

1 A bill to be entitled
2 An act relating to insurance; amending s. 624.155,
3 F.S.; revising the circumstances under which civil
4 actions against insurers are prohibited; amending s.
5 626.914, F.S.; revising the definition of the term
6 "diligent effort," as used in the Surplus Lines Law;
7 amending s. 626.9541, F.S.; providing construction;
8 amending s. 627.0655, F.S.; revising the circumstances
9 under which certain insurance premium discounts are
10 authorized; amending s. 627.311, F.S.; requiring
11 dividends or premium refunds to be retained by a joint
12 underwriting plan under certain circumstances;
13 amending s. 627.351, F.S.; lowering the maximum tax
14 rate increase that the Citizens Property Insurance
15 Corporation implements in Monroe County; providing an
16 expiration date; amending s. 627.428, F.S.; limiting
17 attorney fees awarded in judgments against insurers;
18 amending s. 627.4555, F.S.; requiring notification of
19 lapse in life insurance coverage to be sent to
20 policyowners' agents under certain circumstances;
21 amending s. 627.7015, F.S.; revising the periods of
22 time when property insurers must notify policyholders
23 of certain mediation programs; amending s. 627.739,
24 F.S.; specifying the provisions on personal injury
25 protection deductibles related to medical benefits;

26 providing an effective date.

27

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

29

30 Section 1. Paragraph (d) of subsection (3) of section
 31 624.155, Florida Statutes, is amended, and subsection (1) of
 32 that section is republished, to read:

33 624.155 Civil remedy.—

34 (1) Any person may bring a civil action against an insurer
 35 when such person is damaged:

36 (a) By a violation of any of the following provisions by
 37 the insurer:

- 38 1. Section 626.9541(1) (i), (o), or (x);
- 39 2. Section 626.9551;
- 40 3. Section 626.9705;
- 41 4. Section 626.9706;
- 42 5. Section 626.9707; or
- 43 6. Section 627.7283.

44 (b) By the commission of any of the following acts by the
 45 insurer:

- 46 1. Not attempting in good faith to settle claims when,
 47 under all the circumstances, it could and should have done so,
 48 had it acted fairly and honestly toward its insured and with due
 49 regard for her or his interests;
- 50 2. Making claims payments to insureds or beneficiaries not

51 accompanied by a statement setting forth the coverage under
 52 which payments are being made; or

53 3. Except as to liability coverages, failing to promptly
 54 settle claims, when the obligation to settle a claim has become
 55 reasonably clear, under one portion of the insurance policy
 56 coverage in order to influence settlements under other portions
 57 of the insurance policy coverage.

58
 59 Notwithstanding the provisions of the above to the contrary, a
 60 person pursuing a remedy under this section need not prove that
 61 such act was committed or performed with such frequency as to
 62 indicate a general business practice.

63 (3)

64 (d) No action shall lie if, within 60 days after filing
 65 notice:7

66 1. The damages are paid;

67 2. An appraisal is in process and payment, if required, is
 68 timely made; or

69 3. The circumstances giving rise to the violation are
 70 corrected.

71 Section 2. Subsection (4) of section 626.914, Florida
 72 Statutes, is amended to read:

73 626.914 Definitions.—As used in this Surplus Lines Law,
 74 the term:

75 (4) "Diligent effort" means seeking coverage from and

76 | having been rejected by at least three authorized insurers
77 | currently writing this type of coverage and documenting these
78 | rejections. However, if the residential structure has a dwelling
79 | replacement cost of \$700,000 ~~\$1 million~~ or more, the term means
80 | seeking coverage from and having been rejected by at least one
81 | authorized insurer currently writing this type of coverage and
82 | documenting this rejection.

83 | Section 3. Subsection (5) is added to section 626.9541,
84 | Florida Statutes, to read:

85 | 626.9541 Unfair methods of competition and unfair or
86 | deceptive acts or practices defined.—

87 | (5) LOSS CONTROL AND LOSS MITIGATION.—This section does
88 | not prohibit an insurer or agent from offering or giving to an
89 | insured, for free or at a discounted price, services or other
90 | offerings that relate to loss control or loss mitigation with
91 | respect to the risks covered under the policy.

