

1 A bill to be entitled

2 An act relating to insurance; amending s. 215.555,  
3 F.S.; removing a provision repealing an exemption from  
4 emergency assessment for medical malpractice insurance  
5 premiums; amending s. 625.012, F.S.; revising the  
6 definition of asset to include assessments on workers'  
7 compensation insurance; amending s. 627.062, F.S.;  
8 revising requirements for medical malpractice insurers  
9 to provide rate filings; amending s. 627.0645, F.S.;  
10 providing an exemption from certain annual base rate  
11 filings for medical malpractice insurance; amending s.  
12 627.4035, F.S.; authorizing insurers to charge  
13 insufficient funds fees; amending s. 627.421, F.S.;  
14 providing conditions under which an electronically  
15 delivered document meets formatting requirements;  
16 amending s. 627.7295, F.S.; deleting provisions  
17 authorizing additional permissible types of payment  
18 for motor vehicle insurance premiums and charging  
19 insufficient funds fee; creating s. 627.747, F.S.;  
20 authorizing insurers to exclude certain individuals  
21 from private passenger motor vehicle insurance  
22 coverage under specified circumstances; providing  
23 exceptions; providing an effective date.

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

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Section 1. Paragraph (b) of subsection (6) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(6) REVENUE BONDS.—

(b) Emergency assessments.—

1. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy, by order, an emergency assessment on direct premiums for all property and casualty lines of business in this state, including property and casualty business of surplus lines insurers regulated under part VIII of chapter 626, but not including any workers' compensation premiums or medical malpractice premiums. As used in this subsection, the term "property and casualty business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program. The assessment shall be specified as a percentage of direct written

51 premium and is subject to annual adjustments by the board in  
52 order to meet debt obligations. The same percentage applies to  
53 all policies in lines of business subject to the assessment  
54 issued or renewed during the 12-month period beginning on the  
55 effective date of the assessment.

56 2. A premium is not subject to an annual assessment under  
57 this paragraph in excess of 6 percent of premium with respect to  
58 obligations arising out of losses attributable to any one  
59 contract year, and a premium is not subject to an aggregate  
60 annual assessment under this paragraph in excess of 10 percent  
61 of premium. An annual assessment under this paragraph continues  
62 as long as the revenue bonds issued with respect to which the  
63 assessment was imposed are outstanding, including any bonds the  
64 proceeds of which were used to refund the revenue bonds, unless  
65 adequate provision has been made for the payment of the bonds  
66 under the documents authorizing issuance of the bonds.

67 3. Emergency assessments shall be collected from  
68 policyholders. Emergency assessments shall be remitted by  
69 insurers as a percentage of direct written premium for the  
70 preceding calendar quarter as specified in the order from the  
71 Office of Insurance Regulation. The office shall verify the  
72 accurate and timely collection and remittance of emergency  
73 assessments and shall report the information to the board in a  
74 form and at a time specified by the board. Each insurer  
75 collecting assessments shall provide the information with

76 | respect to premiums and collections as may be required by the  
77 | office to enable the office to monitor and verify compliance  
78 | with this paragraph.

79 |         4. With respect to assessments of surplus lines premiums,  
80 | each surplus lines agent shall collect the assessment at the  
81 | same time as the agent collects the surplus lines tax required  
82 | by s. 626.932, and the surplus lines agent shall remit the  
83 | assessment to the Florida Surplus Lines Service Office created  
84 | by s. 626.921 at the same time as the agent remits the surplus  
85 | lines tax to the Florida Surplus Lines Service Office. The  
86 | emergency assessment on each insured procuring coverage and  
87 | filing under s. 626.938 shall be remitted by the insured to the  
88 | Florida Surplus Lines Service Office at the time the insured  
89 | pays the surplus lines tax to the Florida Surplus Lines Service  
90 | Office. The Florida Surplus Lines Service Office shall remit the  
91 | collected assessments to the fund or corporation as provided in  
92 | the order levied by the Office of Insurance Regulation. The  
93 | Florida Surplus Lines Service Office shall verify the proper  
94 | application of such emergency assessments and shall assist the  
95 | board in ensuring the accurate and timely collection and  
96 | remittance of assessments as required by the board. The Florida  
97 | Surplus Lines Service Office shall annually calculate the  
98 | aggregate written premium on property and casualty business,  
99 | other than workers' compensation and medical malpractice,  
100 | procured through surplus lines agents and insureds procuring

101 coverage and filing under s. 626.938 and shall report the  
102 information to the board in a form and at a time specified by  
103 the board.

