

1 A bill to be entitled
2 An act relating to insurance; amending s.
3 627.351, F.S.; revising provisions governing
4 financing arrangements and dissolutions;
5 providing legislative intent; amending s.
6 215.555, F.S.; redefining the term "covered
7 policy"; amending s. 631.904, F.S.; redefining
8 the term "covered claim"; amending s. 625.041,
9 F.S.; revising the liabilities that a workers'
10 compensation insurer must include on its
11 financial statements; providing retroactive
12 application; amending s. 641.35, F.S.;
13 authorizing investment of funds of a health
14 maintenance organization in excess of certain
15 reserves and surplus under certain
16 circumstances; providing a limitation; amending
17 s. 624.4072, F.S.; extending the term of the
18 exemption from taxes and assessments on
19 minority-owned property and casualty insurers;
20 postponing the scheduled repeal of the law;
21 providing effective dates.

22
23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Paragraph (c) of subsection (2) of section
26 215.555, Florida Statutes, is amended to read:

27 215.555 Florida Hurricane Catastrophe Fund.--

28 (2) DEFINITIONS.--As used in this section:

29 (c) "Covered policy" means any insurance policy
30 covering residential property in this state, including, but
31 not limited to, any homeowner's, mobile home owner's, farm

1 owner's, condominium association, condominium unit owner's,
2 tenant's, or apartment building policy, or any other policy
3 covering a residential structure or its contents issued by any
4 authorized insurer, including any joint underwriting
5 association or similar entity created pursuant to law. The
6 term "covered policy" includes any collateral protection
7 insurance policy covering personal residences which protects
8 both the borrower's and the lender's financial interests, in
9 an amount at least equal to the coverage for the dwelling in
10 place under the lapsed homeowner's policy, if such policy can
11 be accurately reported as required in subsection (5).

12 Additionally, covered policies include policies covering the
13 peril of wind removed from the Florida Residential Property
14 and Casualty Joint Underwriting Association, created pursuant
15 to s. 627.351(6), or from the Florida Windstorm Underwriting
16 Association, created pursuant to s. 627.351(2), by an
17 authorized insurer under the terms and conditions of an
18 executed assumption agreement between the authorized insurer
19 and either such association. Each assumption agreement between
20 either association and such authorized insurer must be
21 approved by the Florida Department of Insurance prior to the
22 effective date of the assumption, and the Department of
23 Insurance must provide written notification to the board
24 within 15 working days after such approval. "Covered policy"
25 does not include any policy that excludes wind coverage or
26 hurricane coverage or any reinsurance agreement and does not
27 include any policy otherwise meeting this definition which is
28 issued by a surplus lines insurer or a reinsurer.

29 Section 2. Subsection (2) of section 631.904, Florida
30 Statutes, is amended to read:

31 631.904 Definitions.--As used in this part, the term:

1 (2) "Covered claim" means an unpaid claim, including a
2 claim for return of unearned premiums, which arises out of, is
3 within the coverage of, and is not in excess of the applicable
4 limits of, an insurance policy to which this part applies,
5 which policy was issued by an insurer and which claim is made
6 on behalf of a claimant or insured who was a resident of this
7 state at the time of the injury. The term "covered claim" does
8 not include any amount sought as a return of premium under any
9 retrospective rating plan; any amount due any reinsurer,
10 insurer, insurance pool, or underwriting association, as
11 subrogation recoveries or otherwise; or any return of premium
12 resulting from a policy that was not in force on the date of
13 the final order of liquidation. Member insurers have no right
14 of subrogation against the insured of any insolvent insurer.
15 This provision shall be applied retroactively to cover claims
16 of an insolvent self-insurance fund resulting from accidents
17 or losses incurred prior to January 1, 1994, regardless of the
18 date the Department of Insurance filed a petition in circuit
19 court alleging insolvency and the date the court entered an
20 order appointing a receiver.

