



Journal of the Senate

Number 3—Special Session C

Wednesday, November 3, 1993

CALL TO ORDER

The Senate was called to order by the President at 10:26 a.m. A quorum present—39:

Mr. President	Diaz-Balart	Holzendorf	Myers
Beard	Dudley	Jenne	Scott
Boczar	Dyer	Jennings	Siegel
Brown-Waite	Foley	Johnson	Silver
Burt	Forman	Jones	Sullivan
Casas	Grant	Kirkpatrick	Turner
Childers	Grogan	Kiser	Weinstein
Crenshaw	Gutman	Kurth	Wexler
Crist	Harden	McKay	Williams
Dantzler	Hargrett	Meadows	

Excused: Senator Bankhead until 10:45 a.m.

PRAYER

The following prayer was offered by Father Richard S. Castillo, Pastor, St. Thomas The Apostle Catholic Church, Quincy:

Heavenly Father, we are gathered in this great chamber of government of the State of Florida to confront the difficulties and challenges of our society.

We ask you to bless our lawmakers so that they truly be your instruments of peace. We pray that their decisions will be based not on fear or impulse but out of true conviction for justice and the respect of the human person whether young or old, rich or poor, black, brown, red, white or yellow.

So we pray with the psalmist in giving you praise, Lord, trusting in your guidance and wisdom:

Happy he whose help is the God of Jacob, whose hope is in the Lord, his God.

Who made heaven and earth, the sea and all that is in them: Who keeps faith forever, secures justice for the oppressed, gives food to the hungry.

The Lord sets captives free:

The Lord gives sight to the blind.

The Lord raises up those that were bowed down:

The Lord loves the just.

The Lord protects strangers:

The fatherless and the widow he sustains, but the way of the wicked he thwarts.

The Lord shall reign forever:

Your God, O Zion, through all generations. Alleluia. Amen.

(Psalm 146)

PLEDGE

Senator Dyer led the Senate in the pledge of allegiance to the flag of the United States of America.

By direction of the President, the Secretary read the following proclamation:

PROCLAMATION
State of Florida
Executive Department
Tallahassee

TO THE HONORABLE MEMBERS OF THE FLORIDA SENATE AND THE FLORIDA HOUSE OF REPRESENTATIVES:

WHEREAS, the Thirteenth Legislature of the State of Florida, under the Florida Constitution, 1968 Revision, convened in regular session on Tuesday, February 2, 1993, and adjourned sine die on Sunday, April 4, 1993, and

WHEREAS, by proclamation dated October 11, 1993, and amended November 1, 1993, the Governor called the Florida Legislature into special session to convene on November 1, 1993, to consider the issues of workers' compensation, juvenile crime, property insurance and reinsurance, and tax credits for defense industries converting their defense production into civilian applications, and

WHEREAS, it is appropriate to amend those proclamations to include additional issues which relate to the serious criminal justice issues which must be addressed before the regular session of the Florida Legislature in 1994.

NOW, THEREFORE, I, LAWTON CHILES, Governor of the State of Florida, by virtue of the power and authority vested in me by Article III, Section 3(c)(1), Florida Constitution, do hereby proclaim as follows:

Section 2 of the Proclamation of the Governor dated October 11, 1993, as amended by the Proclamation of the Governor dated November 1, 1993, is hereby further amended to add the following paragraphs (e) and (f):

Section 2.

The Legislature of Florida is convened for the sole and exclusive purpose of considering the following:

(e) Technical clarifications and statutory conformance of correctional issues contained in the Safe Streets Initiative of 1994, by amending ss. 921.001, 921.0011, 921.188, 947.1405.

(f) Legislation pertaining to Specific Appropriation 1934C, Chapter 91-193, Laws of Florida, setting forth legislative intent.



IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 3rd day of November, 1993.

Lawton Chiles
GOVERNOR

ATTEST:
Jim Smith
SECRETARY OF STATE

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Jenne, by two-thirds vote **SB 30-C**, **CS for SB 32-C**, and **SB 18-C** were withdrawn from the Committee on Appropriations.

On motion by Senator Jenne, by two-thirds vote **SB 34-C** was withdrawn from the Committee on Appropriations.

MOTIONS

On motions by Senator Kirkpatrick, the rules were waived and the Senate was scheduled to meet at 1:00 p.m. until completion in lieu of 3:00 p.m.; and the Committees on Health Care; Corrections, Probation and Parole; and the Select Committee on Governmental Reform were rescheduled to meet upon adjournment of the session until completion of the published agendas.

On motions by Senator Kirkpatrick, by two-thirds vote **Senate Bills 16-C, 18-C, 30-C, CS for SB 32-C** and **CS for SB 10-C** were established as the Special Order Calendar for this day.

On motion by Senator Kirkpatrick, the provisions of Rule 7.1 relating to two-hour notice of amendments to be considered by the Senate were waived for the session this day.

On motion by Senator Beard, the rules were waived and the Committee on Corrections, Probation and Parole was granted permission to consider **SB 44-C** at the meeting this day.

RECESS

On motion by Senator Kirkpatrick, the Senate recessed at 10:45 a.m. to reconvene at 1:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 1:22 p.m. A quorum present—40:

Mr. President	Dantzler	Hargrett	Meadows
Bankhead	Diaz-Balart	Holzendorf	Myers
Beard	Dudley	Jenne	Scott
Boczar	Dyer	Jennings	Siegel
Brown-Waite	Foley	Johnson	Silver
Burt	Forman	Jones	Sullivan
Casas	Grant	Kirkpatrick	Turner
Childers	Grogan	Kiser	Weinstein
Crenshaw	Gutman	Kurth	Wexler
Crist	Harden	McKay	Williams

MOTIONS

On motions by Senator Kirkpatrick, the rules were waived and the Committees on Health Care; Governmental Reform; and Corrections, Probation and Parole were rescheduled to meet upon adjournment of the session for 90 minutes; and upon adjournment of the Group 6 committee meetings the Committee on Appropriations was scheduled to meet until completion of the agenda.

On motion by Senator Dyer, the rules were waived and the Committee on Professional Regulation was granted permission to consider **SB 42-C** at the meeting November 4.

SPECIAL ORDER

SB 16-C—A bill to be entitled An act relating to insurance; amending s. 624.307, F.S.; requiring the Department of Insurance to develop an outreach program; creating s. 624.3215, F.S.; providing immunity from civil liability under certain circumstances to persons who provide information about the financial condition of an insurer to the department; amending s. 624.316, F.S.; requiring the department to conduct periodic examinations of insurers; amending s. 624.407, F.S.; increasing surplus requirements for prospective insurers; deleting provisions that have had their effect; amending s. 624.408, F.S.; revising surplus requirements; creating s. 624.4243, F.S.; providing for insurers to compute and report premium growth; amending s. 625.305, F.S.; removing the requirement that the department approve certain investments; amending s. 625.330, F.S., relating to investments by title insurers; changing a cross-reference to the surplus requirements; amending s. 627.351, F.S.; revising provisions relating to deficit assessments in the windstorm insurance risk apportionment plan; authorizing issuance of bonds on behalf of the plan; providing circumstances under which a classification is eligible for coverage in the Florida Property and Casualty Joint Underwriting Association; providing criteria for rates; activating coverage relating to commercial coverages of residences; providing for legislative review; providing for termination; revising provisions relating to deficit assessments; authorizing issuance of bonds for the association; providing legislative intent with respect to the Residential Property and Casualty Joint Underwriting Association; providing criteria for rates; requiring rate filings; revising provisions relating to deficit assessments; authorizing issuance of bonds for the association; providing for dissolution of the association; amending s. 627.701, F.S.; providing limitations on deductibles; providing for pools of insurance adjusters in case of hurricanes or declared emergencies; regulating the geographic concentration of property insurance exposure; amending s. 628.801, F.S., relating to application of insurance holding company rules to domestic insurers, foreign insurers, and commercially domiciled insurers; providing exceptions; providing for rules; amending s. 631.011, F.S.; revising the cross-references in the definitions of the terms “impairment

of capital” and “impairment of surplus” to conform to changes made by this act; providing for the post-moratorium cancellation and nonrenewal of personal lines residential property insurance policies; providing an effective date.

—was read the second time by title.

Senator Holzendorf moved the following amendments which were adopted:

Amendment 1—On page 5, strike lines 11-30 and insert: *examination of the insurer.*

2. *At least once every 5 years, the department shall examine each domestic insurer that has continuously held a certificate of authority and has not had a change in ownership, as provided in s. 624.4245 or s. 628.461, during the preceding 15 years.*

Amendment 2—On page 44, lines 8-11, strike “, unless the department determines that the deductible provision is clear and unambiguous” and insert on line 3, page 44, after (2) *Unless the department determines that the deductible provision is clear and unambiguous,*

Senator Holzendorf moved the following amendment:

Amendment 3—On page 47, lines 15-18, strike “*However, in any 12-month period, an insurer may not cancel or nonrenew more than 5 percent of its policies in this state for the purpose of reducing the insurer’s exposure to hurricane claims.*” and insert: *However, in any 12-month period, an insurer may cancel or nonrenew policies in this state for the purpose of reducing the insurer’s exposure to hurricane claims only to the extent that the number of policies written statewide at the end of the 12-month period is not more than 5 percent less than the number of policies written statewide on the first day of the 12-month period.*

Senator Dudley moved the following substitute amendment which was adopted:

Amendment 4 (with Title Amendment)—On page 47, line 1, through page 49, line 1, strike all of said lines and insert:

Section 15. Section 627.7013, Florida Statutes, is created to read:

627.7013 Orderly markets for personal lines residential property insurance.—

(1) **FINDINGS AND PURPOSE.**—The Legislature finds that personal lines residential property insurers, as a condition of doing business in this state, have a responsibility to contribute to an orderly market for personal lines residential property insurance and that there is a compelling state interest in maintaining an orderly market for personal lines residential property insurance. The Legislature further finds that Hurricane Andrew, which caused over \$15 billion of insured losses in South Florida, has reinforced the need of consumers to have reliable homeowner’s insurance coverage; however, the enormous monetary impact to insurers of Hurricane Andrew claims has prompted insurers to propose substantial cancellation or nonrenewal of their homeowner’s insurance policyholders. The Legislature further finds that the massive cancellations and non-renewals announced, proposed, or contemplated by certain insurers constitute a significant danger to the public health, safety, and welfare, and destabilize the insurance market. In furtherance of the overwhelming public necessity for an orderly market for property insurance, the Legislature, in ch. 93-401, Laws of Florida, imposed, for a limited time, a moratorium on cancellation or nonrenewal of personal lines residential property insurance policies. The Legislature further finds that upon expiration of the moratorium, additional actions are required to maintain an orderly market for personal lines residential property insurance in this state. The purposes of this section are to provide for a phaseout of the moratorium and to require advance planning and approval for programs of exposure reduction.

(2) **MORATORIUM PHASEOUT.**—

(a) Effective upon the expiration of the moratorium on cancellation or nonrenewal of personal lines residential property insurance policies under ch. 93-401, Laws of Florida, the following restrictions shall apply to the cancellation or nonrenewal of personal lines residential property insurance policies that were in force on November 14, 1993, and were subject to the moratorium:

1. In any 12-month period, an insurer may not cancel or nonrenew more than 5 percent of its homeowner’s policies, 5 percent of its mobile home owner’s policies, or 5 percent of its personal lines residential poli-

cies of all types and classes in the state for the purpose of reducing the insurer's exposure to hurricane claims and may not, with respect to any county, cancel or nonrenew more than 10 percent of its homeowner's policies, 10 percent of its mobile home owner's policies, or 10 percent of its personal lines residential policies of all types and classes in the county for the purpose of reducing the insurer's exposure to hurricane claims.

2.a. If, for any 12-month period, an insurer proposes to cancel or nonrenew personal lines residential policies to an extent not authorized by subparagraph 1. for the purpose of reducing exposure to hurricane claims, the insurer must file a phaseout plan with the department at least 90 days prior to the effective date of the plan. In the plan, the insurer must demonstrate to the department that the insurer is protecting market stability and the interests of its policyholders. The plan may not be implemented unless it is approved by the department. In developing the plan, the insurer must consider policyholder longevity, the use of voluntary incentives to accomplish the reduction, geographic distribution, policyholders' steps to reduce risks, and alternatives to cancellation or nonrenewal. The insurer must demonstrate that under the plan the insurer will not cancel or nonrenew more policies in the 12-month period than the largest number of like policies the insurer canceled or nonrenewed for any reason in any 12-month period between August 24, 1989, and August 24, 1992.

b. If the insurer considers the number of cancellations and nonrenewals under sub-subparagraph a. to be insufficient, the insurer may apply for approval of additional cancellations or nonrenewals on the basis of an unreasonable risk of insolvency. In evaluating a request under this sub-subparagraph, the department shall consider, and shall require the insurer to provide information relevant to: the insurer's size, market concentration, and general financial condition; the portion of the insurer's business in this state represented by personal lines residential property insurance; the likelihood that the hurricane event postulated in the exemption request will occur before November 14, 1996; the reasonableness of assumptions with respect to size, severity, and path of the postulated hurricane; the reinsurance available to the insurer; and the extent to which the insurer's assets have been voluntarily transferred by dividend or otherwise from the insurer to its stockholders, parent companies, or affiliated companies since May 19, 1993.

c. Within 20 days after receiving a filing or application under this subparagraph, the department must either notify the insurer of the additional information required by the department or notify the insurer that no additional information is required. The insurer must provide the required information within 20 days after receiving the notice. The department must approve or deny the filing or application within 30 days after receiving the required information, or, if no information was required, within 60 days after sending notice that no additional information was required. The time limits specified in this sub-subparagraph for approval or denial of a filing or application may not be tolled for any reason.

(b) The department may adopt rules to implement this subsection.

(3) This section is repealed on November 14, 1996.

And the title is amended as follows:

In title, on page 2, strike all of lines 27-29, and insert: act; creating s. 627.7013, F.S.; providing findings and purpose; limiting cancellation or nonrenewal of policies that were subject to the moratorium contained in ch. 93-401, Laws of Florida; providing for future repeal; requiring insurers to submit exposure reduction plans to the department for approval; limiting cancellation or nonrenewal or personal lines residential property insurance policies; providing for exceptions; providing for rules; providing for future repeal; creating s. 627.7014, F.S.;

RECONSIDERATION OF AMENDMENT

On motion by Senator Dudley, the Senate reconsidered the vote by which substitute **Amendment 4** was adopted. **Amendment 4** was withdrawn.

The question recurred on **Amendment 3** which was withdrawn.

On motion by Senator Holzendorf, further consideration of **SB 16-C** as amended was deferred.

RECESS

The President declared the Senate recessed at 2:12 p.m. to reconvene at 2:30 p.m.

CALL TO ORDER

The Senate was called to order by the President at 2:41 p.m. A quorum present.

MOTIONS

On motions by Senator Kirkpatrick, the rules were waived and the following schedule changes were made for Thursday, November 4: the Committee on Professional Regulation was granted permission to meet from 8:00 a.m. until 9:00 a.m. to consider **SB 42-C**; the Senate was scheduled to meet from 9:00 a.m. until 9:30 a.m.; the Committee on Appropriations was granted permission to meet from 10:00 a.m. until 12:00 noon to consider **CS for SB 10-C** and the published agenda; and the Committee on Finance, Taxation and Claims was granted permission to meet from 10:00 a.m. until 12:00 noon to consider the published agenda.

SPECIAL ORDER, continued

The Senate resumed consideration of—

SB 16-C—A bill to be entitled An act relating to insurance; amending s. 624.307, F.S.; requiring the Department of Insurance to develop an outreach program; creating s. 624.3215, F.S.; providing immunity from civil liability under certain circumstances to persons who provide information about the financial condition of an insurer to the department; amending s. 624.316, F.S.; requiring the department to conduct periodic examinations of insurers; amending s. 624.407, F.S.; increasing surplus requirements for prospective insurers; deleting provisions that have had their effect; amending s. 624.408, F.S.; revising surplus requirements; creating s. 624.4243, F.S.; providing for insurers to compute and report premium growth; amending s. 625.305, F.S.; removing the requirement that the department approve certain investments; amending s. 625.330, F.S., relating to investments by title insurers; changing a cross-reference to the surplus requirements; amending s. 627.351, F.S.; revising provisions relating to deficit assessments in the windstorm insurance risk apportionment plan; authorizing issuance of bonds on behalf of the plan; providing circumstances under which a classification is eligible for coverage in the Florida Property and Casualty Joint Underwriting Association; providing criteria for rates; activating coverage relating to commercial coverages of residences; providing for legislative review; providing for termination; revising provisions relating to deficit assessments; authorizing issuance of bonds for the association; providing legislative intent with respect to the Residential Property and Casualty Joint Underwriting Association; providing criteria for rates; requiring rate filings; revising provisions relating to deficit assessments; authorizing issuance of bonds for the association; providing for dissolution of the association; amending s. 627.701, F.S.; providing limitations on deductibles; providing for pools of insurance adjusters in case of hurricanes or declared emergencies; regulating the geographic concentration of property insurance exposure; amending s. 628.801, F.S., relating to application of insurance holding company rules to domestic insurers, foreign insurers, and commercially domiciled insurers; providing exceptions; providing for rules; amending s. 631.011, F.S.; revising the cross-references in the definitions of the terms "impairment of capital" and "impairment of surplus" to conform to changes made by this act; providing for the post-moratorium cancellation and nonrenewal of personal lines residential property insurance policies; providing an effective date.

—as amended this day.

Senator Dudley moved the following amendments which failed:

Amendment 5 (with Title Amendment)—On page 3, between lines 9 and 10, insert:

Section 2. Effective January 1, 1994, section 624.3101, Florida Statutes, is created to read:

624.3101 False or misleading financial statements or supporting documents; penalty.—Any person who willfully files with the department, or who willfully signs for filing with the department, a materially false or materially misleading financial statement or document in support thereof required by law or rule, with intent to deceive and with knowledge that the statement or document is materially false or materially misleading, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 4, after the semicolon (;) insert: creating s. 624.3101, F.S.; prohibiting false and misleading financial statements; providing penalties;

Amendment 6 (with Title Amendment)—On page 6, line 7, through page 7, line 15, strike all of said lines and insert:

Section 4. Subsection (1) of section 624.407, Florida Statutes, is amended to read:

624.407 Capital funds required; new insurers.—

(1) To receive authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer hereafter applying for its original certificate of authority in this state after the effective date of this section shall possess surplus as to policyholders not less than the greater of:

(a) \$5,000,000 for a property and casualty insurer, or \$2,500,000 for any other insurer;

(b) For life insurers, 4 percent of the insurer's total liabilities;

(c) For life and health insurers, 4 percent of the insurer's total liabilities, plus 6 percent of the insurer's liabilities relative to health insurance; or

(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities;

however, no insurer shall be required under this subsection to have surplus as to policyholders greater than \$100 million.

And the title is amended as follows:

In title, on page 1, strike lines 13 and 14, and insert: for prospective insurers; amending s.

Amendment 7—On page 7, line 20, through page 8, line 31, strike all of said lines and insert:

(1)(a) To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state that applied for its certificate of authority on or after the effective date of this act shall at all times maintain surplus as to policyholders not less than the greater of:

1.(a) Except as provided in subparagraph 5. and paragraph (b), \$1,500,000;

2.(b) For life insurers, 4 percent of the insurer's total liabilities;

3.(c) For life and health insurers, 4 percent of the insurer's total liabilities plus 6 percent of the insurer's liabilities relative to health insurance; or

4.(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities.

5. For property and casualty insurers, \$4,000,000.

(b) For any property and casualty insurer holding a certificate of authority on December 1, 1993, the following amounts apply instead of the \$4,000,000 required by subparagraph (a)5.:

1. On December 31, 1994, and until December 30, 1995, \$1,650,000.

2. On December 31, 1995, and until December 30, 1996, \$1,800,000.

3. On December 31, 1996, and until December 30, 1997, \$1,950,000.

4. On December 31, 1997, and until December 30, 1998, \$2,100,000.

5. On December 31, 1998, and until December 30, 1999, \$2,250,000.

6. On December 31, 1999, and until December 30, 2000, \$2,500,000.

7. On December 31, 2000, and until December 30, 2001, \$2,750,000.

8. On December 31, 2001, and until December 30, 2002, \$3,000,000.

9. On December 31, 2002, and until December 30, 2003, \$3,250,000.

10. On December 31, 2003, and until December 30, 2004, \$3,600,000.

11. On December 31, 2004, and thereafter, \$4,000,000.

SENATOR JENNE PRESIDING

Amendment 8—On page 11, line 17, through page 12, line 20, strike all of said lines and insert:

624.4243 Computation and reporting of premium growth.—

(1) Each month, each insurer authorized to transact property, casualty, life, or health insurance in this state shall make the following calculations:

(a) For the 12-month period ending on the last day of the previous month, the sum of the insurer's direct and assumed written premiums from the United States and its territories.

(b) For the 12-month period immediately preceding the 12-month period specified in paragraph (a), the sum of the insurer's direct and assumed written premiums from the United States and its territories.

(c) The amount by which the premiums calculated under paragraph (a) exceeds the premiums calculated under paragraph (b).

(d) The amount determined under paragraph (c) divided by the amount determined under paragraph (b).

(2) Until an insurer has held a certificate of authority in this state for 24 months, the insurer shall, instead of making the calculations required under subsection (1), report to the department no later than the last day of each month the insurer's direct and assumed written premiums from the United States and its territories for the previous month.

(3) If the amount calculated by an insurer under paragraph (1)(d) exceeds 0.33, the insurer shall, within 30 days after the end of the 12-month period referred to in paragraph (1)(a), file a statement of the premium growth calculations under this section with the department. The department shall adopt rules specifying the form for the report. In response to a report under this section, the department may require the insurer to submit an explanation of its patterns of premium growth.

(4) For the purposes of this section, direct and assumed written premiums shall be calculated under the formula used for calculating direct and assumed written premiums for purposes of the insurer's annual statement under s. 624.424.