104 5. Any assessment authority not used for a particular  
105 contract year may be used for a subsequent contract year. If,  
106 for a subsequent contract year, the board determines that the  
107 amount of revenue produced under subsection (5) is insufficient  
108 to fund the obligations, costs, and expenses of the fund and the  
109 corporation, including repayment of revenue bonds and that  
110 portion of the debt service coverage not met by reimbursement  
111 premiums, the board shall direct the Office of Insurance  
112 Regulation to levy an emergency assessment up to an amount not  
113 exceeding the amount of unused assessment authority from a  
114 previous contract year or years, plus an additional 4 percent  
115 provided that the assessments in the aggregate do not exceed the  
116 limits specified in subparagraph 2.

117 6. The assessments otherwise payable to the corporation  
118 under this paragraph shall be paid to the fund unless the Office  
119 of Insurance Regulation and the Florida Surplus Lines Service  
120 Office received a notice from the corporation and the fund,  
121 which shall be conclusive and upon which they may rely without  
122 further inquiry, that the corporation has issued bonds and the  
123 fund has no agreements in effect with local governments under  
124 paragraph (c). On or after the date of the notice and until the  
125 date the corporation has no bonds outstanding, the fund shall

126 have no right, title, or interest in or to the assessments,  
127 except as provided in the fund's agreement with the corporation.

128 7. Emergency assessments are not premium and are not  
129 subject to the premium tax, to the surplus lines tax, to any  
130 fees, or to any commissions. An insurer is liable for all  
131 assessments that it collects and must treat the failure of an  
132 insured to pay an assessment as a failure to pay the premium. An  
133 insurer is not liable for uncollectible assessments.

134 8. If an insurer is required to return an unearned  
135 premium, it shall also return any collected assessment  
136 attributable to the unearned premium. A credit adjustment to the  
137 collected assessment may be made by the insurer with regard to  
138 future remittances that are payable to the fund or corporation,  
139 but the insurer is not entitled to a refund.

140 9. If a surplus lines insured or an insured who has  
141 procured coverage and filed under s. 626.938 is entitled to the  
142 return of an unearned premium, the Florida Surplus Lines Service  
143 Office shall provide a credit or refund to the agent or such  
144 insured for the collected assessment attributable to the  
145 unearned premium before remitting the emergency assessment  
146 collected to the fund or corporation.

147 ~~10. The exemption of medical malpractice insurance~~  
148 ~~premiums from emergency assessments under this paragraph is~~  
149 ~~repealed May 31, 2019, and medical malpractice insurance~~  
150 ~~premiums shall be subject to emergency assessments attributable~~

151 ~~to loss events occurring in the contract years commencing on~~  
152 ~~June 1, 2019.~~

153 Section 2. Subsection (15) of section 625.012, Florida  
154 Statutes, is amended to read:

155 625.012 "Assets" defined.—In any determination of the  
156 financial condition of an insurer, there shall be allowed as  
157 "assets" only such assets as are owned by the insurer and which  
158 consist of:

159 (15) (a) Assessments levied pursuant to s. 631.57(3) (a) and  
160 (e) or s. 631.914 that are paid before policy surcharges are  
161 collected and result in a receivable for policy surcharges to be  
162 collected in the future. This amount, to the extent it is likely  
163 that it will be realized, meets the definition of an admissible  
164 asset as specified in the National Association of Insurance  
165 Commissioners' Statement of Statutory Accounting Principles No.  
166 4. The asset shall be established and recorded separately from  
167 the liability regardless of whether it is based on a  
168 retrospective or prospective premium-based assessment. If an  
169 insurer is unable to fully recoup the amount of the assessment  
170 because of a reduction in writings or withdrawal from the  
171 market, the amount recorded as an asset shall be reduced to the  
172 amount reasonably expected to be recouped.

173 (b) Assessments levied as ~~monthly~~ installments pursuant to  
174 s. 631.57(3) (e) 3. or s. 631.914 which ~~that~~ are paid after policy  
175 surcharges are collected so that the recognition of assets is

176 based on actual premium written offset by the obligation to the  
 177 Florida Insurance Guaranty Association or the Florida Workers'  
 178 Compensation Insurance Guaranty Association, Incorporated.

179 Section 3. Paragraph (e) of subsection (7) of section  
 180 627.062, Florida Statutes, is amended to read:

181 627.062 Rate standards.—

182 (7) The provisions of this subsection apply only to rates  
 183 for medical malpractice insurance and control to the extent of  
 184 any conflict with other provisions of this section.