21 Section 3. Effective upon becoming a law and operating
22 retroactively to January 1, 2002, subsection (5) is added to
23 section 625.041, Florida Statutes, to read:

24 625.041 Liabilities, in general.--In any determination
25 of the financial condition of an insurer, liabilities to be
26 charged against its assets shall include:

27 (5) Any insurer in this state which writes workers'
28 compensation insurance shall accrue a liability on its
29 financial statements for all Special Disability Trust Fund
30 assessments that are due within the current calendar year. In
31 addition, such insurers shall also disclose in the notes to

1 the financial statements required to be filed pursuant to s.
2 624.424 an estimate of future Special Disability Trust Fund
3 assessments, if such assessments are likely to occur and can
4 be estimated with reasonable certainty.

5 Section 4. Subsection (15) of section 641.35, Florida
6 Statutes, is amended to read:

7 641.35 Assets, liabilities, and investments.--

8 (15) ~~SPECIAL CONSENT INVESTMENT OF EXCESS FUNDS.~~--

9 (a) After satisfying the requirements of this part,
10 any funds of a health maintenance organization in excess of
11 its statutorily required reserves and surplus may be invested:

12 1. Without limitation in any investments otherwise
13 authorized by this part; or

14 2. In such other investments not specifically
15 authorized by this part provided such investments do not
16 exceed the lesser 5 percent of the health maintenance
17 organization's admitted assets or 25 percent of the amount by
18 which a health maintenance organization's surplus exceeds its
19 statutorily required minimum surplus. A health maintenance
20 organization may exceed the limitations of this subparagraph
21 only with the prior written approval of the department.

22 (b) Nothing in this subsection authorizes a health
23 maintenance organization to:

24 1. Invest any funds in excess of the amount by which
25 its actual surplus exceeds its statutorily required minimum
26 surplus; or

27 2. Make any investment prohibited by this code ~~Any~~
28 ~~investment of the health maintenance organization's funds not~~
29 ~~enumerated in this part requires the prior approval of the~~
30 ~~department.~~

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1 Section 5. Section 624.4072, Florida Statutes, is
2 amended to read:

3 624.4072 Minority-owned property and casualty
4 insurers; limited exemption for taxation and assessments.--

5 (1) A minority business that is at least 51 percent
6 owned by minority persons, as defined in s. 288.703(3),
7 initially issued a certificate of authority in this state as
8 an authorized insurer after May 1, 1998, and before January 1,
9 2002, to write property and casualty insurance shall be
10 exempt, for a period not to exceed 10 5 years from the date of
11 receiving its certificate of authority, from the following
12 taxes and assessments:

13 (a) Taxes imposed under ss. 175.101, 185.08, and
14 624.509;

15 (b) Assessments by the Florida Residential Property
16 and Casualty Joint Underwriting Association or by the Florida
17 Windstorm Underwriting Association, as provided under s.
18 627.351, except for emergency assessments collected from
19 policyholders pursuant to s. 627.351(2)(b)2.d.(III) and
20 (6)(b)3.d. Any such insurer shall be a member insurer of the
21 Florida Windstorm Underwriting Association and the Florida
22 Residential Property and Casualty Joint Underwriting
23 Association. The premiums of such insurer shall be included in
24 determining, for the Florida Windstorm Underwriting
25 Association, the aggregate statewide direct written premium
26 for property insurance and in determining, for the Florida
27 Residential Property and Casualty Joint Underwriting
28 Association, the aggregate statewide direct written premium
29 for the subject lines of business for all member insurers.

30 (2) Subsection (1) applies only to personal lines and
31 commercial lines residential property insurance policies as

1 defined in s. 627.4025, and applies only to an insurer that
2 has employees in this state and has a home office or a
3 regional office in this state. With respect to any tax year
4 or assessment year, the exemptions provided by subsection (1)
5 apply only if during the year an average of at least 10
6 percent of the insurer's Florida residential property policies
7 in force covered properties located in enterprise zones
8 designated pursuant to s. 290.0065.

9 (3) The provision of the definition of "minority
10 person" in s. 288.703(3) that requires residency in Florida
11 shall not apply to the term "minority person" as used in this
12 section or s. 627.3511.

13 (4) This section is repealed effective December 31,
14 2010 ~~July 1, 2003~~, and the tax and assessment exemptions
15 authorized by this section shall terminate on such date.