Amendment 9 (with Title Amendment)—On page 12, line 24, through page 14, line 23, strike all of said lines and insert:

(4) ~~Without the prior written approval of the department,~~ The cost of investments in bonds, debentures, notes, commercial paper, or other debt obligations issued, assumed, or guaranteed by any solvent institution, and which are classified as medium to lower quality obligations, other than obligations of subsidiaries or related corporations as that term is defined in s. 625.325, shall be limited to:

(7) The provisions of subsections (4), (5), and (6) apply to any investment made after September 30, 1991. If an insurer's investments in medium to lower quality obligations equal or exceed the maximum amounts permitted by subsection (4) as of October 1, 1991, the insurer shall not acquire any additional medium to lower quality obligations ~~without the prior written approval of the department.~~ An insurer that is not in compliance with subsection (4) as of October 1, 1991, may hold until maturity or until January 1, 1996, whichever is sooner, only those medium to lower quality obligations it owns on that date if such obligations were obtained in compliance with the law in effect at the time the investments were made. If the insurer sells, transfers, or otherwise disposes of such securities prior to maturity, the insurer may not acquire any medium to lower quality obligations as substitutions or replacements, ~~except replacement investments, without the prior approval of the department.~~ However, the consent of the department shall not be required if such replacement investment is acquired for the purpose of supporting an unexpired life insurance or annuity product liability if and the insurer has filed with the department a schedule of such liabilities supported by the medium to lower quality investments. An insurer that is not in compliance with subsection (4) on December 31, 1991, shall file with its annual statement a separate schedule of the medium to lower quality obligations it owns on December 31, 1991. Until it is in compliance with subsection (4), the insurer shall file with each succeeding annual and quarterly statement a separate schedule of the medium to lower quality obligations it owns as of the reporting date of the filed statement.

(8) ~~Failure to obtain the prior written approval of the department shall result in~~ Any investments in excess of those permitted by subsection (4) ~~are not being~~ allowed as an asset of the insurer.

And the title is amended as follows:

In title, on page 1, strike all of lines 18-20 and insert: amending s. 625.305, F.S.; removing authority of the department to waive certain investment restrictions; amending s. 625.330, F.S.,

Amendment 10 (with Title Amendment)—On page 15, between lines 10 and 11, insert:

Section 9. Paragraph (b) of subsection (2) and subsections (4) and (9) of section 626.7491, Florida Statutes, are amended to read:

626.7491 Business transacted with producer controlled property and casualty insurer.—

(2) DEFINITIONS.—As used in this section:

(b) "Control" or "controlled" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a contract for goods or nonmanagement services, or otherwise. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10 percent or more ~~a majority~~ of the outstanding voting securities of any other person. No person shall be deemed to control another person solely by reason of being an officer or director of such other person.

(4) MINIMUM STANDARDS.—

(a) The provisions of this section apply if, in any calendar year, the aggregate amount of gross written premiums on business placed with a controlled insurer by a controlling producer is equal to or greater than 5 percent of the admitted assets of the controlled insurer, as reported in the controlled insurer's annual statement filed as of December 31 of the prior year.

(b) Notwithstanding the provisions of paragraph (a), the provisions of this subsection and subsections (5), (6), and (7) ~~section~~ do not apply if:

1. The controlling producer:

a. Places insurance only with the controlled insurer, or only with the controlled insurer and any members of the controlled insurer's holding company system, or the controlled insurer's parent, affiliate, or subsidiary and receives no compensation based upon the amount of premiums written in connection with such insurance; or

2.b. *The controlling producer* accepts insurance placements only from nonaffiliated subproducers and not directly from insureds; and:

3.2. The controlled insurer, except for insurance business written through a risk *apportionment* ~~appointment~~ plan as provided in s. 627.351, accepts insurance business only from a controlling producer, a producer controlled by the controlled insurer, or a producer that is a subsidiary of the controlled insurer.

(9) DISCLOSURE REQUIREMENT.—A ~~No~~ property or casualty insurer *that is controlled by which has control* of a producer may accept business from such producer in any transaction in which the producer, ~~unless the producer at the time the business is placed, is acting on behalf of the insured for any compensation, commission, or thing of value unless the producer,~~ prior to the effective date of the policy, delivers written notice, signed by the insured, to the prospective insured disclosing the relationship between the insurer and the *controlling* ~~controlled~~ producer. The disclosure must be retained in the underwriting file until the filing of the report on examination covering the period in which the coverage is in effect; however, if the business is placed through a subproducer who is not a *controlling* ~~controlled~~ producer, the *controlling producer and the controlled insurer* shall retain in its records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the producer and that the subproducer has or will notify the insured.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 23, after "requirements" insert: amending s. 626.7491, F.S.; revising provisions in order to comply with model legislation of the National Association of Insurance Commissioners; narrowing an exemption concerning the applicability of certain requirements;

Senator Grant moved the following amendments which were adopted:

Amendment 11—On page 17, line 24, on page 30, line 23, and on page 41, line 9, after "deficit" insert: , or such lesser percentage as is sufficient to retire the bonds as determined by the board,

Amendment 12—On page 17, line 28, on page 30, line 27, and on page 41, line 13, after "in" insert: s. 125.013 or

Amendment 13—On page 21, line 1, through page 32, line 6, strike all of said lines.

RECONSIDERATION OF AMENDMENT

On motion by Senator Wexler, the Senate reconsidered the vote by which **Amendment 13** was adopted. **Amendment 13** failed.

Senator Grant moved the following amendments which were adopted:

Amendment 14—On page 31, between lines 8 and 9, insert:

7. *The plan shall provide for the deferment, in whole or in part, of the assessment of an insurer if the department finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in subparagraph 2.*

Amendment 15—On page 42, between lines 10 and 11, insert:

4. *The plan shall provide for the deferment, in whole or in part, of the assessment of an insurer if the department finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in paragraph (b).*

Senator Williams moved the following amendment which was adopted:

Amendment 16—On page 45, line 26, after "Commissioners" insert: *by December 31, 1995*

Senator Dudley moved the following amendments which were adopted:

Amendment 17 (with Title Amendment)—On page 49, between lines 1 and 2, insert:

Section 16. The Department of Insurance shall, within existing resources, conduct a study of the appropriateness of classifying condominium association master policies as commercial insurance policies, including consideration of issues involved with the possible inclusion of condominium association master policies within the Residential Property and Casualty Joint Underwriting Association with a separate base for deficient assessments, and including consideration of those provisions of law applicable to personal lines policies that might also be applied to condominium association policies. The department shall, by January 1, 1994, complete its study and make recommendations to the Speaker of the House of Representatives, the President of the Senate, the majority and minority leaders of each house, and the chairs of the committees of each house having primary jurisdiction over insurance matters.

And the title is amended as follows:

In title, on page 2, line 29, after the semicolon (;) insert: requiring the Department of Insurance to conduct a study of the classification of condominium association coverage; requiring reports;

Amendment 18 (with Title Amendment)—On page 44, between lines 10 and 11, insert:

Section 11. Section 627.708, Florida Statutes, is created to read:

627.708 Alternative procedures for resolution of disputed property insurance claims.—

(1) This section sets forth a nonadversarial alternative dispute resolution procedure for a mediated claim resolution conference prompted by the need for effective, fair, and timely handling of property insurance claims. There is a particular need for an informal, nonthreatening forum for helping parties who elect this procedure to resolve their claims disputes inasmuch as most homeowners' policies obligate insureds to participate in a potentially expensive, time-consuming, and adversarial appraisal process prior to litigation. The procedure set forth in this sec-

tion is designed to bring the parties together for a mediated claims settlement conference without any of the trappings or drawbacks of an adversarial process. Before resorting to these procedures, insureds and insurers are encouraged to resolve claims as quickly and fairly as possible. The mediation program established under this section is available to all first-party claimants and insurers prior to engaging counsel, or commencing either litigation or the appraisal process, who have personal lines claims. However, upon request of an insured, participation by legal counsel shall be permitted. The mediation program is also available to litigants referred to the department from a circuit court or county court. However, this section does not apply to commercial coverages or private passenger motor vehicle insurance coverages. Disputes relating to liability coverages in policies of property insurance are not eligible for the mediation program.

(2) Insurers shall notify all first-party claimants at the time a claim is filed, of their right to participate in the mediation program established under this section. The department shall prepare a consumer information pamphlet to be distributed to participants in the program.

(3) The costs of conducting this program shall be reasonable and the insurer shall bear all of the cost of conducting mediation conferences, except as provided in this section. If an insured fails to appear at the conference, the conference may be rescheduled upon the insured's payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference the insurer shall pay the insured's actual cash expenses incurred in attending the conference if the insurer's failure to attend was not due to good cause acceptable to the department. The insurer will also incur an additional fee for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. The fees assessed by the administrator shall include a charge necessary to defray the expenses of the department related to its duties under this section and shall be deposited to the Insurance Commissioner's Regulatory Trust Fund.

(4) The department shall adopt by rule a property insurance mediation program to be administered by the department or its designee. The department may adopt special rules that are applicable in cases of an emergency within the state. The rules shall be modeled after practices and procedures set forth in mediation rules for procedure adopted by the Florida Supreme Court. The rules shall provide for:

(a) Reasonable requirements for processing and scheduling requests for mediation;

(b) Qualification of mediators as provided in s. 627.745, the Florida Rules of Certified and Court Appointed Mediators, and such other individuals qualified by education, training, or experience as the department defines;

(c) Provisions governing who may attend mediation conferences;

(d) Selection of mediators; and

(e) Criteria for the conduct of mediation conferences.

(4) All statements made and documents produced at a settlement conference shall be deemed settlement negotiations in anticipation of litigation. All parties to the mediation shall negotiate in good faith and have the authority to immediately settle the claim. Mediators are agents of the department and are immune from suit as provided in s. 44.107.

(5) Mediation is nonbinding. However, if a written settlement is reached, the insured may rescind the settlement within 3 business days if he has not cashed or deposited a check or draft disbursed to him for the disputed matters as a result of the conference. If a settlement agreement is reached and is not rescinded, it is binding and acts to release all specific claims that were presented in the conference.

(6) The department may designate an entity or person to serve as administrator to carry out any of the provisions of this section and may do so by means of a written contract or agreement.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 14, after the semicolon (;) insert: creating s. 627.708, F.S.; providing for the mediation of property insurance claims through a program established by the Department of Insurance;

POINT OF ORDER

Senator Holzendorf raised a point of order that **Amendment 18** had a fiscal impact and pursuant to Rule 4.8 the bill should be referred to the Committee on Appropriations. The President referred the point to Senators Scott and Crenshaw for a recommendation.

RULING ON POINT OF ORDER

On recommendation of Senator Scott, the President ruled the point well taken.

RECONSIDERATION OF AMENDMENT

On motion by Senator Dudley, the Senate reconsidered the vote by which **Amendment 18** was adopted. **Amendment 18** was withdrawn.

Senator Dudley moved the following amendment which failed:

Amendment 19 (with Title Amendment)—On page 43, between lines 11 and 12, insert:

Section 10. Section 627.4133, Florida Statutes, is amended to read:

627.4133 Notice of cancellation, nonrenewal, or renewal premium.—

(1) *Except as provided in subsection (2):*

(a) An insurer issuing a policy providing coverage for property, casualty, except mortgage guaranty, surety, or marine insurance, other than motor vehicle insurance subject to s. 627.728, shall give the named insured at least 45 days' advance written notice of nonrenewal or of the renewal premium. If the policy is not to be renewed, the written notice shall state the reason or reasons as to why the policy is not to be renewed. The provisions of this section requiring 45 days' advance written notice of the renewal premium do not apply to workers' compensation and employer's liability insurance. An insurer must furnish written notice of the renewal premium to an insured covered by a policy of workers' compensation and employer's liability insurance not later than the expiration date of the policy to be renewed. This requirement applies only if the insured has furnished all of the necessary information so as to enable the insurer to develop the renewal premium prior to the expiration date of the policy to be renewed.

(b)(2) An insurer issuing a policy providing coverage for property, casualty, except mortgage guaranty, surety, or marine insurance, other than motor vehicle insurance subject to s. 627.728 or s. 627.7281, shall give the named insured written notice of cancellation or termination other than nonrenewal at least 45 days prior to the effective date of the cancellation or termination, including in the written notice the reason or reasons for the cancellation or termination, except that:

1.(a) When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given; and

2.(b) When such cancellation or termination occurs during the first 90 days during which the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor shall be given except where there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

After the policy has been in effect for 90 days, no such policy shall be canceled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days of the date of effectuation of coverage, or a substantial change in the risk covered by the policy or when the cancellation is for all insureds under such policies for a given class of insureds. The provisions of this subsection shall not apply to individually rated risks having a policy term of less than 90 days.

(c)(3) If an insurer fails to provide the 45-day or 20-day written notice required under this section, the coverage provided to the named insured shall remain in effect until 45 days after the notice is given or until the effective date of replacement coverage obtained by the named insured, whichever occurs first. The premium for the coverage shall remain the same during any such extension period except that, in the event of failure to provide notice of nonrenewal, if the rate filing then in effect would have resulted in a premium reduction, the premium during such extension of coverage shall be calculated based upon the later rate filing.

(2) *With respect to any personal lines or commercial residential property insurance policy, including, but not limited to, any homeowner's, mobile home owner's, farm owner's, condominium association, condominium unit owner's, apartment building, or other policy covering a residential structure or its contents:*

(a) *The insurer shall give the named insured at least 45 days' advance written notice of the renewal premium.*

(b) *The insurer shall give the named insured written notice of nonrenewal, cancellation, or termination at least 90 days prior to the effective date of the nonrenewal, cancellation, or termination; except that if the property has been continuously insured under the policy for 5 years or more, the notice must be given at least 180 days prior to the effective date of the nonrenewal, cancellation, or termination. The notice must include the reason or reasons for the nonrenewal, cancellation, or termination, except that:*

1. *When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given.*

2. *When such cancellation or termination occurs during the first 90 days during which the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor shall be given except where there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.*

After the policy has been in effect for 90 days, the policy shall not be canceled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days of the date of effectuation of coverage, or a substantial change in the risk covered by the policy or when the cancellation is for all insureds under such policies for a given class of insureds. This paragraph does not apply to individually rated risks having a policy term of less than 90 days.

(c) *If the insurer fails to provide the notice required by this subsection, other than the 10-day notice, the coverage provided to the named insured shall remain in effect until the effective date of replacement coverage or until the expiration of a period of days after the notice is given equal to the required notice period, whichever occurs first. The premium for the coverage shall remain the same during any such extension period except that, in the event of failure to provide notice of nonrenewal, if the rate filing then in effect would have resulted in a premium reduction, the premium during such extension shall be calculated based on the later rate filing.*

(3)(4) *Claims on property insurance policies that are the result of an act of God may not be used as a cause for cancellation or nonrenewal, unless the insurer can demonstrate, by claims frequency or otherwise, that the insured has failed to take action reasonably necessary as requested by the insurer to prevent recurrence of damage to the insured property.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 13, after "association;" insert: amending s. 627.4133, F.S.; specifying period for notice of nonrenewal, renewal premium, and cancellation;

Senator Dudley moved the following amendment:

Amendment 20 (with Title Amendment)—On page 44, between lines 10 and 11, insert:

Section 11. Section 627.7011, Florida Statutes, is created to read:

627.7011 Homeowner's policies; offer of replacement cost coverage and law and ordinance coverage.—

(1) Prior to issuing a homeowner's insurance policy on or after the effective date of this act, or prior to the first renewal of a homeowner's insurance policy on or after the effective date of this act, the insurer must offer each of the following:

(a) A policy or endorsement providing that any loss will be adjusted on the basis of replacement costs not exceeding policy limits as to the dwelling, rather than actual cash value, but not including costs necessary

to meet applicable laws regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris.

(b) A policy or endorsement providing that, subject to other policy provisions, any loss will be adjusted on the basis of replacement costs not exceeding policy limits as to the dwelling, rather than actual cash value, and also including costs necessary to meet applicable laws regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris; however, such additional costs necessary to meet applicable laws may be limited to 25 percent of the dwelling limit, and such coverage shall apply only to repairs of the damaged portion of the structure unless the total damage to the structure exceeds 50 percent of the replacement cost of the structure.

An insurer is not required to make the offers required by this subsection with respect to the issuance or renewal of a homeowner's policy that contains the provisions specified in paragraph (b). This subsection does not prohibit the offer of a guaranteed replacement cost policy.

(2) Unless the insurer obtains the policyholder's written refusal of the policies or endorsements specified in subsection (1), any policy covering the dwelling is deemed to include the coverage specified in paragraph (1)(b). The rejection or selection of alternative coverage shall be made on a form approved by the department. The form shall fully advise the applicant of the nature of the coverage being rejected. If this form is signed by a named insured, it will be conclusively presumed that there was an informed, knowing rejection of the coverage or election of the alternative coverage on behalf of all insureds. Unless the policyholder requests in writing the coverage specified in this section, it need not be provided in or supplemental to any other policy that renews, extends, changes, supersedes, or replaces an existing policy when the policyholder has rejected the coverage specified in this section or has selected alternative coverage. The insurer must provide such policyholder with notice of the availability of such coverage in a form specified by the department at least once every 3 years. The failure to provide such notice constitutes a violation of this code, but does not affect the coverage provided under the policy.

(3) Nothing in this section shall be construed to apply to policies not considered to be "homeowners' policies," as that term is commonly understood in the insurance industry. This section specifically does not apply to mobile home policies. Nothing in this section shall be construed as limiting the ability of any insurer to reject or nonrenew any insured or applicant on the grounds that the structure does not meet underwriting criteria applicable to replacement cost policies or for other lawful reasons.

(4) Nothing in this section is intended to affect any legal actions pending on the effective date of this act, or to express the opinion of the Legislature with respect to any issues involved in such legal actions.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 18, after the semicolon (;) insert: creating s. 627.7011, F.S.; requiring certain provisions to be offered with respect to homeowner's policies; providing for rejection or selection of alternative coverages; requiring notice;

Senator Burt moved the following substitute amendment which was adopted:

Amendment 21—On page 45, between lines 8 and 9, insert:

Section 13. Section 627.7011, Florida Statutes, is created to read:

627.7011 Homeowner's policies; offer of replacement cost coverage and law and ordinance coverage.—

(1) Prior to issuing a homeowner's insurance policy on or after June 1, 1994, or prior to the first renewal of a homeowner's insurance policy on or after June 1, 1994, the insurer must offer each of the following:

(a) A policy or endorsement providing that any loss which is repaired or replaced will be adjusted on the basis of replacement costs not exceeding policy limits as to the dwelling, rather than actual cash value, but not including costs necessary to meet applicable laws regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris.

(b) A policy or endorsement providing that, subject to other policy provisions, any loss which is repaired or replaced will be adjusted on the

basis of replacement costs not exceeding policy limits as to the dwelling, rather than actual cash value, and also including costs necessary to meet applicable laws regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris; however, such additional costs necessary to meet applicable laws may be limited to 25 percent of the dwelling limit, and such coverage shall apply only to repairs of the damaged portion of the structure unless the total damage to the structure exceeds 50 percent of the replacement cost of the structure.

An insurer is not required to make the offers required by this subsection with respect to the issuance or renewal of a homeowner's policy that contains the provisions specified in paragraph (b). This subsection does not prohibit the offer of a guaranteed replacement cost policy.

(2) Unless the insurer obtains the policyholder's written refusal of the policies or endorsements specified in subsection (1), any policy covering the dwelling is deemed to include the coverage specified in paragraph (1)(b). The rejection or selection of alternative coverage shall be made on a form approved by the department. The form shall fully advise the applicant of the nature of the coverage being rejected. If this form is signed by a named insured, it will be conclusively presumed that there was an informed, knowing rejection of the coverage or election of the alternative coverage on behalf of all insureds. Unless the policyholder requests in writing the coverage specified in this section, it need not be provided in or supplemental to any other policy that renews, extends, changes, supersedes, or replaces an existing policy when the policyholder has rejected the coverage specified in this section or has selected alternative coverage. The insurer must provide such policyholder with notice of the availability of such coverage in a form specified by the department at least once every 3 years. The failure to provide such notice constitutes a violation of this code, but does not affect the coverage provided under the policy.

(3) Nothing in this section shall be construed to apply to policies not considered to be "homeowners' policies," as that term is commonly understood in the insurance industry. This section specifically does not apply to mobile home policies. Nothing in this section shall be construed as limiting the ability of any insurer to reject or nonrenew any insured or applicant on the grounds that the structure does not meet underwriting criteria applicable to replacement cost or law and ordinance policies or for other lawful reasons.

THE PRESIDENT PRESIDING

Senator Dudley moved the following amendment which failed:

Amendment 22—On page 49, strike lines 2-3, and insert:

Section 16. Except as otherwise provided herein, this act shall take effect upon becoming a law.

MOTIONS

Senator Gutman moved that the rules be waived to allow consideration of an amendment to **SB 16-C**. The motion failed.

Senator Grant moved that the rules be waived to allow consideration of an amendment to **SB 16-C**. The motion failed.

Senator McKay moved the following amendment which failed:

Amendment 23 (with Title Amendment)—On page 12, between lines 20 and 21, insert:

Section 7. Subsection (2) of section 624.610, Florida Statutes, is amended, and subsections (13) and (14) are added to said section, to read:

624.610 Reinsurance.—

(2)(a) If a ceding insurer reinsures all or any part of any particular risk or class of risks with an approved reinsurer, the ceding insurer may receive credit in accounting and financial statements on account of such reinsurance ceded. An approved reinsurer is:

1. An assuming insurer authorized by the department to transact such line of insurance or reinsurance in this state. Subject to the other requirements of this code, credit may be taken for reinsurance with an authorized insurer.

2. An assuming insurer approved by the department to transact such line of reinsurance in this state. The department shall approve only solvent insurers meeting the criteria established for authorized insurers in this state. From time to time, the department shall publish a list of insur-

ers approved pursuant to this subsection. Subject to the other requirements of this code, credit may be taken for reinsurance with an approved reinsurer.

3. An assuming underwriting member of an insurance exchange domiciled in any other state or jurisdiction in the United States, *which insurance exchange was licensed and in operation on or before January 1, 1993*, provided the insurance exchange presents to the department for its approval, and maintains, satisfactory evidence that such assuming underwriting member maintains the standards and meets the financial requirements applicable to an authorized insurer. Subject to the other requirements of this section, credit may be taken for reinsurance with members approved under this subsection by the department.