185 (e) For medical malpractice rates subject to paragraph  
 186 (2) (a), the medical malpractice insurer shall make an annual  
 187 base a rate filing in accordance with s. 627.0645 ~~under this~~  
 188 ~~section~~, sworn to by at least two executive officers of the  
 189 insurer, ~~at least once each calendar year.~~

190 Section 4. Subsection (1) of section 627.0645, Florida  
 191 Statutes, is amended to read:

192 627.0645 Annual filings.—

193 (1) Each rating organization filing rates for, and each  
 194 insurer writing, any line of property or casualty insurance to  
 195 which this part applies, except:

196 (a) Workers' compensation and employer's liability  
 197 insurance;

198 (b) Insurance as defined in ss. 624.604 and 624.605,  
 199 limited to coverage of commercial risks other than commercial  
 200 residential multiperil and medical malpractice insurance that is



201 subject to s. 627.062(2)(a) and (f); or

202 (c) Travel insurance, if issued as a master group policy  
 203 with a situs in another state where each certificateholder pays  
 204 less than \$30 in premium for each covered trip and where the  
 205 insurer has written less than \$1 million in annual written  
 206 premiums in the travel insurance product in this state during  
 207 the most recent calendar year,

208  
 209 shall make an annual base rate filing for each such line with  
 210 the office no later than 12 months after its previous base rate  
 211 filing, demonstrating that its rates are not inadequate.

212 Section 5. Subsection (1) of section 627.4035, Florida  
 213 Statutes, is amended to read:

214 627.4035 Payment ~~Cash payment~~ of premiums; claims.—

215 (1) (a) The premiums for insurance contracts issued in this  
 216 state or covering risk located in this state shall be paid in  
 217 cash consisting of coins, currency, checks, drafts, or money  
 218 orders or by using a debit card, credit card, automatic  
 219 electronic funds transfer, electronic check, or payroll  
 220 deduction plan. Insurers ~~By July 1, 2007, insurers~~ issuing  
 221 personal lines residential and commercial property policies  
 222 shall provide a premium payment plan option to their  
 223 policyholders which allows for a minimum of quarterly and  
 224 semiannual payment of premiums. Insurers may, but are not  
 225 required to, offer monthly payment plans. Insurers issuing such

226 policies must submit their premium payment plan option to the  
 227 office for approval before use.

228 (b) Except as provided in s. 627.162(5), if, due to  
 229 insufficient funds, payment of a premium under this subsection  
 230 by debit card, credit card, electronic funds transfer, or  
 231 electronic check is returned, is declined, or cannot be  
 232 processed, the insurer may impose an insufficient funds fee of  
 233 up to \$15 per occurrence pursuant to the policy terms.

234 Section 6. Subsection (5) is added to section 627.421,  
 235 Florida Statutes, to read:

236 627.421 Delivery of policy.—

237 (5) Any document delivered electronically satisfies any  
 238 font, size, color, spacing, or other format requirements that  
 239 are established for printed documents in this chapter, provided  
 240 that the format in the document delivered electronically has  
 241 reasonably similar proportions or emphasis for the characters  
 242 relative to the rest of the electronic document or is otherwise  
 243 electronically displayed in a reasonably conspicuous manner.

244 Section 7. Subsection (9) of section 627.7295, Florida  
 245 Statutes, is amended to read:

246 627.7295 Motor vehicle insurance contracts.—

247 ~~(9)(a) In addition to the methods provided in s.~~  
 248 ~~627.4035(1), premium for motor vehicle insurance contracts~~  
 249 ~~issued in this state or covering risk located in this state may~~  
 250 ~~be paid in cash in the form of a draft or drafts.~~

251 ~~(b) If, due to insufficient funds, payment of premium~~  
252 ~~under this subsection by debit card, credit card, electronic~~  
253 ~~funds transfer, or electronic check is returned, is declined, or~~  
254 ~~cannot be processed, the insurer may impose an insufficient~~  
255 ~~funds fee of up to \$15 per occurrence pursuant to the policy~~  
256 ~~terms.~~

257 Section 8. Section 627.747, Florida Statutes, is created  
258 to read:

259 627.747 Named driver exclusion.-

260 (1) A private passenger motor vehicle policy is permitted  
261 to exclude an identified individual from coverage when such  
262 identified individual is driving a vehicle specified in the  
263 policy. The coverages from which an identified individual may be  
264 excluded are:

265 (a) Those coverages that the named insured is not required  
266 by law to purchase.

267 (b) Notwithstanding the Florida Motor Vehicle No-Fault  
268 Law, the personal injury protection coverage specifically  
269 applicable to the identified individual's injuries, lost wages,  
270 and death benefits.

271 (c) Uninsured motorist coverage, if the named insured has  
272 purchased such coverage.

273 (d) Bodily injury liability, if required by law and  
274 purchased by the named insured.

275 |       (2) A private passenger motor vehicle policy shall not  
 276 | exclude coverage when:

277 |       (a) The identified individual is injured while not  
 278 | operating a motor vehicle.

279 |       (b) The exclusion is unfairly discriminatory as determined  
 280 | by the office under the Florida Insurance Code.

281 |       (c) The exclusion is inconsistent with the underwriting  
 282 | guidelines filed by the insurer pursuant to s. 627.0651(13)(a).

283 |       Section 9. This act shall take effect upon becoming a law.