

By the Committee on Banking and Insurance; and Senator Brandes

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1 A bill to be entitled
2 An act relating to insurance; providing a short title;
3 amending s. 215.555, F.S.; revising the reimbursement
4 of loss adjustment expenses by the Florida Hurricane
5 Catastrophe Fund; creating s. 215.55953, F.S.;
6 requiring the Financial Services Commission, by a
7 specified date, to establish a certain uniform loss
8 adjustment expense percentage by rule; specifying
9 information the commission must consider in
10 determining certain incurred expenses; requiring the
11 Office of Insurance Regulation, under certain
12 circumstances, to advise the commission on adopting a
13 new uniform loss adjustment expense percentage;
14 requiring the commission to adopt certain rules under
15 certain circumstances; providing that adopted rules
16 are not subject to requirements for a statement of
17 estimated regulatory costs; amending s. 440.381, F.S.;
18 providing that certain sworn statements in employer
19 applications for workers' compensation insurance
20 coverage are not required to be notarized; amending s.
21 624.155, F.S.; deleting a provision that tolls, under
22 certain circumstances, a period before a civil action
23 against an insurer may be brought; deleting a
24 provision authorizing the Department of Financial
25 Services to return a civil remedy notice for lack of
26 specificity; prohibiting the filing of the notice
27 within a certain timeframe under certain
28 circumstances; amending s. 626.9541, F.S.; providing
29 that provisions relating to unfair methods of

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30 competition and unfair or deceptive insurance acts or
31 practices do not prohibit insurers or agents from
32 offering or giving to insureds certain free or
33 discounted services or offerings relating to loss
34 control or loss mitigation; amending s. 627.0655,
35 F.S.; revising circumstances under which insurers or
36 certain authorized persons may provide certain premium
37 discounts to insureds; amending s. 627.4555, F.S.;
38 requiring life insurers that are required to provide a
39 specified notice to policyowners of an impending lapse
40 in coverage to also notify the policyowner's agent of
41 record within a certain timeframe; providing that the
42 agent is not responsible for any lapse in coverage;
43 exempting the insurer from the requirement under
44 certain circumstances; amending s. 627.7015, F.S.;
45 adding circumstances under which certain property
46 insurers may provide required notice to policyholders
47 of their right to participate in a certain mediation
48 program; providing effective dates.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. This act may be cited as "Omnibus Prime."

53 Section 2. Effective January 1, 2020, paragraph (b) of
54 subsection (4) of section 215.555, Florida Statutes, is amended
55 to read:

56 215.555 Florida Hurricane Catastrophe Fund.—

57 (4) REIMBURSEMENT CONTRACTS.—

58 (b)1. The contract shall contain a promise by the board to

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59 reimburse the insurer for 45 percent, 75 percent, or 90 percent
60 of its losses from each covered event in excess of the insurer's
61 retention, plus, for the purpose of covering loss adjustment
62 expenses, the lesser of 15 percent of the reimbursed losses or
63 the uniform loss adjustment expense percentage adopted pursuant
64 to s. 215.55953 ~~5 percent~~ of the reimbursed losses ~~to cover loss~~
65 ~~adjustment expenses.~~

66 2. The insurer must elect one of the percentage coverage
67 levels specified in this paragraph and may, upon renewal of a
68 reimbursement contract, elect a lower percentage coverage level
69 if no revenue bonds issued under subsection (6) after a covered
70 event are outstanding, or elect a higher percentage coverage
71 level, regardless of whether or not revenue bonds are
72 outstanding. All members of an insurer group must elect the same
73 percentage coverage level. Any joint underwriting association,
74 risk apportionment plan, or other entity created under s.
75 627.351 must elect the 90-percent coverage level.

76 3. The contract shall provide that reimbursement amounts
77 shall not be reduced by reinsurance paid or payable to the
78 insurer from other sources.

79 Section 3. Section 215.55953, Florida Statutes, is created
80 to read:

81 215.55953 Uniform loss adjustment expense percentage.—

82 (1) No later than December 1, 2019, the Financial Services
83 Commission shall establish by rule a uniform loss adjustment
84 expense percentage for the reasonable reimbursement by the
85 Florida Hurricane Catastrophe Fund of loss adjustment expenses
86 incurred in adjusting losses for covered policies under s.
87 215.555. In determining the reasonable loss adjustment expenses

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88 incurred in adjusting such losses, the commission shall
89 consider:

90 (a) The total losses and loss adjustment expenses that have
91 been incurred by authorized insurers related to losses caused by
92 covered events as defined in s. 215.555(2) (b).