4. A group of individual, unincorporated, or incorporated alien insurers which maintains funds in an amount not less than \$50 million held in trust for United States policyholders and beneficiaries in a bank or trust company that is subject to supervision by any state of the United States or that is a member of the Federal Reserve System and which group satisfies the department by annually filing evidence that it can meet its obligations under its reinsurance agreements. Subject to the other requirements of this section, credit may be taken for reinsurance with a group approved under this subsection by the department.

(b) Credit in accounting and financial statements on account of reinsurance ceded to a nonapproved reinsurer may be allowed only:

1. When it is demonstrated by the ceding insurer to the satisfaction of the department that such reinsurer maintains the standards and meets the financial requirements applicable to an authorized insurer;

2. To the extent of deposits by, or funds withheld from, such reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or such deposits or funds are placed in trust for such purposes in a bank which is a member of the Federal Reserve System if withdrawals from the trust cannot be made without the consent of the ceding insurer. The funds withheld may be cash or securities which are qualified as admitted assets under part II of chapter 625 and which have a market value equal to or greater than the credit taken; or

3. To the extent that the amount of a clean, *unconditional, evergreen*, and irrevocable letter of credit, issued for a term of not less than 1 year and in conformity with the requirements set forth in this subparagraph, equals or exceeds the liability of an unauthorized or unapproved reinsurer for unearned premiums, outstanding losses, and an adequate reserve for incurred but not reported losses under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit be issued under arrangements satisfactory to the department as constituting security to the ceding insurer substantially equal to that of a deposit under subparagraph 2. and that the letter be issued by a banking institution which is a member of the Federal Reserve System and which has financial standing satisfactory to the commissioner. *The department may adopt rules requiring that the letter adhere in its wording to a format for letters of credit as the format has been or may be adopted or approved by the National Association of Insurance Commissioners.*

(c) For the purposes of this subsection only, the term "ceding insurer" shall include any health maintenance organization operating under a certificate of authority issued under part I of chapter 641.

(13) *A ceding insurer shall conduct a due diligence inquiry concerning the solvency and reputation of its assuming reinsurer prior to ceding any reinsurance to that reinsurer.*

(14) *If in the course of an examination under s. 624.316, the department and an insurer are unable to agree as to the nature, protection, or adequacy of any reinsurance contract for which credit is sought, the department may contract with a reinsurance consultant, under procedures specified in this subsection, for the purpose of reviewing and reporting to the department the consultant's evaluations and findings as to the nature, protection, and adequacy of the reinsurance contract. The department shall provide the ceding insurer being examined with a list of at least 10 reinsurance consultants, at least one of whom must be employed by a national public accounting firm, and the ceding insurer shall select one of those consultants to perform the evaluation. If the ceding insurer fails to select one of the 10 and to inform the department in writing of its selection within 14 days after receiving the list, the department shall select one of the consultants from the list to perform the evaluation. The insurer shall cooperate in the reinsurance*

evaluation by the reinsurance consultant. The ceding insurer being examined must make payment for the evaluation, directly to the firm performing the examination, in accordance with the reasonable rates and charges agreed to by the department and the firm.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 17, after the semicolon (;) insert: amending s. 624.610, F.S.; providing criteria for classification as an approved reinsurer; requiring a ceding insurer to conduct a due diligence inquiry with respect to an assuming reinsurer; revising criteria for a letter of credit used with respect to credit on financial statements for certain reinsurance; authorizing rules with respect to the letter of credit; authorizing use by the Department of Insurance of reinsurance consultants under certain conditions; providing procedures and requirements with respect thereto and regarding the reinsurance evaluation; providing for payment for evaluation costs;

Senator Kiser moved the following amendment which was adopted:

Amendment 24—On page 47, line 18, after “claims.” insert: The limitations of this subsection apply separately to each of the following: mobile home insurance policies, residential property insurance policies other than mobile home policies, and the total of all residential property insurance policies.

Senator Williams moved the following amendment which was adopted:

Amendment 25—On page 47, line 13, strike “15” and insert: 10

On motion by Senator Holzendorf, by two-thirds vote **SB 16-C** as amended was read the third time by title.

Pending further consideration of **SB 16-C** as amended, on motions by Senator Childers, by two-thirds vote **CS for HB’s 33-C and 43-C** was withdrawn from the Committees on Commerce and Appropriations.

On motions by Senator Childers, by two-thirds vote—

CS for HB’s 33-C and 43-C—A bill to be entitled An act relating to insurance; amending s. 624.307, F.S.; requiring the Department of Insurance to implement a program to encourage the entry of additional insurers into the Florida market; creating s. 624.3101, F.S.; prohibiting false or misleading financial statements; providing penalties; creating s. 624.3102, F.S.; providing immunity from civil liability for persons who provide the department with certain information about insurers; amending s. 624.316, F.S.; removing limitation of examination authority to domestic insurers; limiting acceptability of examination reports of foreign insurers; providing for conduct of examinations by independent examiners; specifying frequency of examinations of insurers; providing for adoption of rules; amending s. 624.407, F.S.; increasing the minimum surplus as to policyholders required for issuance of a certificate of authority as a property and casualty insurer; amending s. 624.408, F.S.; increasing the minimum surplus as to policyholders required for maintenance of a certificate of authority as a property and casualty insurer; amending s. 624.424, F.S.; requiring an insurer’s annual statement to include a statement of opinion on reserves; limiting waivers of accounting requirements; creating s. 624.4243, F.S.; providing for computation and reporting of premium growth; specifying powers of the department; amending s. 624.610, F.S.; providing criteria for classification as an approved reinsurer; requiring a ceding insurer to conduct a due diligence inquiry with respect to an assuming reinsurer; revising criteria for a letter of credit used with respect to credit on financial statements for certain reinsurance; authorizing rules with respect to the letter of credit; authorizing use by the Department of Insurance of reinsurance consultants under certain conditions; providing procedures and requirements with respect thereto and regarding the reinsurance evaluation; providing for payment for evaluation costs; amending s. 625.305, F.S.; removing authority of the department to waive certain investment restrictions; amending s. 626.7491, F.S.; specifying when an insurer is presumed to be producer-controlled; specifying application of certain provisions; providing exceptions; specifying producers from which insurers may accept business; amending s. 626.918, F.S.; increasing minimum surplus requirements for surplus lines insurers; creating s. 627.0629, F.S.; requiring residential property insurance rate filings to include rate differentials for properties on which certain fixtures have been installed; authorizing such rate filings to include factors reflecting the quality of particular building codes and enforcement thereof; providing for adoption and use of a standard hurricane loss exposure model; providing criteria for territories used in property insurance rate filings; amending s. 627.351, F.S.; revising provisions with respect to deficit assessments in the windstorm insurance risk apportionment plan;

authorizing issuance of bonds on behalf of the plan; requiring insurers to purchase bonds in specified circumstances; providing circumstances under which a classification is immediately eligible for coverage in the Florida Property and Casualty Joint Underwriting Association; providing criteria for rates; activating coverage with respect to commercial coverages of residences; providing for legislative review; providing for termination; revising provisions with respect to deficit assessments; authorizing issuance of bonds on behalf of the association; requiring insurers to purchase bonds in specified circumstances; providing legislative intent with respect to the Residential Property and Casualty Joint Underwriting Association; providing criteria for rates; requiring rate filings; revising provisions relating to deficit assessments; authorizing issuance of bonds on behalf of the association; requiring insurers to purchase bonds in specified circumstances; providing for dissolution of the association; amending s. 627.4133, F.S.; specifying period for notice of nonrenewal, renewal premium, and cancellation; amending s. 627.701, F.S.; specifying powers of the department with respect to deductible provisions in certain policies; creating s. 627.7011, F.S.; requiring certain provisions to be offered with respect to homeowner’s policies; providing for rejection or selection of alternative coverages; requiring notice; creating s. 627.7012, F.S.; authorizing the department to establish pools of qualified adjusters for use in emergencies; creating s. 627.7013, F.S.; providing findings and purpose; limiting cancellation or nonrenewal of policies that were subject to the moratorium contained in ch. 93-401, Laws of Florida; providing for future repeal; requiring insurers to submit exposure reduction plans to the department for approval; creating s. 627.7014, F.S.; requiring insurers to implement plans for the avoidance of certain concentrations of property insurance exposures; providing for reports; providing circumstances for submission of plans to the department; providing criteria for approval of order to resubmit; creating s. 627.7015, F.S.; requiring the department to adopt a mediation program for first-party claims under personal lines residential policies; providing purpose and scope; requiring notice; providing for payment of costs; requiring adoption of rules; providing for treatment as negotiations in anticipation of litigation; requiring negotiation in good faith; requiring participants to have the authority to settle; providing immunity for mediators; specifying effects of mediation; specifying time within which insured may rescind settlement; authorizing the department to delegate certain duties; amending s. 628.801, F.S.; specifying content and applicability of rules relating to insurance holding companies; amending s. 631.52, F.S.; specifying applicability of the Florida Insurance Guaranty Association Act; amending s. 631.54, F.S.; including certain surplus lines insurers as member insurers; amending s. 631.55, F.S.; requiring a separate account for surplus lines insurers; requiring the Department of Insurance to conduct a study of the classification of condominium association coverage; requiring reports; amending ss. 625.330 and 631.011, F.S.; correcting cross references; providing effective dates.

—a companion measure, was substituted for **SB 16-C** and by two-thirds vote read the second time by title.

Senator Holzendorf moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—

Strike everything after the enacting clause and insert:

Section 1. Subsection (7) is added to section 624.307, Florida Statutes, to read:

624.307 General powers, duties.—

(7) *The department shall, within existing resources, develop and implement an outreach program for the purpose of encouraging additional insurers to enter the insurance market in this state.*

Section 2. Section 624.3215, Florida Statutes, is created to read:

624.3215 Immunity from civil liability for providing information about financial condition of insurer.—A person who provides to the department information about the financial condition of an insurer is immune from civil liability arising out of the provision of that information unless the person acted with knowledge that the information was false or with reckless disregard for the truth or falsity of that information.

Section 3. Subsection (2) of section 624.316, Florida Statutes, is amended to read:

624.316 Examination of insurers.—

(2)(a) The department may examine each insurer as often as may be warranted for the protection of the policyholders and in the public interest, and shall, *except as provided in paragraph (e)*, examine each domestic insurer *at least not less frequently than once every 3 years*. The examination shall cover the preceding 3 fiscal years of the insurer and shall be commenced within 12 months after the end of the most recent fiscal year being covered by the examination. The examination may cover any period of the insurer's operations since the last previous examination. The examination may include examination of events subsequent to the end of the most recent fiscal year and the events of any prior period that affect the present financial condition of the insurer. In lieu of making its own examination, the department may accept an independent certified public accountant's audit report prepared *on that company according to law* on a statutory basis consistent with the Florida Insurance Code ~~on that specific company~~. The department may not accept the report in lieu of the requirement imposed by paragraph (1)(b). *If* When an examination is conducted by the department for the sole purpose of examining the 3 preceding fiscal years of the insurer within 12 months after the opinion date of an independent certified public accountant's audit report prepared *on that company* on a statutory basis ~~on that specific company~~ consistent with the Florida Insurance Code, the cost of the examination as charged to the insurer pursuant to s. 624.320 shall be reduced by the cost to the insurer of the independent certified public accountant's audit reports. Requests for the reduction in cost of *an* examination must be submitted to the department in writing no later than 90 days after the conclusion of the examination and shall include sufficient documentation to support the charges incurred for the statutory audit performed by the independent certified public accountant.

(b) The department shall examine each insurer applying for an initial certificate of authority to transact insurance in this state before granting the initial certificate.

(c) In lieu of making its own examination, the department may accept a full report of the last recent examination of a foreign insurer, certified to by the insurance supervisory official of another state.

(d) The examination by the department of an alien insurer shall be limited to the alien insurer's insurance transactions and affairs in the United States, except as otherwise required by the department.

(e)1. *At least once every year, the department shall examine each domestic insurer that has held a certificate of authority for less than 3 years. The examination must cover the preceding fiscal year or the period since the last examination of the insurer.*

2. *At least once every 5 years, the department shall examine each domestic insurer that has continuously held a certificate of authority and has not had a change in ownership, as provided in s. 624.4245 or s. 628.461, during the preceding 15 years.*

3. *The department may not accept an independent certified public accountant's audit report in lieu of the examination required by this paragraph.*

4. *An insurer may not be required to pay more than \$25,000 to cover the costs of an examination under this paragraph.*

Section 4. Section 624.407, Florida Statutes, is amended to read:

624.407 Capital funds required; *prospective new* insurers.—

(1) To receive authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer hereafter applying for its original certificate of authority in this state *must* shall possess a surplus as to policyholders in an amount that is not less than the greater of \$5,000,000 or:

(a) ~~\$2,500,000;~~

(a)(b) For life insurers, 4 percent of the insurer's total liabilities;

(b)(e) For life and health insurers, 4 percent of the insurer's total liabilities, plus 6 percent of the insurer's liabilities relative to health insurance; ~~or~~

(c)(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities;

however, no insurer shall be required under this subsection to have surplus as to policyholders in an amount greater than \$100 million.

(2) The requirements of this section shall be based upon all the kinds of insurance actually transacted or to be transacted by the insurer in any and all areas in which it operates, whether or not only a portion of such kinds are to be transacted in this state.

(3) As to surplus as to policyholders required for qualification to transact one or more kinds of insurance, domestic mutual insurers are governed by chapter 628, and domestic reciprocal insurers are governed by chapter 629.

(4) For the purposes of this section, liabilities shall not include liabilities required under s. 625.041(4). For purposes of computing minimum surplus as to policyholders pursuant to s. 625.305(1), liabilities shall include liabilities required under s. 625.041(4).

~~(5) The provisions of this section, as amended by this act, shall apply only to insurers applying for a certificate of authority on or after the effective date of this act.~~

Section 5. Section 624.408, Florida Statutes, is amended to read:

624.408 Surplus as to policyholders required; ~~new and existing~~ insurers.—

(1) To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state that *has a* applied for its certificate of authority *must on or after the effective date of this act* shall at all times maintain a surplus as to policyholders in an amount that is not less than the greater of \$4,000,000 or:

(a) ~~\$1,500,000;~~

(a)(b) For life insurers, 4 percent of the insurer's total liabilities;

(b)(e) For life and health insurers, 4 percent of the insurer's total liabilities plus 6 percent of the insurer's liabilities relative to health insurance; ~~or~~

(c) *For title insurers, \$1,500,000.*

(d) For all insurers other than life insurers, ~~and life and health insurers, and title insurers~~, 10 percent of the insurer's total liabilities.

For any insurer holding a certificate of authority on December 31, 1993, the following amount replaces the \$4,000,000 requirement during each period specified:

1. *On December 31, 1994, and until December 30, 1995, \$1,650,000.*
2. *On December 31, 1995, and until December 30, 1996, \$1,800,000.*
3. *On December 31, 1996, and until December 30, 1997, \$1,950,000.*
4. *On December 31, 1997, and until December 30, 1998, \$2,100,000.*
5. *On December 31, 1998, and until December 30, 1999, \$2,250,000.*
6. *On December 31, 1999, and until December 30, 2000, \$2,500,000.*
7. *On December 31, 2000, and until December 30, 2001, \$2,750,000.*
8. *On December 31, 2001, and until December 30, 2002, \$3,000,000.*
9. *On December 31, 2002, and until December 30, 2003, \$3,250,000.*
10. *On December 31, 2003, and until December 30, 2004, \$3,600,000.*

~~(2) To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state that applied for its certificate of authority prior to the effective date of this act shall maintain on December 31, 1980, and until December 31, 1990, surplus as to policyholders not less than the greater of:~~

(a) ~~\$1,000,000;~~

(b) ~~For life insurers, 3 percent of the insurer's total liabilities;~~

(c) ~~For life and health insurers, 3 percent of the insurer's total liabilities plus 2 percent of the insurer's liabilities relative to health insurance; or~~

(d) ~~For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities.~~

~~(3) To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state that applied for its certificate of authority prior to the effective date of this act shall maintain on December 31, 1990, and until December 31, 1991, surplus as to policyholders not less than the greater of:~~

~~(a) \$1,150,000;~~

~~(b) For life insurers, 2.3 percent of the insurer's total liabilities;~~

~~(c) For life and health insurers, 3.3 percent of the insurer's total liabilities plus 4 percent of the insurer's liabilities relative to health insurance; or~~

~~(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities.~~

~~(4) To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state that applied for its certificate of authority prior to the effective date of this act, shall maintain on December 31, 1991, and until December 31, 1992, surplus as to policyholders not less than the greater of:~~

~~(a) \$1,300,000;~~

~~(b) For life insurers, 3.6 percent of the insurer's total liabilities;~~

~~(c) For life and health insurers, 3.6 percent of the insurer's total liabilities plus 5 percent of the insurer's liabilities relative to health insurance; or~~

~~(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities.~~

~~(5) To maintain a certificate of authority to transact any one kind or combinations of kinds of insurance, as defined in part V of this chapter, an insurer in this state that applied for its certificate of authority prior to the effective date of this act, shall maintain on December 31, 1992, and thereafter, surplus as to policyholders not less than the greater of:~~

~~(a) \$1,500,000;~~

~~(b) For life insurers, 4 percent of the insurer's total liabilities;~~

~~(c) For life and health insurers, 4 percent of the insurer's total liabilities plus 6 percent of the insurer's liabilities relative to health insurance; or~~

~~(d) For all insurers other than life insurers and life and health insurers, 10 percent of the insurer's total liabilities.~~

(2)(6) For purposes of this section, liabilities shall not include liabilities required under s. 625.041(4). For purposes of computing minimum surplus as to policyholders pursuant to s. 625.305(1), liabilities shall include liabilities required under s. 625.041(4).

(3)(7) No insurer shall be required under this section to have a surplus as to policyholders in an amount greater than \$100 million.

Section 6. Section 624.4243, Florida Statutes, is created to read:

624.4243 Reporting of premium growth.—

(1) Each insurer that has been authorized to transact property and casualty insurance in this state for a continuous period of less than 3 years shall monthly calculate its premium growth as follows:

(a) For the 12-month period ending on the last day of the previous month, obtain the amount of the insurer's direct and assumed written premiums for the United States and its territories.

(b) For the 12-month period immediately preceding the 12-month period specified in paragraph (a), obtain the amount of the insurer's direct and assumed written premiums for the United States and its territories.

(c) Subtract the amount of premiums calculated under paragraph (b) from the amount of premiums calculated under paragraph (a).

(d) Divide the amount of premiums determined under paragraph (c) by the amount of premiums determined under paragraph (b).

(2) If the amount of the premium growth calculated by an insurer under this section exceeds 0.33 percent, the insurer shall, within 30 days after the end of the 12-month period ending on the last day of the previous month, file with the department a statement of the premium growth calculations under this section. The department shall adopt rules specifying the form for the report. In response to a report under this section, the department may require the insurer to submit an explanation of the insurer's pattern of premium growth.

(3) For the purposes of this section, direct and assumed written premiums shall be calculated in the same manner as for the preparation of the insurer's annual statement under s. 624.424.

Section 7. Subsections (4), (7), and (8) of section 625.305, Florida Statutes, are amended to read:

625.305 Diversification.—

(4) ~~Without the prior written approval of the department,~~ The cost of investments in bonds, debentures, notes, commercial paper, or other debt obligations issued, assumed, or guaranteed by any solvent institution, and which investments are classified as medium to lower quality obligations, other than obligations of subsidiaries or related corporations as that term is defined in s. 625.325, shall be limited to:

(a) No more than 13 percent of an insurer's admitted assets.

(b) No more than 5 percent of an insurer's admitted assets in obligations that have been given a rating of 4, 5, or 6 by the Securities Valuation Office of the National Association of Insurance Commissioners.

(c) No more than 1.5 percent of an insurer's admitted assets in obligations that have been given a rating of 5 or 6 by the Securities Valuation Office of the National Association of Insurance Commissioners.

(d) No more than 0.5 .5 percent of an insurer's admitted assets in obligations that have been given a rating of 6 by the Securities Valuation Office of the National Association of Insurance Commissioners.

(e) No more than 10 percent of an insurer's admitted assets, if the investments are in issuers from any one industry.

(f) No more than 2 percent of an insurer's admitted assets if the investment is in any one issuer.

(7) ~~The provisions of Subsections (4), (5), and (6) apply to any investment made after September 30, 1991. If an insurer's investments in medium to lower quality obligations equal or exceed the maximum amounts permitted by subsection (4) as of October 1, 1991, the insurer may shall not acquire any additional medium to lower quality obligations without the prior written approval of the department. An insurer that was is not in compliance with subsection (4) as of October 1, 1991, may hold until maturity or until January 1, 1996, whichever is sooner, only those medium to lower quality obligations it owned owns on that date if such obligations were obtained in compliance with the law in effect at the time the investments were made. If the insurer sells, transfers, or otherwise disposes of such securities prior to maturity, the insurer may not acquire any medium to lower quality obligations as substitutions or replacements, except replacement investments without the prior approval of the department. However, the consent of the department shall not be required if such replacement investment is acquired for the purpose of supporting an unexpired life insurance or annuity product liability on the condition that and the insurer has filed with the department a schedule of such liabilities supported by the medium to lower quality investments. An insurer that was is not in compliance with subsection (4) on December 31, 1991, shall file with its annual statement a separate schedule of the medium to lower quality obligations it owned owns on December 31, 1991. Until it is in compliance with subsection (4), the insurer shall file with each succeeding annual and quarterly statement a separate schedule of the medium to lower quality obligations it owns as of the reporting date of the filed statement.~~

(8) ~~Failure to obtain the prior written approval of the department shall result in Any investments in excess of those permitted by subsection (4) are not being allowed as an asset of the insurer.~~

Section 8. Subsection (1) of section 625.330, Florida Statutes, is amended to read:

625.330 Special investments by title insurer.—

(1) In addition to other investments eligible under this part, a title insurer may invest and have invested an amount not exceeding the greater of \$300,000 or 50 percent of that part of its surplus as to policyholders which exceeds the minimum surplus required of title insurers under s. 624.408 by s. 624.408(3) and (4) in its abstract plant and equipment, in loans secured by mortgages on abstract plants and equipment, and, with the consent of the department, in stocks of abstract companies. If the insurer transacts kinds of insurance in addition to title insurance, for the purposes of this section its paid-in capital stock shall be prorated between title insurance and such other insurances upon the basis of the reserves maintained by the insurer for the various kinds of insurance; but the capital so assigned to title insurance shall in no event be less than \$100,000.

