraisal process

CS/HB 1101

2012

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

999 (2) At the time a first-party claim within the scope of
1000 this section is filed by the policyholder, the insurer shall
1001 notify the policyholder ~~all first-party claimants~~ of its ~~their~~
1002 right to participate in the mediation program under this
1003 section. The department shall prepare a consumer information
1004 pamphlet for distribution to persons participating in mediation
1005 ~~under this section.~~

1006 (7) If the insurer fails to comply with subsection (2) by
1007 failing to notify a policyholder ~~first-party claimant~~ of its
1008 right to participate in the mediation program under this section

CS/HB 1101

2012

1009 or if the insurer requests the mediation, and the mediation
1010 results are rejected by either party, the policyholder is
1011 ~~insured shall not be~~ required to submit to or participate in any
1012 contractual loss appraisal process of the property loss damage
1013 as a precondition to legal action for breach of contract against
1014 the insurer for its failure to pay the policyholder's claims
1015 covered by the policy.

1016 (9) For purposes of this section, the term "claim" refers
1017 to any dispute between an insurer and a policyholder ~~an insured~~
1018 relating to a material issue of fact other than a dispute:

1019 (a) With respect to which the insurer has a reasonable
1020 basis to suspect fraud;

1021 (b) Where, based on agreed-upon facts as to the cause of
1022 loss, there is no coverage under the policy;

1023 (c) With respect to which the insurer has a reasonable
1024 basis to believe that the policyholder ~~claimant~~ has
1025 intentionally made a material misrepresentation of fact which is
1026 relevant to the claim, and the entire request for payment of a
1027 loss has been denied on the basis of the material
1028 misrepresentation; ~~or~~

1029 (d) With respect to which the amount in controversy is
1030 less than \$500, unless the parties agree to mediate a dispute
1031 involving a lesser amount; or.

1032 (e) Where the notice of loss is reported to the insurer
1033 more than 36 months after the declaration of a state of
1034 emergency by the Governor in response to a hurricane that makes
1035 landfall in this state.

1036 Section 12. Subsection (4) of section 627.706, Florida

CS/HB 1101

2012

Statutes, is amended to read:

627.706 Sinkhole insurance; catastrophic ground cover collapse; definitions.—

(4) An insurer offering sinkhole coverage to policyholders before or after the adoption of s. 30, chapter 2007-1, Laws of Florida, may renew pursuant to s. 627.43141 or nonrenew the policies of policyholders maintaining sinkhole coverage, at the option of the insurer, and provide an offer of coverage or renewal that includes catastrophic ground cover collapse and excludes sinkhole coverage. Insurers acting in accordance with this subsection are subject to the following requirements:

(a) Policyholders must be notified that the renewal or a nonrenewal is for purposes of removing sinkhole coverage, and that the policyholder is being offered a policy that provides coverage for catastrophic ground cover collapse.

(b) Policyholders must be provided an actuarially reasonable premium credit or discount for the removal of sinkhole coverage and provision of only catastrophic ground cover collapse.

(c) Subject to the provisions of this subsection and the insurer's approved underwriting or insurability guidelines, the insurer shall provide each policyholder with the opportunity to purchase an endorsement to his or her policy providing sinkhole coverage and may require an inspection of the property before issuance of a sinkhole coverage endorsement.

(d) Section 624.4305 does not apply to nonrenewal notices issued pursuant to this subsection.

Section 13. Effective upon this act becoming a law,

CS/HB 1101

2012

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 14. Effective upon this act becoming a law, 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

CS/HB 1101

2012

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 at the
1096 rate established under s. 55.03 or the rate established in the
1097 insurance contract, whichever is greater, for the quarter ~~year~~
1098 in which the payment became overdue, calculated from the date
1099 the insurer was furnished with written notice of the amount of
1100 covered loss. Interest shall be due at the time payment of the
1101 overdue claim is made.

1102 Section 15. Except as otherwise expressly provided in this
1103 act, this act shall take effect July 1, 2012.