A bill to be entitled
An act relating to insurance; providing a short title;
amending s. 215.555, F.S.; revising the reimbursement
of loss adjustment expenses by the Florida Hurricane
Catastrophe Fund; creating s. 215.55953, F.S.;
requiring the Financial Services Commission, by a
specified date, to establish a certain uniform loss
adjustment expense percentage by rule; specifying
information the commission must consider in
determining certain incurred expenses; requiring the
Office of Insurance Regulation, under certain
circumstances, to advise the commission on adopting a
new uniform loss adjustment expense percentage;
requiring the commission to adopt certain rules under
certain circumstances; providing that adopted rules
are not subject to requirements for a statement of
estimated regulatory costs; amending s. 440.381, F.S.;
providing that certain sworn statements in employer
applications for workers' compensation insurance
coverage are not required to be notarized; amending s.
624.155, F.S.; deleting a provision that tolls, under
certain circumstances, a period before a civil action
against an insurer may be brought; deleting a
provision authorizing the Department of Financial
Services to return a civil remedy notice for lack of
specificity; prohibiting the filing of the notice
within a certain timeframe under certain
circumstances; amending s. 626.9541, F.S.; providing
that provisions relating to unfair methods of
competition and unfair or deceptive insurance acts or practices do not prohibit insurers or agents from offering or giving to insureds certain free or discounted services or offerings relating to loss control or loss mitigation; amending s. 627.0655, F.S.; revising circumstances under which insurers or certain authorized persons may provide certain premium discounts to insureds; amending s. 627.4555, F.S.; requiring life insurers that are required to provide a specified notice to policyowners of an impending lapse in coverage to also notify the policyowner’s agent of record within a certain timeframe; providing that the agent is not responsible for any lapse in coverage; exempting the insurer from the requirement under certain circumstances; amending s. 627.7015, F.S.; adding circumstances under which certain property insurers may provide required notice to policyholders of their right to participate in a certain mediation program; providing effective dates.

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

Section 1. This act may be cited as “Omnibus Prime.”

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

215.555 Florida Hurricane Catastrophe Fund.—

(4) REIMBURSEMENT CONTRACTS.—

(b)1. The contract shall contain a promise by the board to
reimburse the insurer for 45 percent, 75 percent, or 90 percent of its losses from each covered event in excess of the insurer’s retention, plus, for the purpose of covering loss adjustment expenses, the lesser of 15 percent of the reimbursed losses or the uniform loss adjustment expense percentage adopted pursuant to s. 215.55953 5 percent of the reimbursed losses to cover loss adjustment expenses.

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

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

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

215.55953 Uniform loss adjustment expense percentage.—
(1) No later than December 1, 2019, the Financial Services Commission shall establish by rule a uniform loss adjustment expense percentage for the reasonable reimbursement by the Florida Hurricane Catastrophe Fund of loss adjustment expenses incurred in adjusting losses for covered policies under s. 215.555. In determining the reasonable loss adjustment expenses
incurred in adjusting such losses, the commission shall consider:

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

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

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

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

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

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

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

(2) Submission of an application that contains false, misleading, or incomplete information provided with the purpose of avoiding or reducing the amount of premiums for workers’ compensation coverage is a felony of the second degree, punishable as provided in §§ 775.082, 775.083, or 775.084.
The application must contain a statement that the filing of an application containing false, misleading, or incomplete information provided with the purpose of avoiding or reducing the amount of premiums for workers' compensation coverage is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The application must contain a sworn statement by the employer attesting to the accuracy of the information submitted and acknowledging the provisions of former s. 440.37(4). The application must contain a sworn statement by the agent attesting that the agent explained to the employer or officer the classification codes that are used for premium calculations. The sworn statements by the employer and the agent are not required to be notarized.

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

624.155 Civil remedy.—

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

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

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

2. The facts and circumstances giving rise to the violation.
3. The name of any individual involved in the violation.

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

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

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

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

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

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

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

CODING: Words stricken are deletions; words underlined are additions.
Section 6. Subsection (5) is added to section 626.9541, Florida Statutes, to read:

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

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

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

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

(1) The same insurer or insurer group, or another insurer under a joint marketing agreement;  
(2) The Citizens Property Insurance Corporation created under s. 627.351(6), if the same insurance agent is servicing both policies; or  
(3) An insurer that has removed the policy from the Citizens Property Insurance Corporation or issued a policy pursuant to the clearinghouse program under s. 627.3518, if the same insurance agent is servicing both policies.

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

627.4555 Secondary notice.—

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

(2) If the policyowner has a life agent of record or any
agent of record, the insurer must also notify the agent of the impending lapse in coverage or mail or send electronically a copy of the notification of the impending lapse in coverage under subsection (1) to the agent at least 21 days before the effective date of such lapse. Receipt of such notice does not make the agent responsible for any lapse in coverage. An insurer is not required to notify the agent under this subsection if any of the following applies:

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

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

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

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

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

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

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