Section 9. Subsections (2), (5), and (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

(a) Agreements may be made among property insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to, but are unable to procure, such insurance through ordinary methods; and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance. Such agreements and rate modifications shall be subject to the applicable provisions of this chapter.

(b) The department shall require all insurers licensed to transact property insurance on a direct basis in this state to provide windstorm coverage to applicants from areas determined to be eligible pursuant to paragraph (c) who in good faith are entitled to, but are unable to procure, such coverage through ordinary means; or it shall adopt a reasonable plan or plans for the equitable apportionment or sharing among such insurers of windstorm coverage. The commissioner shall promulgate rules which provide a formula for the recovery and repayment of any deferred assessments.

1. For the purpose of this section, properties eligible for such windstorm coverage are defined as dwellings, buildings, and other structures, including mobile homes which are used as dwellings and which are tied down in compliance with mobile home tie-down requirements prescribed by the Department of Highway Safety and Motor Vehicles pursuant to s. 320.8325, and the contents of all such properties.

2.a. All insurers required to be members of such plan shall participate in its writings, expenses, profits, and losses. Such gross participation shall be in the proportion that the net direct premiums of each member written on property in this state during the preceding calendar year bear to the aggregate net direct premiums of all members of the plan written on property in this state during the preceding calendar year. The commissioner, after review of annual statements, other reports, and any other statistics which he deems necessary, shall certify to the plan the aggregate net direct premiums written on property in this state by all members. The plan of operation shall provide that one additional domestic member of the board of directors be elected by the domestic companies of this state on the basis of cumulative weighted voting based on the net written premiums of domestic companies in this state. Any such plan shall provide a formula whereby a company voluntarily providing windstorm coverage in affected areas will be relieved wholly or partially from apportionment. A company which is a member of a group of companies under common management may elect to have its credits applied on a group basis, and any company or group may elect to have its credits applied to any other company or group.

b. Assessments to pay deficits in the plan under this subparagraph shall be included as an appropriate factor in the making of rates.

c. The Legislature finds that the potential for unlimited deficit assessments under this subparagraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the plan was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for covering any deficits of the plan; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.

d. The total amount of deficit assessments under this subparagraph with respect to any year may not exceed 10 percent of the statewide total gross written premium for all insurers for the coverages referred to in paragraph (b) for the prior year, except that if the deficit with respect to any plan year exceeds such amount and bonds are issued under sub-subparagraph e. to defray the deficit, the total amount of assessments with respect to such deficit may not in any year exceed 10 percent of the deficit, or such lesser percentage as is sufficient to retire the bonds as determined by the board, and shall continue annually until the bonds are retired.

e. The governing body of any unit of local government, any residents of which are insured under the plan, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the plan, for the purpose of defraying deficits of the plan. The unit of local government shall enter into such contracts with the plan as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by

moneys received by the plan from assessments under this subparagraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds.

3. The plan shall also provide that any member with a surplus as to policyholders of \$20,000,000 or less writing 25 percent of its total country-wide property insurance premiums in this state may petition the department, within 90 days of the effective date of chapter 76-96, Laws of Florida, and thereafter within the first 90 days of each calendar year, to qualify as a limited apportionment company. The apportionment of such a company in any calendar year for which it is qualified shall not exceed its gross participation, which shall not be affected by the formula for voluntary writings. In no event shall a limited apportionment company be required to participate in any apportionment of losses in the aggregate which exceeds \$50,000,000 after payment of available plan funds in any calendar year. The plan shall provide that, if the department determines that any assessment will result in an impairment of the surplus of a limited apportionment company, the department may direct that all or part of such assessment be deferred.

4. The plan shall provide for the deferment, in whole or in part, of the assessment of a member insurer if, in the opinion of the commissioner, payment of the assessment would endanger or impair the solvency of the member insurer. In the event an assessment against a member insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in subparagraph 2.

5. The plan may include deductibles and rules for classification of risks and rate modifications consistent with the objective of providing and maintaining funds sufficient to pay catastrophe losses.

6. The plan may authorize the formation of a private nonprofit corporation, a private nonprofit unincorporated association, or a nonprofit mutual company which may be empowered, among other things, to borrow money and to accumulate reserves or funds to be used for the payment of insured catastrophe losses. The plan shall incorporate and continue the plan of operation and articles of agreement in effect on the effective date of chapter 76-96, Laws of Florida, to the extent that it is not inconsistent with chapter 76-96, Laws of Florida, and as subsequently modified consistent with chapter 76-96, Laws of Florida. The board of directors and officers currently serving shall continue to serve until their successors are duly qualified as provided under the plan. The assets and obligations of the plan in effect immediately prior to the effective date of chapter 76-96, Laws of Florida, shall be construed to be the assets and obligations of the successor plan created herein.

7. On such coverage, an agent's remuneration shall be that amount of money payable to him by the terms of his contract with the company with which the business is placed. However, no commission will be paid on that portion of the premium which is in excess of the standard premium of that company.

(c) The provisions of paragraph (b) are applicable only with respect to:

1. Those areas that were eligible for coverage under this subsection on April 9, 1993; or

2. Any county or area as to which the department, after public hearing, finds that the following criteria exist:

a. Due to the lack of windstorm insurance coverage in the county or area so affected, economic growth and development is being deterred or otherwise stifled in such county or area, mortgages are in default, and financial institutions are unable to make loans;

b. The county or area so affected has adopted and is enforcing the structural requirements of the State Minimum Building Codes, as defined in s. 553.73, for new construction and has included adequate minimum floor elevation requirements for structures in areas subject to inundation; and

c. Extending windstorm insurance coverage to such county or area is consistent with and will implement and further the policies and objectives set forth in applicable state laws, rules, and regulations governing coastal management, coastal construction, comprehensive planning, beach and shore preservation, barrier island preservation, coastal zone protection, and the Coastal Zone Protection Act of 1985.

Any time after the department has determined that the criteria referred to in this subparagraph do not exist with respect to any county or area of the state, it may, after a subsequent public hearing, declare that such county or area is no longer eligible for windstorm coverage through the plan.

(5) **PROPERTY AND CASUALTY INSURANCE RISK APPORTIONMENT.**—The department shall adopt by rule a joint underwriting plan to equitably apportion among insurers authorized in this state to write property insurance as defined in s. 624.604 or casualty insurance as defined in s. 624.605, the underwriting of one or more classes of property insurance or casualty insurance, except for the types of insurance that are included within property insurance or casualty insurance for which an equitable apportionment plan, assigned risk plan, or joint underwriting plan is authorized under s. 627.311 or subsection (1), subsection (2), subsection (3), or subsection (4) of this section and except for risks eligible for flood insurance written through the federal flood insurance program to persons with risks eligible under subparagraph (a)1. and who are in good faith entitled to, but are unable to, obtain such property or casualty insurance coverage, including excess coverage, through the voluntary market. For purposes of this subsection, an adequate level of coverage means that coverage which is required by state law or by responsible or prudent business practices. The Joint Underwriting Association shall not be required to provide coverage for any type of risk for which there are no insurers providing similar coverage in this state. The department may designate one or more participating insurers who agree to provide policyholder and claims service, including the issuance of policies, on behalf of the participating insurers.

(a) The plan shall provide:

1. A means of establishing eligibility of a risk for obtaining insurance through the plan, which provides that:

a. A risk shall be eligible for such property insurance or casualty insurance as is required by Florida law if the insurance is unavailable in the voluntary market, including the market assistance program and the surplus lines market.

b. A commercial risk not eligible under sub-subparagraph a. shall be eligible for property or casualty insurance if:

(I) The insurance is unavailable in the voluntary market, including the market assistance plan and the surplus lines market;

(II) Failure to secure the insurance would substantially impair the ability of the entity to conduct its affairs; and

(III) The risk is not determined by the Risk Underwriting Committee to be uninsurable.

c. In the event the Federal Government terminates the Federal Crime Insurance Program established under Title 44, Code of Federal Regulations, ss. 80-83, Florida commercial and residential risks previously insured under the federal program shall be eligible under the plan.

d.(I) In the event a risk is eligible under this paragraph and in the event the market assistance plan receives a minimum of 100 applications for coverage within a 3-month period, or 200 applications for coverage within a 1-year period or less, for a given class of risk contained in the classification system defined in the plan of operation of the Joint Underwriting Association, and unless the market assistance plan provides a quotation for at least 80 percent of such applicants, such classification shall immediately be eligible for coverage in the Joint Underwriting Association. ~~Provided, however,~~

(II) *As an alternative to the procedure specified in sub-subparagraph (I), a classification is immediately eligible for coverage if the risk is eligible under this paragraph and if the department determines, after consulting with the insurers authorized to write property and casualty insurance in this state, that any class, line, or type of coverage of property or casualty insurance is not available at adequate levels from insurers authorized to transact and actually write that kind and class of insurance in this state or in a particular geographic area. This sub-subparagraph is repealed on July 1, 1996.*

(III) Any market assistance plan application which is rejected because an individual risk is so hazardous as to be practically uninsurable, considering whether the likelihood of a loss for such a risk is substantially higher than for other risks of the same class due to individual risk characteristics, prior loss experience, unwillingness to cooperate with a prior insurer, physical characteristics and physical location shall not be included in the minimum percentage calculation provided above. In the

event that there is any legal or administrative challenge to a determination by the department that the conditions of this subparagraph have been met for eligibility for coverage in the Joint Underwriting Association for a given classification, any eligible risk may obtain coverage during the pendency of any such challenge.

e. In order to qualify as a quotation for the purpose of meeting the minimum percentage calculation in this subparagraph, the quoted premium must meet the following criteria:

(I) In the case of an admitted carrier, the quoted premium must not exceed the premium available for a given classification currently in use by the Joint Underwriting Association or the premium developed by using the rates and rating plans on file with the department by the quoting insurer, whichever is greater.

(II) In the case of an authorized surplus lines insurer, the quoted premium must not exceed the premium available for a given classification currently in use by the Joint Underwriting Association by more than 25 percent, after consideration of any individual risk surcharge or credit.

f.e. Any agent who falsely certifies the unavailability of coverage as provided by sub-subparagraphs a. and b., is subject to the penalties provided in s. 626.611.

g.(I) *The Legislature finds that the market conditions which this subsection is intended to remedy have arisen with respect to coverage for condominium associations, apartment buildings, and other commercial coverages of residences. Therefore, coverage under this subsection is hereby activated for condominium associations, apartment buildings, and other commercial coverages of residences. Such coverage shall continue to be provided under this subsection until coverage is deactivated pursuant to sub-sub-subparagraph (II) or sub-sub-subparagraph (III).*

(II) *The board shall, at least annually, review the need for coverage under this subsection. Upon recommendation by the board or any other interested party, the department may deactivate coverage if the department finds that the conditions giving rise to activation no longer exist.*

(III) *It is the intent of the Legislature that activation of coverage pursuant to sub-sub-subparagraph (I) and the alternative means for activation specified in sub-sub-subparagraph d.(II) be reviewed by the Legislature prior to July 1, 1996. No policies may be written pursuant to sub-sub-subparagraph (I) after July 1, 1996. Sub-sub-subparagraph d.(II) is repealed on July 1, 1996.*

2. A means for the equitable apportionment of profits or losses and expenses among participating insurers.

3. Rules for the classification of risks and rates which reflect the past and prospective loss experience.

4. A rating plan which reasonably reflects the prior claims experience of the insureds. Such rating plan shall include at least two levels of rates for risks that have favorable loss experience and risks that have unfavorable loss experience, as established by the plan.

5. Reasonable limits to available amounts of insurance. Such limits may not be less than the amounts of insurance required of eligible risks by Florida law.

6. Risk management requirements for insurance where such requirements are reasonable and are expected to reduce losses.

7. Deductibles as may be necessary to meet the needs of insureds.

8. Policy forms which are consistent with the forms in use by the majority of the insurers providing coverage in the voluntary market for the coverage requested by the applicant.

9. A means to remove risks from the plan once such risks no longer meet the eligibility requirements of this paragraph. For this purpose, the plan shall include the following requirements: At each 6-month interval after the activation of any class of insureds, the board of governors or its designated committee shall review the number of applications to the market assistance plan for that class. If, based on these latest numbers, at least 90 percent of such applications have been provided a quotation, the Joint Underwriting Association shall cease underwriting new applications for such class within 30 days, and notification of this decision shall be sent to the Insurance Commissioner, the major agents' associations, and the board of directors of the market assistance plan. A quotation for the purpose of this subparagraph shall meet the same criteria for a quotation as provided in sub-subparagraph d. All policies which were previ-

ously written for that class shall continue in force until their normal expiration date, at which time, subject to the required timely notification of nonrenewal by the Joint Underwriting Association, the insured may then elect to reapply to the Joint Underwriting Association according to the requirements of eligibility. If, upon reapplication, those previously insured Joint Underwriting Association risks meet the eligibility requirements, the Joint Underwriting Association shall provide the coverage requested.

10. A means for providing credits to insurers against any deficit assessment levied pursuant to paragraph (c), for risks voluntarily written through the market assistance plan by such insurers.

11. That the Joint Underwriting Association shall operate subject to the supervision and approval of a board of governors consisting of 13 individuals appointed by the Insurance Commissioner, and shall have an executive or underwriting committee. At least four of the members shall be representatives of insurance trade associations as follows: one member from the American Insurance Association, one member from the Alliance of American Insurers, one member from the National Association of Independent Insurers, and one member from an unaffiliated insurer writing coverage on a national basis. Two representatives shall be from two of the statewide agents' associations. Each board member shall be appointed to serve for 2-year terms beginning on a date designated by the plan and shall serve at the pleasure of the commissioner. Members may be reappointed for subsequent terms.

(b)1. *With respect to coverage of residential structures, it is the intent of the Legislature that the rates for coverage provided by the association be actuarially sound and that the association function as a residual market mechanism to provide insurance only when the insurance is unavailable in the voluntary market. Rates shall include an appropriate catastrophe factor that reflects the actual catastrophic exposure of the association. As soon as the association has developed sufficient loss experience, rates of the association shall be based on the association's actual loss experience and expenses, together with such catastrophe loading factor.*

2. *This subparagraph applies to any coverage other than coverage of residential structures. Rates used by the Joint Underwriting Association shall be actuarially sound. To the extent applicable, the rate standards set forth in s. 627.062 shall be considered by the department in establishing rates to be used by the joint underwriting plan. The initial rate level shall be determined using the rates, rules, rating plans, and classifications contained in the most current Insurance Services Office (ISO) filing with the department or the filing of other licensed rating organizations with an additional increment of 25 percent of premium. For any type of coverage or classification which lends itself to manual rating for which Insurance Services Office or another licensed rating organization does not file or publish a rate, the Joint Underwriting Association shall file and use an initial rate based on the average current market rate. The initial rate level for the rate plan shall also be subject to an experience and schedule rating plan which may produce a maximum of 25 percent debits or credits. For any risk which does not lend itself to manual rating and for which no rate has been promulgated under the rate plan, the board shall develop and file with the commissioner, subject to his approval, appropriate criteria and factors for rating the individual risk. Such criteria and factors shall include, but not be limited to, loss rating plans, composite rating plans, and unique and unusual risk rating plans. The initial rates required under this paragraph shall be adjusted in conformity with future filings by the Insurance Services Office with the department and shall remain in effect until such time as the Joint Underwriting Association has sufficient data as to independently justify an actuarially sound change in such rates.*

(c)1. In the event an underwriting deficit exists for any policy year the plan is in effect, any surplus which has accrued from previous years and is not projected within reasonable actuarial certainty to be needed for payment for claims in the year the surplus arose shall be used to offset the deficit to the extent available.

2. As to any remaining deficit, the Board of Governors of the Joint Underwriting Association shall levy and collect an assessment in an amount sufficient to offset such deficit. Such assessment shall be levied against the insurers participating in the plan during the year giving rise to the assessment. Any assessments against insurers for the lines of property and casualty insurance issued to commercial risks shall be recovered from the participating insurers in the proportion that the net direct premium of each insurer for commercial risks written during the preceding calendar year bears to the aggregate net direct premium written for commercial risks by all members of the plan for the lines of insurance included in the plan. Any assessments against insurers for the lines of

property and casualty insurance issued to personal risks eligible under sub-subparagraph (a)1.a. or sub-subparagraph (a)1.c. shall be recovered from the participating insurers in the proportion that the net direct premium of each insurer for personal risks written during the preceding calendar year bears to the aggregate net direct premium written for personal risks by all members of the plan for the lines of insurance included in the plan.

3. The board shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each participating insurer and policyholder, including, if prudent, filing suit to collect such assessment. If the board is unable to collect an assessment from any insurer, the uncollected assessments shall be levied as an additional assessment against the participating insurers and any participating insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying insurer.

4. Any funds or entitlements that the state may be eligible to receive by virtue of the Federal Government's termination of the Federal Crime Insurance Program referenced in sub-subparagraph (a)1.c. may be used under the plan to offset any subsequent underwriting deficits that may occur from risks previously insured with the Federal Crime Insurance Program.

5. *Assessments shall be included as an appropriate factor in the making of rates.*

6.a. *The Legislature finds that the potential for unlimited assessments under this paragraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the association was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for covering any deficits of the association; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.*

b. *The total amount of deficit assessments under this paragraph with respect to any year may not exceed 10 percent of the statewide total gross written premium for all insurers for the coverages referred to in the introductory language of this subsection for the prior year, except that if the deficit with respect to any plan year exceeds such amount and bonds are issued under sub-subparagraph c. to defray the deficit, the total amount of assessments with respect to such deficit may not in any year exceed 10 percent of the deficit, or such lesser percentage as is sufficient to retire the bonds as determined by the board, and shall continue annually until the bonds are retired.*

c. *The governing body of any unit of local government, any residents or businesses of which are insured by the association, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. The unit of local government shall enter into such contracts with the association as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the association from assessments under this paragraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds.*

7. *The plan shall provide for the deferment, in whole or in part, of the assessment of an insurer if the department finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in subparagraph 2.*

(d) Upon adoption of the plan, all insurers authorized in this state to underwrite property or casualty insurance shall participate in the plan.

(e) A Risk Underwriting Committee of the Joint Underwriting Association composed of three members experienced in evaluating insurance risks is created to review risks rejected by the voluntary market for which application is made for insurance through the joint underwriting plan. The committee shall consist of a representative of the market assistance plan created under s. 627.3515, a member selected by the insurers participating in the Joint Underwriting Association, and a member named by the Insurance Commissioner. The Risk Underwriting Committee shall appoint such advisory committees as are provided for in the plan and are

necessary to conduct its functions. The salaries and expenses of the members of the Risk Underwriting Committee and its advisory committees shall be paid by the joint underwriting plan. The plan approved by the department shall establish criteria and procedures for use by the Risk Underwriting Committee for determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

1. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and
2. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the underwriting committee shall be construed as the private placement of insurance and the provisions of chapter 120 shall not apply.

(6) RESIDENTIAL PROPERTY AND CASUALTY JOINT UNDERWRITING ASSOCIATION.—

(a) There is created a joint underwriting association for equitable apportionment or sharing among insurers of property and casualty insurance covering residential property, for applicants who are in good faith entitled, but are unable, to procure insurance through the admitted voluntary market. The association shall operate pursuant to a plan of operation approved by order of the department. The association shall submit a proposed plan of operation to the department no later than January 15, 1993. The plan is subject to continuous review by the department. The department may withdraw approval of all or part of a plan if the department determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan.

(b) All insurers authorized to write such insurance in this state must participate in and be members of the Residential Property and Casualty Joint Underwriting Association. Each member's portion of losses and expenses incurred must be in the proportion that the direct premiums of the member written on residential property in this state during the preceding calendar year bear to the aggregate direct premiums of all members of the association written on residential property in this state during the preceding calendar year. After review of annual statements, other reports, and any other statistics that it deems necessary, the department must certify to the association the aggregate direct premiums written on residential property in this state by all members.

(c) The plan of operation of the association:

1. May provide for one or more designated insurers, able and willing to provide policy and claims service, to act on behalf of the association to provide such service. If more than one insurer is designated, each licensed agent shall be entitled to select the insurer who will service the business placed by the agent.

2. Must provide for adoption of residential property and casualty insurance policy forms, which forms must be approved by the department prior to use. For the purpose of this section, residential property and casualty insurance includes:

a. As to homeowners' insurance, a policy that provides coverage for accidental loss or damage to a structure with losses to be adjusted on the basis of costs of repair or replacement not to exceed a stated amount, with liability coverage up to \$100,000 per claim and \$300,000 per occurrence, and with coverages for personal property and contents as are customarily provided without additional premium charge in connection with such policy forms; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.

b. As to mobile homeowners' insurance, a policy that provides coverage for accidental loss or damage to a structure consistent with s. 627.702, with liability coverage in amounts up to \$100,000 per claim and \$300,000 per occurrence, and with coverages for personal property and contents as are customarily provided without additional premium charge in connection with such policy forms. Other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.

c. As to condominium unit owners' insurance, coverage for accidental loss or damage to portions of the structure and fixtures of the unit owner that are not the responsibility of the condominium association as provided by Florida law, with losses to be adjusted on the basis of costs of repair or replacement not to exceed stated amounts; coverage for personal property and contents as is normally included in such policy forms

without additional premium charge; and liability coverages not to exceed limits of \$100,000 per claim and \$300,000 aggregate per occurrence; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.

d. As to rental dwelling insurance, coverage for accidental loss or damage to a structure with coverage to be based on costs of repair or replacement not to exceed a stated amount, and with liability coverage in amounts up to \$100,000 per claim and \$300,000 per occurrence; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.

e. As to tenants' insurance, coverage for accidental loss or damage to betterments and improvements in the rented dwelling unit, with losses to be adjusted on the basis of costs of repair or replacement not to exceed stated amounts; coverage for personal property and contents in such limits as may be selected by the board; and liability coverages in amounts up to \$100,000 per claim and \$300,000 per occurrence; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.