92 | Section 4. Section 627.0655, Florida Statutes, is amended
93 | to read:

94 | 627.0655 Policyholder loss or expense-related premium
95 | discounts.—An insurer or person authorized to engage in the
96 | business of insurance in this state may include, in the premium
97 | charged an insured for any policy, contract, or certificate of
98 | insurance, a discount based on the fact that another policy,
99 | contract, or certificate of any type has been purchased by the
100 | insured ~~from the same insurer or insurer group, the Citizens~~

101 ~~Property Insurance Corporation created under s. 627.351(6) if~~
102 ~~the same insurance agent is servicing both policies, or an~~
103 ~~insurer that has removed the policy from the Citizens Property~~
104 ~~Insurance Corporation if the same insurance agent is servicing~~
105 ~~both policies.~~

106 Section 5. Paragraph (h) of subsection (5) of section
107 627.311, Florida Statutes, is amended to read:

108 627.311 Joint underwriters and joint reinsurers; public
109 records and public meetings exemptions.—

110 (5)

111 (h) Any premium or assessments collected by the plan in
112 excess of the amount necessary to fund projected ultimate
113 incurred losses and expenses of the plan and not paid to
114 insureds of the plan in conjunction with loss prevention or
115 dividend programs shall be retained by the plan for future use.
116 Any state funds received by the plan in excess of the amount
117 necessary to fund deficits in subplan D or any tier shall be
118 returned to the state. Any dividend or premium refund that
119 cannot be paid to a former insured of the plan because the
120 former insured cannot be reasonably located shall be retained by
121 the plan for future use.

122 Section 6. Paragraph (n) of subsection (6) of section
123 627.351, Florida Statutes, is amended to read:

124 627.351 Insurance risk apportionment plans.—

125 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

126 (n)1. Rates for coverage provided by the corporation must
127 be actuarially sound and subject to s. 627.062, except as
128 otherwise provided in this paragraph. The corporation shall file
129 its recommended rates with the office at least annually. The
130 corporation shall provide any additional information regarding
131 the rates which the office requires. The office shall consider
132 the recommendations of the board and issue a final order
133 establishing the rates for the corporation within 45 days after
134 the recommended rates are filed. The corporation may not pursue
135 an administrative challenge or judicial review of the final
136 order of the office.

137 2. In addition to the rates otherwise determined pursuant
138 to this paragraph, the corporation shall impose and collect an
139 amount equal to the premium tax provided in s. 624.509 to
140 augment the financial resources of the corporation.

141 3. After the public hurricane loss-projection model under
142 s. 627.06281 has been found to be accurate and reliable by the
143 Florida Commission on Hurricane Loss Projection Methodology, the
144 model shall be considered when establishing the windstorm
145 portion of the corporation's rates. The corporation may use the
146 public model results in combination with the results of private
147 models to calculate rates for the windstorm portion of the
148 corporation's rates. This subparagraph does not require or allow
149 the corporation to adopt rates lower than the rates otherwise
150 required or allowed by this paragraph.

151 4. The rate filings for the corporation which were
152 approved by the office and took effect January 1, 2007, are
153 rescinded, except for those rates that were lowered. As soon as
154 possible, the corporation shall begin using the lower rates that
155 were in effect on December 31, 2006, and provide refunds to
156 policyholders who paid higher rates as a result of that rate
157 filing. The rates in effect on December 31, 2006, remain in
158 effect for the 2007 and 2008 calendar years except for any rate
159 change that results in a lower rate. The next rate change that
160 may increase rates shall take effect pursuant to a new rate
161 filing recommended by the corporation and established by the
162 office, subject to this paragraph.

163 5. Beginning on July 15, 2009, and annually thereafter,
164 the corporation must make a recommended actuarially sound rate
165 filing for each personal and commercial line of business it
166 writes, to be effective no earlier than January 1, 2010.

167 ~~6.a.6.~~ Beginning on or after January 1, 2010, and
168 notwithstanding the board's recommended rates and the office's
169 final order regarding the corporation's filed rates under
170 subparagraph 1., the corporation shall annually implement a rate
171 increase which, except for sinkhole coverage, does not exceed 10
172 percent for any single policy issued by the corporation,
173 excluding coverage changes and surcharges.

174 b. Beginning on or after January 1, 2020, and
175 notwithstanding the board's recommended rates and the office's

176 final order regarding the corporation's filed rates under
177 subparagraph 1., the corporation shall annually implement a rate
178 increase which, except for sinkhole coverage, does not exceed 10
179 percent for any single policy issued by the corporation and 5
180 percent for any single policy issued by the corporation to an
181 insured located in Monroe County, excluding coverage changes and
182 surcharges. This sub-subparagraph expires January 1, 2024.