93 (b) The actual claims paying capacity of the Florida
94 Hurricane Catastrophe Fund.

95 (c) Other information the commission finds is relevant to
96 determining the reasonable loss expenses incurred in adjusting
97 losses reimbursable under s. 215.555.

98 (2) No later than March 1 of the calendar year following a
99 covered event under s. 215.555, the Office of Insurance
100 Regulation shall advise the commission as to the necessity of
101 adopting a new uniform loss adjustment expense percentage. Upon
102 a recommendation from the Office of Insurance Regulation that
103 the commission adopt a new uniform loss adjustment percentage,
104 the commission shall do so by rule no later than December 1 of
105 the year such recommendation is made.

106 (3) Rules adopted pursuant to this section are not subject
107 to the requirements of s. 120.541.

108 Section 4. Subsection (2) of section 440.381, Florida
109 Statutes, is amended to read:

110 440.381 Application for coverage; reporting payroll;
111 payroll audit procedures; penalties.—

112 (2) Submission of an application that contains false,
113 misleading, or incomplete information provided with the purpose
114 of avoiding or reducing the amount of premiums for workers'
115 compensation coverage is a felony of the second degree,
116 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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117 The application must contain a statement that the filing of an
118 application containing false, misleading, or incomplete
119 information provided with the purpose of avoiding or reducing
120 the amount of premiums for workers' compensation coverage is a
121 felony of the third degree, punishable as provided in s.
122 775.082, s. 775.083, or s. 775.084. The application must contain
123 a sworn statement by the employer attesting to the accuracy of
124 the information submitted and acknowledging the provisions of
125 former s. 440.37(4). The application must contain a sworn
126 statement by the agent attesting that the agent explained to the
127 employer or officer the classification codes that are used for
128 premium calculations. The sworn statements by the employer and
129 the agent are not required to be notarized.

130 Section 5. Subsection (3) of section 624.155, Florida
131 Statutes, is amended to read:

132 624.155 Civil remedy.—

133 (3) (a) As a condition precedent to bringing an action under
134 this section, the department and the authorized insurer must
135 have been given 60 days' written notice of the violation. ~~If the~~
136 ~~department returns a notice for lack of specificity, the 60-day~~
137 ~~time period shall not begin until a proper notice is filed.~~

138 (b) The notice shall be on a form provided by the
139 department and shall state with specificity the following
140 information, and such other information as the department may
141 require:

142 1. The statutory provision, including the specific language
143 of the statute, which the authorized insurer allegedly violated.

144 2. The facts and circumstances giving rise to the
145 violation.

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146 3. The name of any individual involved in the violation.

147 4. Reference to specific policy language that is relevant
148 to the violation, if any. If the person bringing the civil
149 action is a third party claimant, she or he shall not be
150 required to reference the specific policy language if the
151 authorized insurer has not provided a copy of the policy to the
152 third party claimant pursuant to written request.

153 5. A statement that the notice is given in order to perfect
154 the right to pursue the civil remedy authorized by this section.

155 ~~(c) Within 20 days of receipt of the notice, the department~~
156 ~~may return any notice that does not provide the specific~~
157 ~~information required by this section, and the department shall~~
158 ~~indicate the specific deficiencies contained in the notice. A~~
159 ~~determination by the department to return a notice for lack of~~
160 ~~specificity shall be exempt from the requirements of chapter~~
161 ~~120.~~

162 (c)~~(d)~~ No action shall lie if, within 60 days after filing
163 notice, the damages are paid or the circumstances giving rise to
164 the violation are corrected.

165 (d)~~(e)~~ The authorized insurer that is the recipient of a
166 notice filed pursuant to this section shall report to the
167 department on the disposition of the alleged violation.

168 (e)~~(f)~~ The applicable statute of limitations for an action
169 under this section shall be tolled for a period of 65 days by
170 the mailing of the notice required by this subsection or the
171 mailing of a subsequent notice required by this subsection.