Any policy under this subparagraph must provide deductibles for residential property and casualty insurance in a minimum of \$500 per occurrence, or such higher limits as may be selected by the insured. Policies issued under this subparagraph shall not cover loss or damage caused by the enforcement of any ordinance or law regulating the construction, use, or repair of any property, or requiring the tearing down of any property, including the cost of removing its debris.

3. May provide that the association may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan, and shall have the power to borrow funds and other powers reasonably necessary to effectuate the requirements of this subsection.

4. Must require that the association operate subject to the supervision and approval of a board of governors consisting of 13 individuals, including 1 who is elected as chairman. The board shall consist of:

a. The insurance consumer advocate appointed under s. 627.0613.

b. Five members designated by the insurance industry.

c. Five consumer representatives appointed by the Insurance Commissioner. Two of the consumer representatives must be holders of policies issued by the association, who are selected with consideration given to reflecting the geographic balance of association policyholders. Two of the consumer members must be individuals who are minority persons as defined in s. 288.703(3). One of the consumer members shall have expertise in the field of mortgage lending.

d. Two representatives of the insurance industry appointed by the Insurance Commissioner. Of the two insurance industry representatives appointed by the Insurance Commissioner, at least one must be an individual who is a minority person as defined in s. 288.703(3).

Any board member may be disapproved or removed and replaced by the commissioner at any time for cause. All board members, including the chairman, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan.

5. Must provide that a risk is eligible to be insured under the plan only after coverage is activated pursuant to paragraph (e) and an attempt has been made to place the risk with an admitted insurer through the market assistance plan under s. 627.3515, which attempt was not successful, and only if the risk is determined to be insurable by the risk underwriting committee. A risk shall cease to be eligible if it receives a premium quotation from an admitted carrier at that carrier's filed rate.

6. Must include rules for classifications of risks and rates therefor.

7. Must provide that if premium and investment income attributable to a particular plan year are in excess of projected losses and expenses of the plan attributable to that year, such excess shall be held in surplus. Such surplus shall be available to defray deficits as to future years and shall be used for that purpose prior to assessing member insurers as to any plan year.

8. Must provide for a Risk Underwriting Committee of the association composed of three members experienced in evaluating insurance risks, to review and determine insurability of risks rejected by the volun-

tary market for which application is made for insurance through the association. The committee shall consist of a representative of the market assistance plan created under s. 627.3515 and two members named by the board. The Risk Underwriting Committee shall appoint such advisory committees as are provided for in the plan and are necessary to conduct its functions. The salaries and expenses of the members of the Risk Underwriting Committee and its advisory committees shall be paid by the association. The plan approved by the department shall establish objective criteria and procedures for use by the Risk Underwriting Committee to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

a. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

b. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the underwriting committee shall be construed as the private placement of insurance, and the provisions of chapter 120 shall not apply.

(d)1. ~~It is the intent of the Legislature that the rates for coverage provided by the association be actuarially sound and that the association function as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. Rates of the plan shall be based on the association's actual loss experience and expenses, together with an appropriate catastrophe loading factor that reflects the actual catastrophic exposure of the association average loss costs of the five largest residential insurers, by premium volume in this state, plus appropriate factors for catastrophe loading, projected expenses of the plan, and a 25 percent increment for presumed adverse selection.~~

2. ~~No later than March 31 and September 30 of each 9 months after the end of each calendar year, the board must review and file with the department the loss and expense experience of the association. Such filing shall include a rate filing based on the loss and expense experience and other relevant factors if the board determines that such a filing is appropriate. Any such rate filing shall contain sufficient detail to enable the department to determine that the proposed rates are not inadequate, excessive, or unfairly discriminatory pursuant to the standards provided herein and in s. 627.062.~~

(e) Coverage through the association is hereby activated effective upon approval of the plan, and shall remain activated until coverage is deactivated pursuant to paragraph (f). Thereafter, coverage through the association shall be reactivated by order of the department only under one of the following circumstances:

1. If the Market Assistance Plan receives a minimum of 100 applications for coverage within a 3-month period, or 200 applications for coverage within a 1-year period or less for residential coverage, unless the Market Assistance Plan provides a quotation from admitted carriers at their filed rates for at least 90 percent of such applicants. Any Market Assistance Plan application that is rejected because an individual risk is so hazardous as to be uninsurable using the criteria specified in subparagraph (c)8. shall not be included in the minimum percentage calculation provided herein. In the event that there is a legal or administrative challenge to a determination by the department that the conditions of this subparagraph have been met for eligibility for coverage in the association, any eligible risk may obtain coverage during the pendency of such challenge.

2. In response to a state of emergency declared by the Governor under s. 252.36, the department may activate coverage by order for the period of the emergency upon a finding by the department that the emergency significantly affects the availability of residential property insurance.

(f) The activities of the association shall be reviewed at least annually by the board and, upon recommendation by the board or petition of any interested party, coverage shall be deactivated if the department finds that the conditions giving rise to its activation no longer exist.

(g)1. The board shall certify to the department its needs for annual assessments as to a particular calendar year, and any startup or interim assessments that it deems to be necessary to sustain operations as to a particular year pending the receipt of annual assessments. After the department approves such certification, the board shall levy such annual, startup, or interim assessments. Such assessments shall be prorated as provided in paragraph (b). The board shall take all reasonable and pru-

dent steps necessary to collect the amount of assessment due from each participating insurer, including, if prudent, filing suit to collect such assessment. If the board is unable to collect an assessment from any insurer, the uncollected assessments shall be levied as an additional assessment against the participating insurers and any participating insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying insurer. *Assessments shall be included as an appropriate factor in the making of rates.*

2.a. *The Legislature finds that the potential for unlimited assessments under this paragraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the association was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for covering any deficits of the association; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.*

b. *The total amount of deficit assessments under this paragraph with respect to any year may not exceed 10 percent of the statewide total gross written premium for all insurers for the coverages referred to in paragraph (a) for the prior year, except that if the deficit with respect to any plan year exceeds such amount and bonds are issued under sub-subparagraph c. to defray the deficit, the total amount of assessments with respect to such deficit may not in any year exceed 10 percent of the deficit, or such lesser percentage as is sufficient to retire the bonds as determined by the board, and shall continue annually until the bonds are retired.*

c. *The governing body of any unit of local government, any residents of which are insured by the association, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. The unit of local government shall enter into such contracts with the association as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the association from assessments under this paragraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds.*

3. *As a means of encouraging new insurers to enter the voluntary market, the plan of operation of the association must provide a formula that provides credits against assessments for an insurer's voluntarily written personal lines residential coverage, other than coverage that excludes the peril of windstorm, in areas that are determined by the board to be areas of high-potential hurricane losses. This subsection applies only if the insurer commenced writing personal lines residential coverage in this state after the effective date of this act. The credit provided by this subparagraph expires on December 31 of the first year in which the insurer's statewide gross written premium for personal lines residential coverage equals or exceeds 0.5 percent of the total statewide gross written premium for personal lines residential coverage, or 3 years after the date of issuance of the insurer's first personal lines residential policy in this state, whichever occurs earlier.*

4. *The plan shall provide for the deferment, in whole or in part, of the assessment of an insurer if the department finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in paragraph (b).*

(h) Nothing in this subsection shall be construed to preclude the issuance of residential property insurance coverage pursuant to part VIII of chapter 626.

(i) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, the Residential Property and Casualty Joint Underwriting Association or its agents or employees, members of the board of governors, or the department or its representatives for any action taken by them in the performance of their duties under this subsection. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance, or any other willful tort.

(j) The Residential Property and Casualty Joint Underwriting Association is not a state agency, board, or commission. However, for the purposes of s. 199.183(1), the Residential Property and Casualty Joint Underwriting Association shall be considered a political subdivision of the state and shall be exempt from the corporate income tax and the insurance premium tax.

(k) Upon a determination by the board of governors that the conditions giving rise to the establishment and activation of the association no longer exist, and upon the consent thereto by order of the department, the association is dissolved. Upon dissolution, the assets of the association shall be applied first to pay all debts, liabilities, and obligations of the association, including the establishment of reasonable reserves for any contingent liabilities or obligations, and all remaining assets of the association shall become property of the state and deposited in the Florida Hurricane Catastrophe Fund.

Section 10. Section 627.701, Florida Statutes, is amended to read:

627.701 *Liability of insureds; coinsurance; deductibles contracts.*—

(1) A property insurer may issue an insurance policy or contract covering either real or personal property in this state which contains provisions requiring the insured to be liable as a coinsurer with the insurer issuing the policy for any part of the loss or damage by covered peril to the property described in the policy only if:

(a)(1) The following words are printed or stamped on the face of the policy, or a form containing the following words is attached to the policy: "Coinsurance contract: The rate charged in this policy is based upon the use of the coinsurance clause attached to this policy, with the consent of the insured.";

(b)(2) The coinsurance clause in the policy is clearly identifiable; and

(c)(3) The rate for the insurance with or without the coinsurance clause is furnished the insured upon his request.

(2) Unless the department determines that the deductible provision is clear and unambiguous, a property insurer may not issue an insurance policy or contract covering real property in this state which contains a deductible provision that:

(a) Applies solely to windstorm losses.

(b) States the deductible as a percentage rather than as a specific amount of money.

Section 11. Pools of insurance adjusters.—The Department of Insurance may, by rule, establish a pool of qualified insurance adjusters. The rules must provide that, if a hurricane occurs or an emergency is declared, the department may assign members of the pool to the affected area and that an insurer may request that a member of the pool adjust claims in the assigned area. The rules may not require that an insurer use those adjusters assigned by the department.

Section 12. Concentration of property insurance exposures.—

(1) Each property insurer shall develop and implement a plan in order to avoid a concentration of property insurance exposures that would render the property insurer financially impaired or insolvent in the event of a reasonably anticipated loss event.

(2) The Department of Insurance may, by rule, require that certain property insurers report annually by geographic area their property insurance exposures and the effect of reinsurance on those exposures.

(3) If the Department of Insurance determines that an insurer's property insurance exposures are so concentrated that financial impairment or insolvency is likely in the event of a reasonably anticipated loss event, the department may require the insurer to submit to the department within 60 days a plan under which the insurer will alter or reduce the concentration of property insurance exposures to an appropriate level within a reasonable period of time.

Section 13. Section 627.7011, Florida Statutes, is created to read:

627.7011 Homeowner's policies; offer of replacement cost coverage and law and ordinance coverage.—

(1) Prior to issuing a homeowner's insurance policy on or after June 1, 1994, or prior to the first renewal of a homeowner's insurance policy on or after June 1, 1994, the insurer must offer each of the following:

(a) A policy or endorsement providing that any loss which is repaired or replaced will be adjusted on the basis of replacement costs not exceeding policy limits as to the dwelling, rather than actual cash value, but not including costs necessary to meet applicable laws regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris.

(b) A policy or endorsement providing that, subject to other policy provisions, any loss which is repaired or replaced will be adjusted on the basis of replacement costs not exceeding policy limits as to the dwelling, rather than actual cash value, and also including costs necessary to meet applicable laws regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris; however, such additional costs necessary to meet applicable laws may be limited to 25 percent of the dwelling limit, and such coverage shall apply only to repairs of the damaged portion of the structure unless the total damage to the structure exceeds 50 percent of the replacement cost of the structure.

An insurer is not required to make the offers required by this subsection with respect to the issuance or renewal of a homeowner's policy that contains the provisions specified in paragraph (b). This subsection does not prohibit the offer of a guaranteed replacement cost policy.

(2) Unless the insurer obtains the policyholder's written refusal of the policies or endorsements specified in subsection (1), any policy covering the dwelling is deemed to include the coverage specified in paragraph (1)(b). The rejection or selection of alternative coverage shall be made on a form approved by the department. The form shall fully advise the applicant of the nature of the coverage being rejected. If this form is signed by a named insured, it will be conclusively presumed that there was an informed, knowing rejection of the coverage or election of the alternative coverage on behalf of all insureds. Unless the policyholder requests in writing the coverage specified in this section, it need not be provided in or supplemental to any other policy that renews insures, extends, changes, supercedes, or replaces an existing policy when the policyholder has rejected the coverage specified in this section or has selected alternative coverage. The insurer must provide such policyholder with notice of the availability of such coverage in a form specified by the department at least once every 3 years. The failure to provide such notice constitutes a violation of this code, but does not affect the coverage provided under the policy.

(3) Nothing in this section shall be construed to apply to policies not considered to be "homeowners' policies," as that term is commonly understood in the insurance industry. This section specifically does not apply to mobile home policies. Nothing in this section shall be construed as limiting the ability of any insurer to reject or nonrenew any insured or applicant on the grounds that the structure does not meet underwriting criteria applicable to replacement cost or law and ordinance policies or for other lawful reasons.

Section 14. Section 628.801, Florida Statutes, is amended to read:

628.801 Insurance holding companies; registration; regulation.—

(1) ~~Each Every~~ insurer that ~~which~~ is authorized to do business in this state and ~~that which~~ is a member of an insurance holding company shall register with the department and ~~is~~ be subject to regulation with respect to its relationship to such holding company as provided by rule or statute.

(2) The department shall ~~adopt promulgate~~ rules establishing the information and form required for registration and the manner in which registered insurers and their affiliates shall be regulated. ~~The rules shall apply to domestic insurers, foreign insurers, and commercially domiciled insurers, except a foreign insurer domiciled in states that are accredited by the National Association of Insurance Commissioners by December 31, 1995. Except to the extent of any conflict with this code, the rules must include all the requirements and standards of sections 4 and 5 of the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation of the National Association of Insurance Commissioners, as of January 1, 1993, and may prohibit oral contracts between affiliated entities.~~

(3) ~~Upon request, the department may waive the filing requirement under this section for a domestic insurer that is the subsidiary of an insurer that is in full compliance with the insurance holding company registration laws of its state of domicile if the state is accredited by the National Association of Insurance Commissioners. Such rules shall be in substantial conformity to those standards set forth in chapter 4-26, Florida Administrative Code, as such rule provisions existed on January 1, 1985, and shall be promulgated pursuant to s. 624.308. It is specifically~~

~~provided that, until superseding rule provisions become effective, chapter 4-26, Florida Administrative Code, shall be deemed to implement this provision.~~

Section 15. Subsections (9) and (10) of section 631.011, Florida Statutes, are amended to read:

631.011 Definitions.—For the purpose of this part, the term:

(9) "Impairment of capital" means that the minimum surplus required to be maintained by ~~in~~ s. 624.408(3) has been dissipated and the insurer is not possessed of assets at least equal to all its liabilities together with its total issued and outstanding capital stock, if a stock insurer, or the minimum surplus or net trust fund required by s. 624.407, if a mutual, reciprocal, or business trust insurer.

(10) "Impairment of surplus" means that the surplus of a stock insurer, the additional surplus of a mutual or reciprocal insurer, or the additional net trust fund of a business trust insurer does not comply with the requirements of s. 624.408(3).

Section 16. Personal lines residential property insurance.—

(1) Upon the expiration of the moratorium on the cancellation or nonrenewal of personal lines residential property insurance policies enacted by section 1 of chapter 93-401, Laws of Florida, the following restrictions apply to the cancellation or nonrenewal of each personal lines residential property insurance policy that was subject to the moratorium: an insurer may cancel or nonrenew those policies in any county, in any 12-month period, for the purpose of reducing the insurer's exposure to hurricane claims to the extent that the number of policies written at the end of the 12-month period is not more than 10 percent less than the number written on the first day of the 12-month period. However, in any 12-month period, an insurer may not cancel or nonrenew more than 5 percent of its policies in the state for the purpose of reducing the insurer's exposure to hurricane claims. The limitations of this subsection apply separately to each of the following: mobile home insurance policies, residential property insurance policies other than mobile home policies, and the total of all residential property insurance policies. In determining the number of policies written on the first day of the 12-month period, a canceled or nonrenewed policy during the succeeding 12-month period is excluded if:

1. The policy was canceled or nonrenewed for an underwriting reason, nonpayment of premium, or any other lawful reason that is unrelated to the risk of loss from hurricane exposure.
2. The insured obtained replacement coverage from an authorized insurer, other than the Florida Residential Property and Casualty Joint Underwriting Association.
3. The cancellation or nonrenewal was initiated by the insured.
4. The cancellation or nonrenewal was due to the failure of the insured to comply with a condition of coverage and was approved by the Department of Insurance in order to reduce the risk of loss from hurricane exposure.

(2) Each insurer that cancels or nonrenews personal lines residential property insurance policies for the purpose of reducing hurricane exposure shall, no later than January 15, 1995, file a report with the Department of Insurance indicating the total number of personal lines residential policies written by the insurer in each county of the state as of the first day of the year, calculated in accordance with subsection (1), and the total number of personal lines residential property policies written by the insurer in each county of the state as of the last day of the year.

(3) This section does not apply to an insurer that, before August 24, 1992, initiated a plan to cease writing personal lines insurance throughout the United States.

(4) This section does not apply to an insurer that demonstrates to the department that cancellations or nonrenewals are necessary for the insurer to avoid an unreasonable risk of insolvency. In reaching this determination, the Department of Insurance shall consider the insurer's size, its market concentration, its general financial condition, the degree to which personal lines residential property insurance comprises its insurance business in this state, and the way in which these factors affect the risk to the insurer's solvency in relation to its probable maximum loss in the event of a hurricane. An insurer may not be required to risk more than its total surplus to any objectively determined, probable maximum loss resulting from a single hurricane in this state. The department must approve or disapprove an application for a waiver within 90 days after the department receives the application for the waiver.

(5) This section expires November 14, 1995.

Section 17. The Department of Insurance shall, within existing resources, conduct a study of the appropriateness of classifying condominium association master policies as commercial insurance policies, including consideration of issues involved with the possible inclusion of condominium association master policies within the Residential Property and Casualty Joint Underwriting Association with a separate base for deficient assessments, and including consideration of those provisions of law applicable to personal lines policies that might also be applied to condominium association policies. The department shall, by January 1, 1994, complete its study and make recommendations to the Speaker of the House of Representatives, the President of the Senate, the majority and minority leaders of each house, and the chairs of the committees of each house having primary jurisdiction over insurance matters.

Section 18. This act shall take effect upon becoming a law.

And the title is amended as follows:

Strike everything before the enacting clause and insert: A bill to be entitled An act relating to insurance; amending s. 624.307, F.S.; requiring the Department of Insurance to develop an outreach program; creating s. 624.3215, F.S.; providing immunity from civil liability under certain circumstances to persons who provide information about the financial condition of an insurer to the department; amending s. 624.316, F.S.; requiring the department to conduct periodic examinations of insurers; amending s. 624.407, F.S.; increasing surplus requirements for prospective insurers; deleting provisions that have had their effect; amending s. 624.408, F.S.; revising surplus requirements; creating s. 624.4243, F.S.; providing for insurers to compute and report premium growth; amending s. 625.305, F.S.; removing the requirement that the department approve certain investments; amending s. 625.330, F.S., relating to investments by title insurers; changing a cross-reference to the surplus requirements; amending s. 627.351, F.S.; revising provisions relating to deficit assessments in the windstorm insurance risk apportionment plan; authorizing issuance of bonds on behalf of the plan; providing circumstances under which a classification is eligible for coverage in the Florida Property and Casualty Joint Underwriting Association; providing criteria for rates; providing coverage relating to commercial coverages of residences; providing for legislative review; providing for termination; revising provisions relating to deficit assessments; authorizing issuance of bonds for the association; providing legislative intent with respect to the Residential Property and Casualty Joint Underwriting Association; providing criteria for rates; requiring rate filings; revising provisions relating to deficit assessments; authorizing issuance of bonds for the association; providing for dissolution of the association; amending s. 627.701, F.S.; providing limitations on deductibles; providing for pools of insurance adjusters in case of hurricanes or declared emergencies; regulating the geographic concentration of property insurance exposure; amending s. 628.801, F.S., relating to application of insurance holding company rules to domestic insurers, foreign insurers, and commercially domiciled insurers; providing exceptions; providing for rules; amending s. 631.011, F.S.; revising the cross-references in the definitions of the terms "impairment of capital" and "impairment of surplus" to conform to changes made by this act; providing for the post-moratorium cancellation and nonrenewal of personal lines residential property insurance policies; requiring the Department of Insurance to conduct a study of the classification of condominium association coverage; requiring reports; providing an effective date.

On motion by Senator Childers, by two-thirds vote **CS for HB's 33-C and 43-C** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—3

SB 18-C—A bill to be entitled An act relating to the Florida Hurricane Catastrophe Fund; creating s. 215.555, F.S.; providing findings and purpose; providing definitions; creating the Florida Hurricane Catastrophe Fund as a trust fund under the State Board of Administration; specifying uses of moneys in the fund; specifying applicability of other laws; requiring the fund and specified insurers to enter into reimbursement contracts; specifying obligations of the fund under reimbursement contracts; requiring reports; providing for loans; requiring payment of reimbursement premium; providing for calculation of reimbursement premium; specifying accounting and regulatory treatment of reimbursement premium; requiring advance payment; providing circumstances for issuance of revenue bonds on behalf of the fund; specifying pledged revenues; authorizing units of local government to issue such bonds; requiring validation; authorizing emergency assessments; authorizing the fund to pro-

cure reinsurance; authorizing borrowing by the fund; authorizing the fund to expend certain moneys to support programs to mitigate hurricane losses; providing for appointment of an advisory council; providing for per diem and travel expenses; specifying applicability of s. 19, Art. III, State Constitution, to the fund; providing that violations constitute violations of the Insurance Code; providing for recommendations with respect to federal or multistate catastrophic funds; providing an exemption from the deduction required by s. 215.20(1), F.S.; providing an effective date.

—was read the second time by title.

Senator Holzendorf moved the following amendments which were adopted:

Amendment 1—On page 4, strike all of lines 22-24, and insert:

(3) FLORIDA HURRICANE CATASTROPHE FUND CREATED.—There is created the Florida Hurricane Catastrophe Fund to be administered by the State Board

Amendment 2—On page 4, line 23, strike "State Treasury" and insert: State Board of Administration

Amendment 3—On page 5, strike all of lines 1 and 2 and insert: board shall invest the moneys in the fund pursuant to ss. 215.44-215.52. Earnings from all investments shall be retained in the fund. The board may employ or contract with such staff and professionals as the board deems necessary for the administration of the fund. The board may

Amendment 4—On page 5, line 5, through page 9, line 31, strike all of said lines and insert:

(a) The board shall enter into a contract with each insurer writing covered policies in this state to provide to the insurer the reimbursement described in paragraph (b), in exchange for the reimbursement premium paid into the fund under subsection (5). As a condition of doing business in this state, each such insurer shall enter into such a contract.