183 7. The corporation may also implement an increase to
184 reflect the effect on the corporation of the cash buildup factor
185 pursuant to s. 215.555(5) (b).

186 8. The corporation's implementation of rates as prescribed
187 in subparagraph 6. shall cease for any line of business written
188 by the corporation upon the corporation's implementation of
189 actuarially sound rates. Thereafter, the corporation shall
190 annually make a recommended actuarially sound rate filing for
191 each commercial and personal line of business the corporation
192 writes.

193 Section 7. Subsection (2) of section 627.428, Florida
194 Statutes, is amended, and subsection (4) is added to that
195 section, to read:

196 627.428 Attorney fees ~~Attorney's fee.~~-

197 (2) As to suits based on claims arising under life
198 insurance policies or annuity contracts, no such attorney
199 ~~attorney's~~ fee shall be allowed if such suit was commenced prior
200 to expiration of 60 days after proof of the claim was duly filed

201 with the insurer.

202 (4) A contingency risk multiplier may not be applied to
 203 attorney fees recovered under this section.

204 Section 8. Section 627.4555, Florida Statutes, is amended
 205 to read:

206 627.4555 Secondary notice.—

207 (1) Except as provided in this section, a contract for
 208 life insurance issued or issued for delivery in this state on or
 209 after October 1, 1997, covering a natural person 64 years of age
 210 or older, which has been in force for at least 1 year, may not
 211 be lapsed for nonpayment of premium unless, after expiration of
 212 the grace period, and at least 21 days before the effective date
 213 of any such lapse, the insurer has mailed a notification of the
 214 impending lapse in coverage to the policyowner and to a
 215 specified secondary addressee if such addressee has been
 216 designated in writing by name and address by the policyowner. An
 217 insurer issuing a life insurance contract on or after October 1,
 218 1997, shall notify the applicant of the right to designate a
 219 secondary addressee at the time of application for the policy,
 220 on a form provided by the insurer, and at any time the policy is
 221 in force, by submitting a written notice to the insurer
 222 containing the name and address of the secondary addressee. For
 223 purposes of any life insurance policy that provides a grace
 224 period of more than 51 days for nonpayment of premiums, the
 225 notice of impending lapse in coverage required by this section

226 must be mailed to the policyowner and the secondary addressee at
 227 least 21 days before the expiration of the grace period provided
 228 in the policy. This section does not apply to any life insurance
 229 contract under which premiums are payable monthly or more
 230 frequently and are regularly collected by a licensed agent or
 231 are paid by credit card or any preauthorized check processing or
 232 automatic debit service of a financial institution.

233 (2) If the policyowner has a life agent, or any agent, of
 234 record, the insurer must also mail or send electronically a copy
 235 of the notification of the impending lapse in coverage required
 236 in subsection (1) to the agent at least 21 days before the
 237 effective date of any such lapse. Receipt of this notice does
 238 not make the agent responsible for any lapse in coverage.

239 Section 9. Subsection (2) of section 627.7015, Florida
 240 Statutes, is amended to read:

241 627.7015 Alternative procedure for resolution of disputed
 242 property insurance claims.—

243 (2) Either at the time a first-party claim within the
 244 scope of this section is filed by the policyholder or at the
 245 time coverage is applied and payment is determined, the insurer
 246 shall notify the policyholder of its right to participate in the
 247 mediation program under this section. The department shall
 248 prepare a consumer information pamphlet for distribution to
 249 persons participating in mediation.

250 Section 10. Subsection (2) of section 627.739, Florida

251 Statutes, is amended to read:

252 627.739 Personal injury protection; optional limitations;
253 deductibles.—

254 (2) Insurers shall offer to each applicant and to each
255 policyholder, upon the renewal of an existing policy,
256 deductibles, in amounts of \$250, \$500, and \$1,000. The
257 deductible amount must be applied to all the benefits in s.
258 627.736, including the medical benefits described in s.
259 627.736(1)(a) 100 percent of the expenses and losses described
260 in s. 627.736. If an insurer has provided notice that it may
261 limit reimbursement based on the schedule of maximum charges
262 authorized under s. 627.736, the amount of medical benefits
263 applicable to the deductible shall be limited to 100 percent of
264 such authorized reimbursement limitation and fee schedules.
265 After the deductible is met, each insured is eligible to receive
266 up to \$10,000 in total benefits described in s. 627.736(1).
267 However, this subsection shall not be applied to reduce the
268 amount of any benefits received in accordance with s.
269 627.736(1)(c).

270 Section 11. This act shall take effect upon becoming a
271 law.