16 Section 6. Effective July 1, 2002, and contingent upon
17 SB 1418 becoming a law, paragraph (k) of subsection (6) of
18 section 627.351, Florida Statutes, is amended and paragraph
19 (p) is added to that subsection, to read:

20 (6) CITIZENS RESIDENTIAL PROPERTY INSURANCE
21 CORPORATION ~~AND CASUALTY JOINT UNDERWRITING ASSOCIATION.~~--

22 (k) Upon a determination by the department ~~board of~~
23 ~~governors~~ that the conditions giving rise to the establishment
24 and activation of the corporation ~~association~~ no longer exist,
25 ~~and upon the consent thereto by order of the department,~~ the
26 corporation ~~association~~ is dissolved. Upon dissolution, the
27 assets of the association shall be applied first to pay all
28 debts, liabilities, and obligations of the corporation
29 ~~association~~, including the establishment of reasonable
30 reserves for any contingent liabilities or obligations, and
31 all remaining assets of the corporation ~~association~~ shall

1 become property of the state and deposited in the Florida
2 Hurricane Catastrophe Fund. However, no dissolution shall take
3 effect as long as the corporation has bonds or other financial
4 obligations outstanding unless adequate provision has been
5 made for the payment of the bonds or other financial
6 obligations pursuant to the documents authorizing the issuance
7 of the bonds or other financial obligations.

8 (p) In enacting the provisions of this section, the
9 Legislature recognizes that both the Florida Windstorm
10 Underwriting Association and the Residential Property and
11 Casualty Joint Underwriting Association have entered into
12 financing arrangements that obligate each entity to service
13 its debts and maintain the capacity to repay funds secured
14 under these financing arrangements. It is the intent of the
15 Legislature that nothing in this section be construed to
16 compromise, diminish, or interfere with the rights of
17 creditors under such financing arrangements. It is further the
18 intent of the Legislature to preserve the obligations of the
19 Florida Windstorm Underwriting Association and Residential
20 Property and Casualty Joint Underwriting Association with
21 regard to outstanding financing arrangements, with such
22 obligations passing entirely and unchanged to the corporation
23 and, specifically, to the applicable account of the
24 corporation. So long as any bonds, notes, indebtedness, or
25 other financing obligations of the Florida Windstorm
26 Underwriting Association or the Residential Property and
27 Casualty Joint Underwriting Association are outstanding, under
28 the terms of the financing documents pertaining to them, the
29 governing board of the corporation shall have and shall
30 exercise the authority to levy, charge, collect, and receive
31 all premiums, assessments, surcharges, charges, revenues and

1 receipts that the associations had authority to levy, charge,
2 collect, or receive under the provisions of subsection (2) and
3 subsection (6), respectively, as they existed on January 1,
4 2002, to provide moneys, without exercise of the authority
5 provided by this subsection, in at least the amounts, and by
6 the times, as would be provided under those former provisions
7 of subsection (2) or subsection (6), respectively, so that the
8 value, amount, and collectability of any assets, revenues, or
9 revenue source pledged or committed to, or any lien thereon
10 securing such outstanding bonds, notes, indebtedness, or other
11 financing obligations will not be diminished, impaired, or
12 adversely affected by the amendments made by this act and to
13 permit compliance with all provisions of financing documents
14 pertaining to such bonds, notes, indebtedness, or other
15 financing obligations, or the security or credit enhancement
16 for them, and any reference in this subsection to bonds,
17 notes, indebtedness, financing obligations, or similar
18 obligations, of the corporation shall include like instruments
19 or contracts of the Florida Windstorm Underwriting Association
20 and the Residential Property and Casualty Joint Underwriting
21 Association to the extent not inconsistent with the provisions
22 of the financing documents pertaining to them.

23 Section 7. The amendments to section 627.351, Florida
24 Statutes, in this act prevail over any conflicting amendments
25 to that section contained in SB 1418.

26 Section 8. Except as otherwise expressly provided in
27 this act, this act shall take effect July 1, 2002.

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