(b) The contract shall contain a promise by the board to reimburse the insurer for 75 percent of its losses from covered events in excess of two times the insurer's gross direct written premium from covered policies for the prior year. The contract shall also provide for coordination with other reinsurance paid or payable to each insurer so as to supplement but not duplicate such other reinsurance recoveries. Other reinsurance paid or payable to an insurer for losses not covered by the fund shall not reduce the insurer's recovery from the fund.

(c) The contract shall also provide that the obligation of the board with respect to all contracts covering a particular year shall not exceed the moneys in the fund, together with the maximum amount that the board is able to raise through the issuance of revenue bonds under subsection (6). The contract shall require the board to annually notify insurers of the fund's anticipated borrowing capacity for the next year.

(d) The contract shall require the insurer to report to the board on April 1 of each year its losses from all hurricanes for the prior year; the contract may also require preliminary loss reports prior to that date. The contract shall require the board to determine, as soon as practicable after receiving these reports, the amount of reimbursements due. If the board determines that the assets of the fund, together with the amount that the board determines that it is possible to raise through revenue bonds issued under subsection (6), are insufficient to pay reimbursement to all insurers at the level promised in the contract, the board shall establish the reimbursement level at the highest level for which such assets and borrowing capacity are sufficient.

(e) The contract shall provide that if an insurer demonstrates to the board that a covered event has occurred with respect to that insurer, and demonstrates to the board that the immediate receipt of moneys from the fund is likely to prevent the insurer from becoming insolvent, the board shall loan the insurer, at market interest rates, the amounts necessary to maintain the solvency of the insurer, up to 50 percent of the board's estimate of the reimbursement due the insurer. The insurer's reimbursement shall be reduced by an amount equal to the amount of the loan and interest thereon.

(5) REIMBURSEMENT PREMIUMS.—

(a) Each reimbursement contract shall require the insurer to annually pay to the fund an actuarially indicated premium for the reimbursement.

(b) The State Board of Administration shall select an independent consultant to develop a formula for determining the actuarially indicated premium to be paid to the fund. The formula shall specify, for each zip

code, the amount of premium to be paid by an insurer for each \$1,000 of insured value under covered policies in that zip code. The formula must be approved by unanimous vote of the board. The board may, at any time, revise the formula pursuant to the procedure provided in this paragraph.

(c) No later than April 1 of each year, each insurer shall notify the fund of its insured values under covered policies by zip code, as of December 31 of the previous year. On the basis of these reports, the board shall calculate the premium due from the insurer, based on the formula adopted under paragraph (b). The insurer shall pay the required annual premium pursuant to a periodic payment plan specified in the contract.

(d) All premiums paid to the fund under reimbursement contracts shall be treated as premium for approved reinsurance for all accounting and regulatory purposes.

(e) In order to provide startup moneys for the administration of the fund, each insurer subject to this section shall pay to the fund an advance premium payment of \$1,000 no later than January 1, 1994. The Department of Insurance shall collect the advance premium payments required by this paragraph on behalf of the board. The insurer shall receive a credit against future premiums for the advance payment.

(6) REVENUE BONDS.—

(a) Upon the occurrence of a hurricane and a determination that the moneys in the fund are or will be insufficient to pay reimbursement at the levels promised in the reimbursement contracts, the board shall enter into agreements with local governments for the issuance of revenue bonds for the benefit of the fund. The term of the bonds may not exceed 15 years. The board shall pledge all future revenues under subsection (5) and under paragraph (c), or a lesser portion of such revenues sufficient to raise moneys in an amount that will pay reimbursement at the levels promised in the reimbursement contracts, to the retirement of such bonds. The board may also enter into such agreements in the absence of a hurricane upon a determination that such action would maximize the ability of the fund to meet future obligations.

(b) The governing body of any unit of local government may issue bonds as defined in s. 166.101 from time to time to fund an assistance program, in conjunction with the Florida Hurricane Catastrophe Fund, for the purpose of meeting the reimbursement obligations of the fund. The issuance of such bonds is for the public purpose of ensuring that policyholders located within the unit of local government are able to recover under property insurance policies after a covered event. Revenue bonds may not be issued until validated pursuant to the provisions of chapter 75. The unit of local government shall enter into such contracts with the board as are necessary to carry out this section. Any bonds issued under this section shall be payable from and secured by moneys received by the fund under subsection (5), and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds.

(c) If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund revenue bonds to pay reimbursement at the levels promised in the reimbursement contracts, the board shall direct the Department of Insurance to levy an emergency assessment on each insurer writing property and casualty business in this state. Pursuant to the emergency assessment, each such insurer shall pay to the fund by July 1 of each year an amount equal to 2 percent of its gross direct written premium for the prior year from all property and casualty business in this state except for workers' compensation. The annual assessments under this paragraph shall continue until the revenue bonds issued with respect to which the assessment was imposed are retired. An insurer shall not at any time be subject to more than one assessment under this paragraph. Within 90 days after the assessment is levied under this paragraph, each insurer subject to the assessment shall make a rate filing for all coverages on which the assessment is based. If the filing reflects a rate change attributable entirely to the assessment, the filing shall consist of a certification so stating and shall be deemed approved when made, subject to the authority of the Department of Insurance to require actuarial justification as to the adequacy of any rate at any time.

(7) ADDITIONAL POWERS AND DUTIES.—

(a) The board may procure reinsurance from reinsurers approved under s. 624.610 for the purpose of maximizing the capacity of the fund.

(b) In addition to borrowing under subsection (6), the board may also borrow from any market sources at prevailing interest rates.

(c) If no covered events occurred in the prior calendar year, the board may use up to 2 percent of the prior year's premium collected by the fund for the purpose of grants to local governments, state agencies, and non-profit charitable organizations to support programs to mitigate potential hurricane loss.

Amendment 5 (with Title Amendment)—On page 8, strike all of lines 8-26, and insert:

(b) The governing body of any county or municipality may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the Florida Hurricane Catastrophe Fund, for the purpose of meeting the reimbursement obligations of the fund. The issuance of such bonds is for the public purpose of ensuring that policyholders located within the county or municipality are able to recover under property insurance policies after a covered event. Revenue bonds may not be issued until validated pursuant to the provisions of chapter 75. The county or municipality shall enter into such contracts with the fund as are necessary to carry out this section. Any bonds issued under this section shall be payable from and secured by moneys received by the fund under subsection (5), and assigned and pledged to or on behalf of the county or municipality for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the county or municipality may not be pledged for the payment of such bonds.

And the title is amended as follows:

In title, on page 1, strike all of lines 20 and 21, and insert: specifying pledged revenues; authorizing counties or municipalities to issue such bonds;

Amendment 6 (with Title Amendment)—On page 11, between lines 1 and 2, insert:

Section 3. Subsection (3) of section 624.5091, Florida Statutes, is amended to read:

624.5091 Retaliatory provision, insurers.—

(3) This section does not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property, nor as to reimbursement premiums paid to the Florida Hurricane Catastrophe Fund, nor as to emergency assessments paid to the Florida Hurricane Catastrophe Fund, nor as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance, except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration by the department in determining the propriety and extent of retaliatory action under this section.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 2, line 5, after the semicolon (;) and insert: amending s. 624.5091, F.S.; providing that this section does not apply to reimbursement premiums or emergency assessments paid to the Florida Hurricane Catastrophe Fund;

Senator Burt moved the following amendment which was adopted:

Amendment 7—On page 4, strike all of lines 6-10, and insert:

(b) "Covered event" means any hurricane or hurricanes that make landfall in this state in 1 calendar year, that are declared to be hurricanes by the National Hurricane Center, that cause aggregate insured losses in excess of three times the property and casualty insurance industry's Florida gross direct written premium for covered policies, and that cause an insurer to sustain losses in excess of three times that insurer's net direct written premium for the prior year from covered policies.

Senator Burt moved the following amendment which failed:

Amendment 8 (with Title Amendment)—On page 11, between lines 1 and 2, insert:

Section 3. Section 1 and section 2 of this act do not take effect until there is a binding opinion from the Internal Revenue Service that the reimbursement premium, the funds held by the Florida Hurricane Catastrophe Fund, and reimbursements to insurers are exempt from federal taxation.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 2, line 5, following the semicolon (;) insert: providing that creation of the fund is contingent upon issuance of an opinion by the Internal Revenue Service;

Senator Burt moved the following amendment which was adopted:

Amendment 9—On page 5, line 14, strike "two" and insert: three

Senator McKay moved the following amendment which was adopted:

Amendment 10—On page 5, line 16, after "year" insert: For companies with \$15 million or less in surplus, that reimbursement shall be at one and one-half times the insurers gross direct written premium.

The vote was:

Yeas—26 Nays—13

On motion by Senator Holzendorf, by two-thirds vote **SB 18-C** as amended was read the third time by title.

Pending further consideration of **SB 18-C** as amended, on motions by Senator Childers, by two-thirds vote **CS for HB 31-C** was withdrawn from the Committees on Commerce and Appropriations.

On motions by Senator Childers, by two-thirds vote—

CS for HB 31-C—A bill to be entitled An act relating to the Florida Hurricane Catastrophe Fund; creating s. 215.555, F.S.; providing findings and purpose; providing definitions; creating the Florida Hurricane Catastrophe Fund as a trust fund under the State Board of Administration; specifying uses of moneys in the fund; specifying applicability of other laws; requiring the fund and specified insurers to enter into reimbursement contracts; specifying obligations of the fund under reimbursement contracts; requiring reports; providing for loans; requiring payment of reimbursement premium; providing for calculation of reimbursement premium; specifying accounting and regulatory treatment of reimbursement premium; requiring advance payment; providing circumstances for issuance of revenue bonds on behalf of the fund; specifying pledged revenues; authorizing units of local government to issue such bonds; requiring validation; authorizing emergency assessments; authorizing the fund to procure reinsurance; authorizing borrowing by the fund; authorizing the fund to expend certain moneys to support programs to mitigate hurricane losses; providing for appointment of an advisory council; providing for per diem and travel expenses; specifying applicability of s. 19, Art. III, State Constitution, to the fund; providing that violations constitute violations of the Insurance Code; providing for reversion of fund assets to the General Revenue Fund upon termination; providing for recommendations with respect to federal or multistate catastrophic funds; providing an exemption from the deduction required by s. 215.20(1), F.S.; amending s. 624.5091, F.S.; providing that retaliatory tax does not apply to premiums and assessments paid to the Florida Hurricane Catastrophe Fund; providing an effective date.

—a companion measure, was substituted for **SB 18-C** and by two-thirds vote read the second time by title.

Senator Holzendorf moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—

Strike everything after the enacting clause and insert:

Section 1. Section 215.555, Florida Statutes, is created to read:

215.555 Florida Hurricane Catastrophe Fund.—

(1) FINDINGS AND PURPOSE.—The Legislature finds and declares as follows:

(a) There is a compelling state interest in maintaining a viable and orderly private sector market for property insurance in this state. To the extent that the private sector is unable to maintain a viable and orderly market for property insurance in this state, state actions to maintain such a viable and orderly market are valid and necessary exercises of the police power.

(b) As a result of unprecedented levels of catastrophic insured losses in recent years, and especially as a result of Hurricane Andrew, numerous insurers have determined that in order to protect their solvency, it is necessary for them to reduce their exposure to hurricane losses. Also as a result of these events, world reinsurance capacity has significantly contracted, increasing the pressure on insurers to reduce their catastrophic exposures.

(c) The inability of the private sector insurance and reinsurance markets to maintain sufficient capacity to enable residents of this state to obtain property insurance coverage in the private sector endangers the economy of the state and endangers the public health, safety, and welfare. Accordingly, state action to correct for this inability of the private sector constitutes a valid and necessary public and governmental purpose.

(d) The insolvencies and financial impairments resulting from Hurricane Andrew demonstrate that many property insurers are unable or unwilling to maintain reserves, surplus, and reinsurance sufficient to enable the insurers to pay all claims in full in the event of a catastrophe. State action is therefore necessary to protect the public from an insurer's unwillingness or inability to maintain sufficient reserves, surplus, and reinsurance.

(e) A state program to provide reimbursement to insurers for a portion of their catastrophic hurricane losses will create additional insurance capacity sufficient to ameliorate the current dangers to the state's economy and to the public health, safety, and welfare.

(f) It is essential to the functioning of a state program to increase insurance capacity that revenues received be exempt from federal taxation. It is therefore the intent of the Legislature that this program be structured as a state trust fund under the direction and control of the State Board of Administration and operate exclusively for the purpose of protecting and advancing the state's interest in maintaining insurance capacity in this state.

(2) DEFINITIONS.—As used in this section:

(a) "Actuarially indicated" means, with respect to premiums paid by insurers for reimbursement provided by the fund, an amount determined according to principles of actuarial science to be adequate, but not excessive, in the aggregate, to pay current and future obligations and expenses of the fund, including additional amounts if needed to retire revenue bonds issued under subsection (6), and determined according to principles of actuarial science to reflect each insurer's relative exposure to hurricane losses.

(b) "Covered event" means any hurricane or hurricanes that make landfall in this state in 1 calendar year, that are declared to be hurricanes by the National Hurricane Center, that cause aggregate insured losses in excess of three times the property and casualty insurance industry's Florida gross direct written premium for covered policies, and that cause an insurer to sustain losses in excess of three times that insurer's net direct written premium for the prior year from covered policies.

(c) "Covered policy" means any personal lines or commercial property insurance policy covering property in this state, including, but not limited to, any homeowner's, mobile home owner's, farm owner's, condominium association, condominium unit owner's, or commercial multi-peril policy, or any other policy covering a residential or commercial structure or its contents issued by any authorized insurer, including any joint underwriting association. "Covered policy" does not include any reinsurance agreement.

(d) "Losses" means direct incurred losses and loss adjustment expenses.

(3) FLORIDA HURRICANE CATASTROPHE FUND CREATED.—There is created the Florida Hurricane Catastrophe Fund to be administered by the State Board of Administration. Moneys in the fund may not be expended, loaned, or appropriated except to pay obligations of the fund arising out of reimbursement contracts entered into under subsection (4), payment of debts including obligations arising out of revenue bonds issued under subsection (6), costs of the mitigation program under subsection (7), costs of procuring reinsurance, and costs of administration of the fund. The board shall invest the moneys in the fund pursuant to ss. 215.44-215.52. Earnings from all investments shall be retained in the fund. The board may employ or contract with such staff and professionals as the board deems necessary for the administration of the fund. The board may adopt rules to implement this section.

(4) REIMBURSEMENT CONTRACTS.—

(a) The board shall enter into a contract with each insurer writing covered policies in this state to provide to the insurer the reimbursement described in paragraph (b), in exchange for the reimbursement premium paid into the fund under subsection (5). As a condition of doing business in this state, each such insurer shall enter into such a contract.

(b) The contract shall contain a promise by the board to reimburse the insurer for 75 percent of its losses from covered events in excess of

three times the insurer's gross direct written premium from covered policies for the prior year. For companies with \$15 million or less in surplus, that reimbursement shall be at one and one-half times the insurers gross direct written premium. The contract shall also provide for coordination with other reinsurance paid or payable to each insurer so as to supplement but not duplicate such other reinsurance recoveries. Other reinsurance paid or payable to an insurer for losses not covered by the fund shall not reduce the insurer's recovery from the fund.

(c) The contract shall also provide that the obligation of the board with respect to all contracts covering a particular year shall not exceed the moneys in the fund, together with the maximum amount that the board is able to raise through the issuance of revenue bonds under subsection (6). The contract shall require the board to annually notify insurers of the fund's anticipated borrowing capacity for the next year.

(d) The contract shall require the insurer to report to the board on April 1 of each year its losses from all hurricanes for the prior year; the contract may also require preliminary loss reports prior to that date. The contract shall require the board to determine, as soon as practicable after receiving these reports, the amount of reimbursements due. If the board determines that the assets of the fund, together with the amount that the board determines that it is possible to raise through revenue bonds issued under subsection (6), are insufficient to pay reimbursement to all insurers at the level promised in the contract, the board shall establish the reimbursement level at the highest level for which such assets and borrowing capacity are sufficient.

(e) The contract shall provide that if an insurer demonstrates to the board that a covered event has occurred with respect to that insurer, and demonstrates to the board that the immediate receipt of moneys from the fund is likely to prevent the insurer from becoming insolvent, the board shall loan the insurer, at market interest rates, the amounts necessary to maintain the solvency of the insurer, up to 50 percent of the board's estimate of the reimbursement due the insurer. The insurer's reimbursement shall be reduced by an amount equal to the amount of the loan and interest thereon.

(5) REIMBURSEMENT PREMIUMS.—

(a) Each reimbursement contract shall require the insurer to annually pay to the fund an actuarially indicated premium for the reimbursement.

(b) The State Board of Administration shall select an independent consultant to develop a formula for determining the actuarially indicated premium to be paid to the fund. The formula shall specify, for each zip code, the amount of premium to be paid by an insurer for each \$1,000 of insured value under covered policies in that zip code. The formula must be approved by unanimous vote of the board. The board may, at any time, revise the formula pursuant to the procedure provided in this paragraph.

(c) No later than April 1 of each year, each insurer shall notify the fund of its insured values under covered policies by zip code, as of December 31 of the previous year. On the basis of these reports, the board shall calculate the premium due from the insurer, based on the formula adopted under paragraph (b). The insurer shall pay the required annual premium pursuant to a periodic payment plan specified in the contract.

(d) All premiums paid to the fund under reimbursement contracts shall be treated as premium for approved reinsurance for all accounting and regulatory purposes.

(e) In order to provide startup moneys for the administration of the fund, each insurer subject to this section shall pay to the fund an advance premium payment of \$1,000 no later than January 1, 1994. The Department of Insurance shall collect the advance premium payments required by this paragraph on behalf of the board. The insurer shall receive a credit against future premiums for the advance payment.

(6) REVENUE BONDS.—

(a) Upon the occurrence of a hurricane and a determination that the moneys in the fund are or will be insufficient to pay reimbursement at the levels promised in the reimbursement contracts, the board shall enter into agreements with local governments for the issuance of revenue bonds for the benefit of the fund. The term of the bonds may not exceed 15 years. The board shall pledge all future revenues under subsection (5) and under paragraph (c), or a lesser portion of such revenues sufficient to raise moneys in an amount that will pay reimbursement at the levels promised in the reimbursement contracts, to the retirement of such bonds. The board may also enter into such agreements in the absence of a hurricane upon a determination that such action would maximize the ability of the fund to meet future obligations.

(b) The governing body of any county or municipality may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the Florida Hurricane Catastrophe Fund, for the purpose of meeting the reimbursement obligations of the fund. The issuance of such bonds is for the public purpose of ensuring that policyholders located within the county or municipality are able to recover under property insurance policies after a covered event. Revenue bonds may not be issued until validated pursuant to the provisions of chapter 75. The county or municipality shall enter into such contracts with the fund as are necessary to carry out this section. Any bonds issued under this section shall be payable from and secured by moneys received by the fund under subsection (5), and assigned and pledged to or on behalf of the county or municipality for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the county or municipality may not be pledged for the payment of such bonds.

(c) If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund revenue bonds to pay reimbursement at the levels promised in the reimbursement contracts, the board shall direct the Department of Insurance to levy an emergency assessment on each insurer writing property and casualty business in this state. Pursuant to the emergency assessment, each such insurer shall pay to the fund by July 1 of each year an amount equal to 2 percent of its gross direct written premium for the prior year from all property and casualty business in this state except for workers' compensation. The annual assessments under this paragraph shall continue until the revenue bonds issued with respect to which the assessment was imposed are retired. An insurer shall not at any time be subject to more than one assessment under this paragraph. Within 90 days after the assessment is levied under this paragraph, each insurer subject to the assessment shall make a rate filing for all coverages on which the assessment is based. If the filing reflects a rate change attributable entirely to the assessment, the filing shall consist of a certification so stating and shall be deemed approved when made, subject to the authority of the Department of Insurance to require actuarial justification as to the adequacy of any rate at any time.

(7) **ADDITIONAL POWERS AND DUTIES.—**

(a) The board may procure reinsurance from reinsurers approved under s. 624.610 for the purpose of maximizing the capacity of the fund.

(b) In addition to borrowing under subsection (6), the board may also borrow from any market sources at prevailing interest rates.

(c) If no covered events occurred in the prior calendar year, the board may use up to 2 percent of the prior year's premium collected by the fund for the purpose of grants to local governments, state agencies, and non-profit charitable organizations to support programs to mitigate potential hurricane loss.

(8) **ADVISORY COUNCIL.—**The State Board of Administration shall appoint a nine-member advisory council that consists of an actuary, a meteorologist, an engineer, a representative of insurers, a representative of insurance agents, a representative of reinsurers, and three consumers who shall also be representatives of other affected professions and industries, to provide the board with information and advice in connection with its duties under this section. Members of the advisory council shall serve at the pleasure of the board and are eligible for per diem and travel expenses under s. 112.061.

(9) **APPLICABILITY OF SECTION 19, ARTICLE III OF THE STATE CONSTITUTION.—**The Legislature finds that the Florida Hurricane Catastrophe Fund created by this section is a trust fund established for bond covenants, indentures, or resolutions within the meaning of s. 19(f)(3), Art. III of the State Constitution.

(10) **VIOLATIONS.—**Any violation of this section constitutes a violation of the Insurance Code.

(11) **FEDERAL OR MULTISTATE CATASTROPHIC FUNDS.—**Upon the creation of a federal or multistate catastrophic insurance or reinsurance program intended to serve purposes similar to the purposes of the fund created by this section, the State Board of Administration shall promptly make recommendations to the Legislature for coordination with the federal or multistate program, for termination of the fund, or for such other actions as the board finds appropriate in the circumstances.

Section 2. The Florida Hurricane Catastrophe Fund created by section 215.555, Florida Statutes, is exempt from the deduction required by section 215.20(1), Florida Statutes.