172 (f) A notice required under this subsection may not be
173 filed within 60 days after appraisal is invoked by any party in
174 a residential property insurance claim.

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175 Section 6. Subsection (5) is added to section 626.9541,
176 Florida Statutes, to read:

177 626.9541 Unfair methods of competition and unfair or
178 deceptive acts or practices defined.—

179 (5) LOSS CONTROL OR LOSS MITIGATION SERVICES OR OFFERINGS;
180 CONSTRUCTION.—This section does not prohibit an insurer or agent
181 from offering or giving to an insured, for free or at a
182 discounted price, services or other offerings relating to loss
183 control or loss mitigation with respect to the risks covered
184 under the policy.

185 Section 7. Section 627.0655, Florida Statutes, is amended
186 to read:

187 627.0655 Policyholder loss or expense-related premium
188 discounts.—An insurer or person authorized to engage in the
189 business of insurance in this state may include, in the premium
190 charged an insured for any policy, contract, or certificate of
191 insurance, a discount based on the fact that another policy,
192 contract, or certificate of any type has been purchased by the
193 insured from:

194 (1) The same insurer or insurer group, or another insurer
195 under a joint marketing agreement;

196 (2) The Citizens Property Insurance Corporation created
197 under s. 627.351(6), if the same insurance agent is servicing
198 both policies; or

199 (3) An insurer that has removed the policy from the
200 Citizens Property Insurance Corporation or issued a policy
201 pursuant to the clearinghouse program under s. 627.3518, if the
202 same insurance agent is servicing both policies.

203 Section 8. Section 627.4555, Florida Statutes, is amended

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204 to read:

205 627.4555 Secondary notice.—

206 (1) Except as provided in this section, a contract for life
207 insurance issued or issued for delivery in this state on or
208 after October 1, 1997, covering a natural person 64 years of age
209 or older, which has been in force for at least 1 year, may not
210 be lapsed for nonpayment of premium unless, after expiration of
211 the grace period, and at least 21 days before the effective date
212 of any such lapse, the insurer has mailed a notification of the
213 impending lapse in coverage to the policyowner and to a
214 specified secondary addressee if such addressee has been
215 designated in writing by name and address by the policyowner. An
216 insurer issuing a life insurance contract on or after October 1,
217 1997, shall notify the applicant of the right to designate a
218 secondary addressee at the time of application for the policy,
219 on a form provided by the insurer, and at any time the policy is
220 in force, by submitting a written notice to the insurer
221 containing the name and address of the secondary addressee. For
222 purposes of any life insurance policy that provides a grace
223 period of more than 51 days for nonpayment of premiums, the
224 notice of impending lapse in coverage required by this section
225 must be mailed to the policyowner and the secondary addressee at
226 least 21 days before the expiration of the grace period provided
227 in the policy. This section does not apply to any life insurance
228 contract under which premiums are payable monthly or more
229 frequently and are regularly collected by a licensed agent or
230 are paid by credit card or any preauthorized check processing or
231 automatic debit service of a financial institution.

232 (2) If the policyowner has a life agent of record or any

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233 agent of record, the insurer must also notify the agent of the
234 impending lapse in coverage or mail or send electronically a
235 copy of the notification of the impending lapse in coverage
236 under subsection (1) to the agent at least 21 days before the
237 effective date of such lapse. Receipt of such notice does not
238 make the agent responsible for any lapse in coverage. An insurer
239 is not required to notify the agent under this subsection if any
240 of the following applies:

241 (a) The insurer maintains an online system that allows an
242 agent to independently determine if a policy has lapsed.

243 (b) The insurer has no record of the current agent of
244 record.

245 (c) The agent is employed by the insurer or an affiliate of
246 the insurer.

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

249 627.7015 Alternative procedure for resolution of disputed
250 property insurance claims.—

251 (2) Either at the time a first-party claim within the scope
252 of this section is filed by the policyholder or at the time
253 coverage is applied and payment is determined, the insurer shall
254 notify the policyholder of its right to participate in the
255 mediation program under this section. The department shall
256 prepare a consumer information pamphlet for distribution to
257 persons participating in mediation.

258 Section 10. Except as otherwise expressly provided in this
259 act, this act shall take effect July 1, 2019.