Section 3. Subsection (3) of section 624.5091, Florida Statutes, is amended to read:

624.5091 **Retaliatory provision, insurers.—**

(3) This section does not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property, nor as to reimbursement premiums paid to the Florida Hurricane Catastrophe Fund, nor as to emergency assessments paid to the Florida Hurricane Catastrophe Fund, nor as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance, except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration by the department in determining the propriety and extent of retaliatory action under this section.

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

Strike everything before the enacting clause and insert: A bill to be entitled An act relating to the Florida Hurricane Catastrophe Fund; creating s. 215.555, F.S.; providing findings and purpose; providing definitions; creating the Florida Hurricane Catastrophe Fund as a trust fund under the State Board of Administration; specifying uses of moneys in the fund; specifying applicability of other laws; requiring the fund and specified insurers to enter into reimbursement contracts; specifying obligations of the fund under reimbursement contracts; requiring reports; providing for loans; requiring payment of reimbursement premium; providing for calculation of reimbursement premium; specifying accounting and regulatory treatment of reimbursement premium; requiring advance payment; providing circumstances for issuance of revenue bonds on behalf of the fund; specifying pledged revenues; authorizing counties or municipalities to issue such bonds; requiring validation; authorizing emergency assessments; authorizing the fund to procure reinsurance; authorizing borrowing by the fund; authorizing the fund to expend certain moneys to support programs to mitigate hurricane losses; providing for appointment of an advisory council; providing for per diem and travel expenses; specifying applicability of s. 19, Art. III, State Constitution, to the fund; providing that violations constitute violations of the Insurance Code; providing for recommendations with respect to federal or multistate catastrophic funds; providing an exemption from the deduction required by s. 215.20(1), F.S.; amending s. 624.5091, F.S.; providing that this section does not apply to reimbursement premiums or emergency assessments paid to the Florida Hurricane Catastrophe Fund; providing an effective date.

On motion by Senator Childers, by two-thirds vote **CS for HB 31-C** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—6

Consideration of **SB 30-C** was deferred.

SENATOR SCOTT PRESIDING

MOTION TO INTRODUCE MEMORIAL

On motion by Senator Grant, by the required constitutional two-thirds vote of the Senate the following memorial was admitted for introduction:

On motion by Senator Grant, by unanimous consent—

By Senator Grant—

SM 46-C—A memorial to the Congress of the United States, expressing support for federal legislation relative to natural disasters and natural-disaster relief efforts.

WHEREAS, the lives and property of all residents of the State of Florida are affected by natural disasters such as hurricanes, and

WHEREAS, the aftermath of Hurricane Andrew makes it clear that the United States needs to improve its natural-disaster relief programs and emergency response programs and that local governments need to improve their mitigation of damages and their building-code enforcement efforts, and

WHEREAS, the size of the insured loss that resulted from Hurricane Andrew calls attention to the need for insurance companies to assess their concentrations of risk, the need for insurance companies to obtain additional catastrophe reinsurance, and the need for consumers to find available and affordable property insurance that protects against hurricane losses, and

WHEREAS, legislation will be introduced in the 103rd Session of the United States Congress which legislation is proposed by the Natural Disaster Coalition and which will:

1. Promote better construction techniques so that buildings in areas at risk can withstand high winds, earth tremors, and floods;
2. Prepare for disasters by encouraging, at the state and local levels, better planning for natural disasters and for the mitigation of the damages;
3. Provide a measure of funding for relief activities financed by the private sector;
4. Simplify homeowners' insurance to include standard protection against natural hazards based on multiple perils; and
5. Create an industry-financed excess reinsurance program against catastrophic hurricanes and earthquakes in order to prevent or sharply reduce market dislocations and to avert crises in the availability of insurance, NOW, THEREFORE,

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

That the Senate of the State of Florida expresses its support for federal legislation relative to natural disasters and natural-disaster relief efforts to address construction techniques, planning, mitigation of damages, funding, homeowners' insurance, and reinsurance.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

—was introduced out of order and read by title. On motion by Senator Grant, by two-thirds vote **SM 46-C** was read the second time in full, adopted and certified to the House. The vote on adoption was:

Yeas—40 Nays—None

On motion by Senator Grogan, by two-thirds vote—

CS for SB 32-C—A bill to be entitled An act relating to federal defense contracts; providing legislative findings; providing for the establishment of a Defense Reinvestment Incentive Program within the Department of Commerce; providing for the issuance of vouchers to reimburse federal defense contractors or subcontractors for certain costs; providing definitions; providing requirements for applications for vouchers; requiring the Division of Economic Development of the Department of Commerce to review applications and adopt related rules; providing for the division to forward evaluations of applications to the Defense Reinvestment Incentive Advisory Committee of the department, which is established by the act; providing for membership, terms of appointment, meetings, and reimbursement of members for travel and per diem; providing for the expenditure of the funds in the Economic Development Trust Fund; amending s. 213.053, F.S., relating to confidentiality and information sharing; providing that the Department of Revenue may furnish certain information to the Department of Commerce in its administration of the program; providing a penalty for a breach of confidentiality; amending s. 288.095, F.S., relating to the Economic Development Trust Fund; providing for the deposit of moneys into that trust fund; amending s. 443.171, F.S., relating to the powers and duties of the Division of Unemployment Compensation of the Department of Labor and Employment Security; providing for that division to release certain information to the Department of Commerce in its administration of the Defense Reinvestment Incentive Program; providing an effective date.

—was read the second time by title.

Senator Grogan moved the following amendment which was adopted:

Amendment 1—On page 5, line 1, after "employee" insert: matriculation and

On motion by Senator Grogan, by two-thirds vote **CS for SB 32-C** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 30-C—A bill to be entitled An act relating to administration of the Defense Reinvestment Incentive Program; providing a public records exemption for certain information received by the Department of Commerce pursuant thereto; providing for future review and repeal in accordance with s. 119.14, F.S.; providing legislative findings; providing an effective date.

—was read the second time by title. On motion by Senator Grogan, by two-thirds vote **SB 30-C** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

REPORTS OF COMMITTEES

The Committee on International Trade, Economic Development and Tourism recommends the following pass: **SB 30-C**

The Committee on Transportation recommends the following pass: **SB 34-C** with 3 amendments

The bills contained in the foregoing reports were referred to the Committee on Appropriations under the original reference.

The Committee on Executive Business, Ethics and Elections recommends the following pass: **SB 24-C** with 1 amendment

The bill was referred to the Committee on Rules and Calendar under the original reference.

The Committee on Appropriations recommends the following pass: **SB 36-C** with 3 amendments

The Committee on Governmental Operations recommends the following pass: **SB 20-C** with 1 amendment

The Committee on Transportation recommends the following pass: **SB 26-C**

The bills contained in the foregoing reports were placed on the calendar.

The Committee on International Trade, Economic Development and Tourism recommends a committee substitute for the following: **SB 32-C**

The bill with committee substitute attached was referred to the Committee on Appropriations under the original reference.

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

SR 38-C was introduced out of order and adopted November 2.

SCR 40-C was introduced out of order and adopted November 2.

MOTION TO INTRODUCE BILL

On motion by Senator Dyer, by the required constitutional two-thirds vote of the Senate the following bill was admitted for introduction:

By Senators Dyer and Sullivan—

SB 42-C—A bill to be entitled An act relating to regulation of professions; amending s. 215.37, F.S.; requiring the Department of Business and

Professional Regulation to request that professional boards within the department submit their proposed budgets prior to development of the department's legislative budget request; creating s. 455.2142, F.S.; revising continuing education requirements for certain health care practitioners; creating s. 455.2181, F.S.; providing for certain foreign-trained pharmacists to apply for licensure as a pharmacist; amending s. 455.2226, F.S.; requiring persons licensed or certified under ch. 491, F.S., relating to clinical, counseling, and psychotherapy services, to complete a continuing education course on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification; amending s. 458.311, F.S.; revising licensure requirements for medical physicians to allow certain applicants to complete a fellowship to partially satisfy medical physician licensure requirements; revising a restriction on the number of times an applicant for licensure to practice medicine may fail the examination to include remediation after a certain number; providing for certain foreign-trained physicians to pursue licensure notwithstanding the repeal of certain provisions; creating s. 458.326, F.S.; authorizing physicians to administer or prescribe controlled substances for the treatment of intractable pain and providing requirements thereof; prohibiting hospitals and other health care facilities from forbidding or restricting such treatment by physicians having staff privileges with such hospital or health care facility; prohibiting disciplinary action by the Board of Medicine for such treatment; prohibiting such treatment for chemically dependent and other substance-abusing persons; providing for revocation or suspension of license under certain circumstances; creating ss. 458.3312, 459.0152, F.S.; prohibiting physicians and osteopathic physicians from falsely representing that they are board-certified specialists; providing for the adoption of rules; amending ss. 458.331, 459.015, F.S.; providing additional grounds for disciplinary action; amending s. 458.347, F.S.; providing requirements for certification as a physician assistant under ch. 459, F.S.; deleting provisions relating to reactivation of an inactive certificate as a physician assistant and to automatic expiration of the certificate; amending s. 459.022, F.S., relating to physician assistants; providing requirements for certification under ch. 458, F.S.; amending s. 766.1115, F.S., to conform; creating s. 460.4061, F.S.; providing for a restricted license as a chiropractic physician; amending s. 460.408, F.S.; revising provisions relating to approval of continuing education courses for chiropractors; creating s. 461.011, F.S.; prohibiting sexual misconduct in the practice of podiatric medicine, for which there are disciplinary actions; amending s. 461.013, F.S.; providing a ground for disciplinary action relating to notifying the Board of Podiatric Medicine of commencement or cessation of the practice of the profession of podiatric medicine under certain circumstances; revising penalties, including increasing the administrative fine; reenacting ss. 320.0848(7), 455.236(4)(g), 461.006(2)(c), 766.111(2), F.S., relating to disabled person parking permits, financial arrangements between referring health care providers and providers of health care services, applicants for licensure to practice podiatric medicine, and unnecessary diagnostic testing, to incorporate the amendments to ss. 461.013, 466.028, F.S., in references thereto; creating s. 461.018, F.S.; providing for limited scope of practice of podiatric medicine within a specified area of need; amending s. 465.0156, F.S.; revising information required for registration of nonresident pharmacies; amending s. 465.0196, F.S.; providing for the operation of certain non-profit pharmacies; amending s. 831.30, F.S., relating to the offense of fraudulently obtaining medicinal drugs; revising a cross-reference; amending s. 466.006, F.S.; adding a qualification for taking the examination for licensure as a dentist; amending s. 466.007, F.S.; revising requirements for taking the examination for licensure as a dental hygienist; amending s. 466.028, F.S.; providing an additional ground for disciplinary action by the Board of Dentistry; increasing the administrative fine; reenacting s. 466.011, F.S., relating to licensure, to incorporate the amendments to ss. 466.066, 466.007, 466.028, F.S., in references thereto; creating s. 466.0282, F.S.; providing requirements for a dentist in holding himself out as a specialist; amending s. 467.009, F.S.; revising requirements for midwifery educational programs; amending s. 468.1115, F.S.; revising and providing exemptions from regulation as a speech-language pathologist or audiologist; amending s. 468.1145, F.S.; eliminating examination and reexamination fees and increasing certain licensure and certification fees; amending s. 468.1155, F.S.; revising provisional licensure requirements, including increasing the hours of supervised clinical practice required; providing requirements relating to dual licensure in speech-language pathology and audiology; reenacting ss. 468.1185(2)(a), 468.1215(4), F.S., relating to licensure requirements and students, interns, and trainees, to incorporate the amendment to s. 468.1155, F.S., in references thereto; amending s. 468.1295, F.S.; providing penalties for practicing speech-language pathology or audiology with a delinquent license or failing to notify the board of a change in mailing address; amending s. 468.511, F.S.; revising procedures for temporary permits for certain dietitian/nutritionist applicants; amending s. 478.45, F.S.; revising requirements for licensure as an electrologist; amending ss. 478.46, 478.47, F.S.,

relating to temporary permits and licensure by endorsement; correcting cross-references; amending s. 483.813, F.S.; revising requirements for temporary licensure of clinical laboratory personnel; amending s. 483.041, F.S.; including licensed optometrists within the definition of licensed practitioners for purposes of laws regulating clinical laboratories; amending ss. 486.031, 486.041, 486.103, F.S.; eliminating temporary permits for physical therapists and physical therapist assistants and providing for graduate status for each under certain circumstances; providing an alternative licensure examination; amending ss. 486.021, 486.081, 486.102, 486.107, F.S.; revising a definition and eliminating provisions relating to temporary permits, to conform; providing an alternative licensure examination; creating s. 486.123, F.S.; prohibiting sexual misconduct in the practice of physical therapy, for which there are disciplinary actions; amending s. 486.161, F.S.; providing an exemption for certain persons assisting a licensed physical therapist; amending s. 490.005, F.S., relating to licensure of psychologists; increasing the application fee; revising language; amending s. 456.32, F.S.; including other licensed professionals within the definition of "practitioner of the healing arts" for purposes of provisions regulating hypnosis; amending s. 491.005, F.S.; revising fees and costs applicable to applicants for licensure as marriage and family therapists; amending ss. 455.217, 455.2173, F.S.; authorizing additional procedures the Department of Business and Professional Regulation and the Agency for Health Care Administration may employ to maintain the security of professional examinations; amending s. 455.221, F.S.; providing that persons under contract with the department or agency to help investigate and resolve complaints and application checks shall be considered agents of the department for certain insurance and immunity protections; amending s. 455.227, F.S.; revising and providing grounds for disciplinary action; revising and providing penalties; reenacting ss. 468.1755(1)(a), 470.036(1)(a), 471.033(1), 473.323(1), 475.25(1)(a), 475.624(1), 476.204(1)(h), 477.029(1)(h), 484.056(1)(a), F.S., relating to discipline of nursing home administrators, funeral directors, embalmers, direct disposers, engineers, land surveyors, public accountants, real estate brokers, real estate salespersons, and real estate schools, appraisers, barbers, cosmetologists, and hearing aid dispensers, to incorporate the amendment to s. 455.227, F.S., in references thereto; amending s. 455.228, F.S.; authorizing the issuance of citations in addition to other cease and desist remedies related to the unlicensed practice of a profession; providing for establishment by rule of related penalties; providing for allocation to the various professions of the fines, fees, and other costs collected as a result of violations related to such unlicensed practice; creating s. 455.271, F.S.; providing for inactive and delinquent status; creating s. 455.273, F.S.; providing for renewal and cancellation notices; creating s. 455.275, F.S.; providing for maintenance of current address-of-record information; providing for reinstatement of certain chiropractor licenses; amending s. 468.1245, F.S.; directing purchasers to direct complaints concerning hearing aids to the Agency for Health Care Administration; amending s. 468.385, F.S.; revising a prohibition against licensure as an auctioneer or auctioneer's apprentice; reenacting s. 468.387(1), F.S., relating to licensing of nonresidents, to incorporate the amendment to s. 468.385, F.S., in a reference thereto; amending s. 468.389, F.S.; authorizing restitution to a consumer as a disciplinary action of the department against auctioneers; amending s. 468.401, F.S.; revising definitions applicable to regulation of talent agencies; amending s. 468.402, F.S.; providing disciplinary grounds and actions applicable to persons violating provisions related to talent agencies; amending s. 468.403, F.S.; providing additional licensure requirements; creating s. 468.4035, F.S.; providing requirements for registration as a talent agent; amending s. 468.404, F.S.; deleting provisions relating to rules for a procedure for a biennial renewal of talent agency licenses; substituting the term "delinquency fee" for the term "late renewal fee"; increasing the charge for recording name or location changes; amending s. 468.406, F.S.; requiring an itemized schedule of fees, charges, and commissions along with an application; amending s. 468.407, F.S.; eliminating a fine for failure to display talent agency license; amending s. 468.409, F.S.; revising recordkeeping requirements; amending s. 468.410, F.S.; prohibiting agencies from requiring applicants or artists to purchase certain things as a condition of registering or obtaining employment for that person; amending s. 468.412, F.S.; requiring a separate license at each location; amending s. 468.413, F.S.; providing applicability of habitual felony offender penalties to certain acts, including operating as a talent agent without being registered and properly employed; amending s. 468.520, F.S.; revising definitions and exemptions applicable to regulation of employee leasing companies; amending s. 468.521, F.S.; increasing membership of the Board of Employee Leasing Companies; amending s. 468.522, 468.531, 468.533, 468.534, F.S.; revising terminology; amending s. 468.523, F.S.; applying other provisions relating to activities of regulatory boards to regulations for employee leasing com-

panies; amending s. 468.524, F.S.; revising license application requirements; creating s. 468.5245, F.S., related to change of ownership; amending s. 468.525, F.S.; revising license requirements; amending s. 468.526, F.S.; revising annual assessment provisions; amending s. 468.527, F.S.; providing an editorial change; creating s. 468.5275, F.S.; providing for registration and exemption of de minimis operations; establishing fees; amending s. 468.528, F.S.; revising provisions related to inactive status of licenses; amending s. 468.529, F.S.; revising various insurance and benefit requirements; amending s. 468.530, F.S.; providing identification requirements for advertisements; amending s. 468.532, F.S.; revising and providing disciplinary grounds and actions; creating s. 468.535, F.S.; providing for investigations, audits, and reviews; amending s. 471.003, F.S.; revising an exemption from registration as an engineer applicable to certain faculty members; reenacting s. 471.037(2), F.S., relating to the issuance of local building permits, to incorporate the amendment to s. 471.003, F.S., in a reference thereto; amending s. 471.015, F.S.; revising licensure qualifications of engineers; authorizing the requirement of a personal appearance, subject to prior notice; amending s. 472.005, F.S.; revising definitions relating to regulation of land surveying to eliminate reference to "land" and to include reference to "mapping"; defining "photogrammetric mapper"; amending s. 472.007, F.S.; increasing membership of the Board of Professional Surveyors and Mappers; amending s. 472.008, F.S.; deleting the requirement for board rules on financial responsibility; amending s. 472.011, F.S.; providing for board rule for delinquency fees rather than late renewal penalty fees; providing application fees for providers of continuing education; amending s. 472.013, F.S.; eliminating a qualifying prerequisite to taking the licensure examination and providing for future repeal of other qualifying prerequisites; amending s. 472.015, F.S.; providing requirements for professional liability insurance; amending ss. 472.001, 472.003, 472.021, 472.023, 472.027, 472.029, 472.031, 472.037, 472.039, F.S., relating to land surveying, to conform; amending s. 472.033, F.S., relating to grounds for disciplinary action related to licensure status; creating s. 472.041, F.S.; providing a savings clause to automatically license specified persons as surveyors and mappers on a specified date; amending ss. 177.031, 177.061, 177.071, 177.091, 177.141, 177.151, 177.36, 177.503, 177.504, 177.507, 177.508, 177.509, 190.033, 287.055, 403.0877, 403.932, 440.02, 471.003, 481.219, 713.01, 713.03, 718.104, 810.12, F.S., to conform terminology; amending s. 28.222, F.S.; providing requirements for the recording of instruments relating to land surveying; amending s. 20.165, F.S.; establishing additional boards within the Division of Professions and the Division of Medical Quality Assurance; amending s. 473.302, F.S.; providing definitions with respect to the regulation of public accountancy; amending s. 473.308, F.S.; extending the waiver of certain educational requirements applicable to certain applicants for licensure as a public accountant; amending s. 474.2065, F.S.; increasing the initial application and examination fee for veterinarians; amending s. 474.207, F.S.; revising provisions relating to licensure of veterinarians by examination; amending s. 474.2125, F.S.; revising provisions relating to temporary licenses issued to licensed veterinarians of another state, including shortening the period of validity of such licenses; amending s. 474.214, F.S., relating to disciplinary proceedings; providing penalties for practicing veterinary medicine with a delinquent license; correcting terminology; amending s. 474.215, F.S.; requiring compliance with standards adopted pursuant to board rule; amending s. 475.01, F.S.; defining terms applicable to the regulation of real estate brokers, salespersons, and schools; amending s. 475.17, F.S.; revising qualifications for practice with respect to other states and jurisdictions; creating s. 475.180, F.S.; providing reciprocity provisions for nonresident licenses; amending s. 475.181, F.S., relating to licensure, to conform; amending s. 475.25, F.S.; revising a ground for disciplinary and other action relating to certain required notice relating to a sale, exchange, purchase, or lease of real property or any interest in real property; amending ss. 475.482, 475.483, 475.484, F.S., relating to the Real Estate Recovery Fund; revising conditions for receipt of a distribution from the fund; providing requirements for recovery when bankruptcy is a factor; providing additional conditions that constitute disqualification for a claim; providing for proration of claims under certain conditions; amending s. 475.5017, F.S.; providing for assignment of civil actions; providing for payment of expenses of receiver; amending s. 475.624, F.S., relating to grounds for discipline or other action against a real estate appraiser; providing clarification; amending s. 477.013, F.S.; providing a definition applicable to regulation of cosmetology; amending s. 477.0135, F.S.; exempting hair braiding from regulation under certain circumstances; amending s. 480.033, F.S.; providing a definition applicable to regulation of massage practice; amending s. 480.047, F.S.; prohibiting massage brokering under certain circumstances; amending s. 481.205, F.S.; providing for an interior design advisory body within the Board of Architecture and Interior Design; amending s. 481.213, F.S.; requiring

certain internship for licensure as an architect; amending s. 481.215, F.S.; providing requirements relating to proof of continuing education applicable to architects; deleting provisions relating to automatic reverter to inactive status for a license to practice architecture or interior design; amending s. 481.329, F.S.; exempting golf course architects from regulation under part II of ch. 481, F.S., relating to landscape architecture; amending s. 484.051, F.S.; directing purchasers to direct complaints concerning hearing aids to the Department of Business and Professional Regulation; requiring the Board of Speech-Language Pathology and Audiology and the Board of Hearing Aid Specialists to adopt rules relating to informing hearing aid purchasers of telecoil, "t" coil, or "t" switch technology; amending s. 457.107, F.S.; deleting provisions relating to automatic reverter to inactive status of a certificate to practice acupuncture; amending s. 457.108, F.S.; deleting provisions relating to automatic expiration of a certificate to practice acupuncture; deleting provisions relating to amounts of certain fees; amending s. 458.319, F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice medicine; amending s. 458.321, F.S.; deleting provisions relating to automatic expiration of a license to practice medicine; deleting provisions relating to the fee for reactivating an inactive license to practice medicine; amending s. 459.008, F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice osteopathic medicine; amending s. 459.009, F.S.; deleting provisions relating to automatic expiration of a license to practice osteopathic medicine; deleting provisions relating to the amounts of certain fees; repealing s. 460.407(3)-(6), F.S.; deleting provisions relating to automatic expiration of a license to practice chiropractic; amending s. 461.007, F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice podiatry; amending s. 461.008, F.S.; deleting provisions relating to reactivation and to automatic expiration of an inactive license to practice podiatry; deleting provisions relating to the amounts of certain fees; amending s. 462.08, F.S.; revising provisions governing the renewal of a license to practice naturopathy; amending s. 462.19, F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice naturopathy and to reactivation of such license; amending s. 463.007, F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice optometry; amending s. 463.008, F.S.; deleting provisions relating to reactivation of an inactive license to practice optometry; deleting provisions relating to the amount of certain fees; amending s. 463.016, F.S.; providing penalties for practicing optometry with a delinquent license; repealing s. 464.013(4), (5), F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice nursing; amending s. 464.014, F.S.; deleting provisions relating to reactivation of an inactive license to practice nursing; deleting the requirement for payment of an inactive application fee; amending s. 465.008, F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice pharmacy; amending s. 465.012, F.S.; deleting provisions relating to reactivation of an inactive license to practice pharmacy; deleting provisions relating to the amount of certain fees; repealing s. 466.013(3), (4), F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice dentistry; amending s. 466.015, F.S.; deleting provisions relating to reactivation of an inactive license to practice dentistry; deleting provisions relating to the amount of certain fees; repealing s. 467.012(4), (5), F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice midwifery; amending s. 467.013, F.S.; deleting provisions relating to renewal or reactivation of an inactive license to practice midwifery; amending s. 467.0135, F.S.; deleting a late renewal fee; repealing s. 468.1195(4), (5), F.S.; deleting provisions relating to automatic reverter to inactive status of a license as a speech-language pathologist or audiologist; amending s. 468.1205, F.S.; deleting provisions relating to reactivation of an inactive license as a speech-language pathologist or audiologist; amending s. 468.1715, F.S.; deleting provisions relating to automatic reverter to inactive status of a license as a nursing home administrator; amending s. 468.1725, F.S.; deleting provisions relating to reactivation of an inactive license as a nursing home administrator; deleting provisions relating to the amount of certain fees; amending s. 468.1755, F.S.; providing penalties for practicing nursing home administration with a delinquent license; amending s. 468.219, F.S.; deleting provisions relating to expiration of a license to practice occupational therapy; amending s. 468.221, F.S.; providing for fees with respect to the practice of occupational therapy; amending s. 468.361, F.S.; deleting provisions relating to automatic reverter to inactive status of a certificate or registration as a respiratory care practitioner or respiratory therapist; amending s. 468.363, F.S.; deleting provisions relating to reactivation of an inactive certificate or registration as a respiratory care practitioner or respiratory therapist; repealing s. 468.3851(3), (4), F.S.; deleting provisions relating to automatic reverter to inactive

status of an auctioneer's license; amending s. 468.3852, F.S.; deleting provisions relating to automatic expiration of an auctioneer's license; repealing s. 468.514(3), (4), F.S.; deleting provisions relating to automatic reverter to inactive status of a license as a dietitian/nutritionist; repealing s. 468.515(4), (5), F.S.; deleting provisions relating to automatic expiration of a license as a dietitian/nutritionist; amending s. 468.517, F.S.; providing penalties for practicing as a dietitian/nutritionist with a delinquent license; repealing s. 468.518(3), (4), F.S.; providing for disciplinary action against a person practicing as a dietitian/nutritionist with a delinquent license; repealing s. 468.549(3), (4), F.S.; deleting provisions relating to automatic reverter to inactive status of a license as a wastewater treatment operator; repealing s. 468.550(3), (4), F.S.; deleting provisions relating to automatic expiration of a license as a wastewater treatment operator; amending s. 468.551, F.S.; providing penalties for acting as a wastewater treatment operator with a delinquent license; repealing s. 470.015(3), (4), F.S.; deleting provisions relating to automatic reverter to inactive status of a license as a funeral director and embalmer; amending s. 470.016, F.S.; deleting provisions relating to automatic expiration of a license as a funeral director and embalmer; repealing s. 470.018(3), (4), F.S.; deleting provisions relating to automatic reverter to inactive status of a license as a direct disposer; amending s. 470.019, F.S.; providing penalties for practicing direct disposing with a delinquent license; amending s. 470.036, F.S.; providing for disciplinary action against a person practicing funeral directing and embalming or a similar occupation with a delinquent license; amending s. 471.011, F.S.; changing the term "late renewal penalty" to "delinquency fee" for purposes of licensure as an engineer; repealing s. 471.017(3), (4), F.S.; deleting provisions relating to automatic reverter to inactive status of a license as an engineer; amending s. 471.019, F.S.; deleting provisions relating to reactivation of an inactive license as an engineer; amending s. 471.031, F.S.; providing penalties for practicing engineering with a delinquent license; amending s. 471.033, F.S.; providing for disciplinary action against a person practicing engineering with a delinquent license; amending s. 472.017, F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice land surveying and clarifying terminology; amending s. 472.019, F.S.; deleting provisions relating to automatic expiration of a license to practice land surveying; repealing s. 473.311(3), (4), F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice public accountancy; repealing s. 473.313(3), (4), F.S.; deleting provisions relating to automatic expiration of a license to practice public accountancy; amending s. 473.322, F.S.; providing penalties for practicing public accountancy with a delinquent license; amending s. 473.323, F.S.; providing for disciplinary proceedings against a person practicing public accountancy with a delinquent license; amending s. 474.211, F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice veterinary medicine; amending s. 474.212, F.S.; deleting provisions relating to renewal and reactivation of an inactive license to practice veterinary medicine; amending s. 476.155, F.S.; deleting provisions relating to automatic expiration of a barber's license; amending s. 477.0212, F.S.; deleting provisions relating to automatic expiration of a cosmetologist's license; amending s. 478.50, F.S.; deleting provisions relating to automatic expiration of a license to practice electrolysis; amending s. 480.0415, F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice massage; amending s. 480.0425, F.S.; deleting provisions relating to automatic expiration of a license to practice massage; amending s. 481.207, F.S.; deleting a late renewal fee for licensure as an architect or interior designer; amending s. 481.217, F.S.; deleting provisions relating to reactivation and to automatic expiration of an inactive license as an architect or interior designer; amending s. 481.223, F.S.; providing penalties for practicing architecture or interior design with a delinquent license; amending s. 481.225, F.S.; providing for disciplinary action for practicing architecture with a delinquent license; amending s. 481.307, F.S.; deleting a late renewal fee for licensure as a landscape architect; repealing s. 481.313(3), (4), F.S.; deleting provisions relating to automatic reverter to inactive status of a license to practice landscape architecture; amending s. 481.315, F.S.; deleting provisions relating to automatic expiration of a license as a landscape architect; amending s. 481.323, F.S.; providing penalties for practicing landscape architecture with a delinquent license; amending s. 481.325, F.S.; providing for disciplinary action against a person practicing landscape architecture with a delinquent license; amending s. 483.807, F.S.; changing the term "late renewal penalty" to "delinquency fee" for purposes of licensure of clinical laboratory personnel; repealing s. 483.817(3), (4), F.S.; deleting provisions relating to automatic reverter to inactive status of a license as clinical laboratory personnel; amending s. 483.819, F.S.; deleting provisions relating to renewal of an inactive license as clinical laboratory personnel and to automatic suspension of such license;

amending s. 484.009, F.S.; deleting provisions relating to automatic expiration of an optician's license; amending s. 484.014, F.S.; providing penalties for practicing opticianry with a delinquent license; amending s. 484.047, F.S.; deleting provisions relating to automatic expiration of a license as a dispenser of hearing aids and to reinstatement of such license; amending s. 484.053, F.S.; providing penalties for dispensing hearing aids with a delinquent license; amending s. 484.056, F.S.; providing for disciplinary action against a person dispensing hearing aids with a delinquent license; amending s. 486.085, F.S.; deleting provisions relating to automatic reverter to inactive status of a license as a physical therapist; deleting provisions relating to the amount of certain fees; deleting requirements for payment of an inactive application fee; amending s. 486.108, F.S.; deleting provisions relating to automatic reverter to inactive status of a license as a physical therapist assistant; deleting provisions relating to the amount of certain fees; deleting requirements for payment of an inactive application fee; amending s. 489.109, F.S.; changing the term "penalty fee" to "delinquency fee" with respect to licensure as a contractor; amending s. 489.509, F.S.; changing the term "penalty fee" to "delinquency fee" with respect to licensure as an electrical and alarm system contractor; repealing s. 489.517(3), (4), F.S.; deleting provisions relating to automatic reverter to inactive status of a license as an electrical and alarm system contractor; amending s. 489.519, F.S.; deleting provisions relating to automatic expiration of a license as an electrical and alarm system contractor; amending s. 489.531, F.S.; providing penalties for electrical and alarm system contracting with a delinquent license; amending s. 489.533, F.S.; providing for disciplinary action against a person engaging in electrical or alarm system contracting with a delinquent license; repealing s. 490.007(3), F.S., and amending s. 490.008, F.S.; deleting provisions relating to automatic reverter to inactive status of a license as a psychologist and reactivation of such license; repealing s. 491.007, F.S., and amending 491.008, F.S.; deleting provisions relating to automatic reverter to inactive status of a license or certificate as a clinical social worker, marriage and family therapist, or mental health counselor and to reactivation of such license or certificate; amending s. 492.109, F.S.; deleting provisions relating to automatic reverter to inactive status of a geologist's license; amending s. 492.1101, F.S.; deleting provisions relating to automatic expiration of a license as a geologist; amending s. 492.112, F.S.; providing penalties for practicing geology with a delinquent license; amending s. 492.113, F.S., relating to disciplinary proceedings by the Board of Professional Geologists; clarifying provisions; providing effective dates.

—was referred to the Committee on Professional Regulation.

By Senator Beard—

SB 44-C—A bill to be entitled An act relating to technical clarifications and statutory conformance to correctional issues contained in the "Safe Streets Initiative of 1994"; amending s. 921.001, F.S.; deleting a sentencing selection provision; adding conditional medical release and emergency control release to the listing of authorized release from incarceration for persons convicted of crimes committed on or after January 1, 1994; amending s. 921.0011, F.S.; clarifying that control release includes emergency control release; amending s. 921.188, F.S.; authorizing local detention facilities for certain offenders; amending s. 947.1405, F.S.; providing the conditional release program for inmates convicted of crimes committed on or after January 1, 1994; amending s. 29, ch. 93-406, Laws of Florida, relating to control release critical depletion transfers; correcting statutory references; providing an effective date.

—was referred to the Committee on Corrections, Probation and Parole.

COMMITTEE SUBSTITUTES

FIRST READING

By the Committee on International Trade, Economic Development and Tourism; and Senators Grogan, Hargrett, Gutman, Grant, Siegel, Williams, Kurth, Jennings, Harden, Johnson, Wexler, Jenne, Dyer, Boczar, Meadows, Burt, Casas, Brown-Waite, Silver, Scott, Forman and Holzen-dorf—

CS for SB 32-C—A bill to be entitled An act relating to federal defense contracts; providing legislative findings; providing for the establishment of a Defense Reinvestment Incentive Program within the Department of Commerce; providing for the issuance of vouchers to reimburse federal defense contractors or subcontractors for certain costs; providing definitions; providing requirements for applications for vouchers;

requiring the Division of Economic Development of the Department of Commerce to review applications and adopt related rules; providing for the division to forward evaluations of applications to the Defense Reinvestment Incentive Advisory Committee of the department, which is established by the act; providing for membership, terms of appointment, meetings, and reimbursement of members for travel and per diem; providing for the expenditure of the funds in the Economic Development Trust Fund; amending s. 213.053, F.S., relating to confidentiality and information sharing; providing that the Department of Revenue may furnish certain information to the Department of Commerce in its administration of the program; providing a penalty for a breach of confidentiality; amending s. 288.095, F.S., relating to the Economic Development Trust Fund; providing for the deposit of moneys into that trust fund; amending s. 443.171, F.S., relating to the powers and duties of the Division of Unemployment Compensation of the Department of Labor and Employment Security; providing for that division to release certain information to the Department of Commerce in its administration of the Defense Reinvestment Incentive Program; providing an effective date.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed by the required constitutional three-fifths vote of the membership HB 89-C, HB 111-C; has passed as amended CS for HB 31-C, CS for HB's 33-C and 43-C, HB 71-C, CS for HB's 85-C, 99-C, 15-C, 13-C and 23-C and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Mackey—

HB 89-C—A bill to be entitled An act relating to trust funds; creating the Workers' Compensation Small Employer Self-Insurance Trust Fund within the State Treasury; providing for annual appropriation of moneys from the Workers' Compensation Administration Trust Fund to the Workers' Compensation Small Employer Self-Insurance Trust Fund for certain purposes; providing for future review and termination or recreation of the fund; providing an appropriation; providing a contingent effective date.

—was referred to the Committees on Commerce and Appropriations.

By the Committee on Appropriations and Representative Long—

HB 111-C—A bill to be entitled An act relating to trust funds; creating the Florida Group Self-Insurer's Guaranty Fund, to be administered by the Florida Group Self-Insurer's Guaranty Fund Association; providing a contingent effective date.

—was referred to the Committees on Commerce and Appropriations.

By the Committee on Insurance and Representative Cosgrove and others—

CS for HB 31-C—A bill to be entitled An act relating to the Florida Hurricane Catastrophe Fund; creating s. 215.555, F.S.; providing findings and purpose; providing definitions; creating the Florida Hurricane Catastrophe Fund as a trust fund under the State Board of Administration; specifying uses of moneys in the fund; specifying applicability of other laws; requiring the fund and specified insurers to enter into reimbursement contracts; specifying obligations of the fund under reimbursement contracts; requiring reports; providing for loans; requiring payment of reimbursement premium; providing for calculation of reimbursement premium; specifying accounting and regulatory treatment of reimbursement premium; requiring advance payment; providing circumstances for issuance of revenue bonds on behalf of the fund; specifying pledged revenues; authorizing units of local government to issue such bonds; requiring validation; authorizing emergency assessments; authorizing the fund to procure reinsurance; authorizing borrowing by the fund; authorizing the fund to expend certain moneys to support programs to mitigate hurricane losses; providing for appointment of an advisory council; providing for per diem and travel expenses; specifying applicability of s. 19, Art. III,

State Constitution, to the fund; providing that violations constitute violations of the Insurance Code; providing for reversion of fund assets to the General Revenue Fund upon termination; providing for recommendations with respect to federal or multistate catastrophic funds; providing an exemption from the deduction required by s. 215.20(1), F.S.; amending s. 624.5091, F.S.; providing that retaliatory tax does not apply to premiums and assessments paid to the Florida Hurricane Catastrophe Fund; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By the Committee on Insurance and Representative Cosgrove and others—

CS for HB's 33-C and 43-C—A bill to be entitled An act relating to insurance; amending s. 624.307, F.S.; requiring the Department of Insurance to implement a program to encourage the entry of additional insurers into the Florida market; creating s. 624.3101, F.S.; prohibiting false or misleading financial statements; providing penalties; creating s. 624.3102, F.S.; providing immunity from civil liability for persons who provide the department with certain information about insurers; amending s. 624.316, F.S.; removing limitation of examination authority to domestic insurers; limiting acceptability of examination reports of foreign insurers; providing for conduct of examinations by independent examiners; specifying frequency of examinations of insurers; providing for adoption of rules; amending s. 624.407, F.S.; increasing the minimum surplus as to policyholders required for issuance of a certificate of authority as a property and casualty insurer; amending s. 624.408, F.S.; increasing the minimum surplus as to policyholders required for maintenance of a certificate of authority as a property and casualty insurer; amending s. 624.424, F.S.; requiring an insurer's annual statement to include a statement of opinion on reserves; limiting waivers of accounting requirements; creating s. 624.4243, F.S.; providing for computation and reporting of premium growth; specifying powers of the department; amending s. 624.610, F.S.; providing criteria for classification as an approved reinsurer; requiring a ceding insurer to conduct a due diligence inquiry with respect to an assuming reinsurer; revising criteria for a letter of credit used with respect to credit on financial statements for certain reinsurance; authorizing rules with respect to the letter of credit; authorizing use by the Department of Insurance of reinsurance consultants under certain conditions; providing procedures and requirements with respect thereto and regarding the reinsurance evaluation; providing for payment for evaluation costs; amending s. 625.305, F.S.; removing authority of the department to waive certain investment restrictions; amending s. 626.7491, F.S.; specifying when an insurer is presumed to be producer-controlled; specifying application of certain provisions; providing exceptions; specifying producers from which insurers may accept business; amending s. 626.918, F.S.; increasing minimum surplus requirements for surplus lines insurers; creating s. 627.0629, F.S.; requiring residential property insurance rate filings to include rate differentials for properties on which certain fixtures have been installed; authorizing such rate filings to include factors reflecting the quality of particular building codes and enforcement thereof; providing for adoption and use of a standard hurricane loss exposure model; providing criteria for territories used in property insurance rate filings; amending s. 627.351, F.S.; revising provisions with respect to deficit assessments in the windstorm insurance risk apportionment plan; authorizing issuance of bonds on behalf of the plan; requiring insurers to purchase bonds in specified circumstances; providing circumstances under which a classification is immediately eligible for coverage in the Florida Property and Casualty Joint Underwriting Association; providing criteria for rates; activating coverage with respect to commercial coverages of residences; providing for legislative review; providing for termination; revising provisions with respect to deficit assessments; authorizing issuance of bonds on behalf of the association; requiring insurers to purchase bonds in specified circumstances; providing legislative intent with respect to the Residential Property and Casualty Joint Underwriting Association; providing criteria for rates; requiring rate filings; revising provisions relating to deficit assessments; authorizing issuance of bonds on behalf of the association; requiring insurers to purchase bonds in specified circumstances; providing for dissolution of the association; amending s. 627.4133, F.S.; specifying period for notice of nonrenewal, renewal premium, and cancellation; amending s. 627.701, F.S.; specifying powers of the department with respect to deductible provisions in certain policies; creating s. 627.7011, F.S.; requiring certain provisions to be offered with respect to homeowner's policies; providing for rejection or selection of alternative coverages; requiring notice; creating s. 627.7012, F.S.; authorizing the department to establish pools of qualified adjusters for use in emergencies; creating s. 627.7013, F.S.; providing findings and purpose; limiting cancellation or nonrenewal of policies that were subject to

the moratorium contained in ch. 93-401, Laws of Florida; providing for future repeal; requiring insurers to submit exposure reduction plans to the department for approval; creating s. 627.7014, F.S.; requiring insurers to implement plans for the avoidance of certain concentrations of property insurance exposures; providing for reports; providing circumstances for submission of plans to the department; providing criteria for approval of order to resubmit; creating s. 627.7015, F.S.; requiring the department to adopt a mediation program for first-party claims under personal lines residential policies; providing purpose and scope; requiring notice; providing for payment of costs; requiring adoption of rules; providing for treatment as negotiations in anticipation of litigation; requiring negotiation in good faith; requiring participants to have the authority to settle; providing immunity for mediators; specifying effects of mediation; specifying time within which insured may rescind settlement; authorizing the department to delegate certain duties; amending s. 628.801, F.S.; specifying content and applicability of rules relating to insurance holding companies; amending s. 631.52, F.S.; specifying applicability of the Florida Insurance Guaranty Association Act; amending s. 631.54, F.S.; including certain surplus lines insurers as member insurers; amending s. 631.55, F.S.; requiring a separate account for surplus lines insurers; requiring the Department of Insurance to conduct a study of the classification of condominium association coverage; requiring reports; amending ss. 625.330 and 631.011, F.S.; correcting cross references; providing effective dates.

—was referred to the Committees on Commerce and Appropriations.

By Representative Cosgrove—

HB 71-C—A bill to be entitled An act relating to public records; exempting certain plans and annual reports submitted by insurers to the Department of Insurance from certain public records requirements; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was referred to the Committee on Commerce.

By the Committee on Commerce and Representative Lippman and others—

CS for HB's 85-C, 99-C, 15-C, 13-C and 23-C—A bill to be entitled An act relating to workers' compensation; amending s. 27.34, F.S.; authorizing the Insurance Commissioner to contract with state attorneys to prosecute certain criminal violations and to contribute funds to pay salaries and expenses of certain assistant state attorneys for certain purposes; creating s. 287.044, F.S.; providing for compliance with chapter 440, F.S.; providing definitions; amending s. 287.057, F.S.; requiring certain contracts to contain certain payment security provisions; amending s. 440.015, F.S.; providing legislative intent; amending s. 440.02, F.S.; revising certain definitions; amending s. 440.05, F.S.; providing for election of exemption; providing for revocation of an election; amending s. 440.055, F.S.; requiring notices of noncoverage be posted at worksites; amending s. 440.075, F.S.; providing for effect of election of exemption; amending s. 440.09, F.S.; requiring an employer to pay compensation or furnish certain benefits under certain circumstances; providing criteria; revising coverage provisions related to injuries due to alcohol or drug abuse; denying an employee entitlement to certain benefits under certain circumstances; amending s. 440.092, F.S.; clarifying application of certain benefits provisions to traveling employees under certain circumstances; amending s. 440.10, F.S.; deleting a penalty; authorizing the Division of Workers' Compensation of the Department of Labor and Employment Security to assess a penalty against certain employers; amending s. 440.101, F.S.; revising legislative intent with regard to drug-free workplaces; amending s. 440.102, F.S.; revising provisions related to the drug-free workplace program; revising definitions; providing certain employers are ineligible for certain discounts; providing additional requirements for followup testing; providing for payment of medical treatments; providing a penalty; providing that certain screening and testing need not comply with certain rules; providing additional employer protection provisions; revising provisions relating to confidentiality of drug test results; adding provisions relating to public employees in safety-sensitive or special-risk positions; prohibiting an employer from refusing to deny certain benefits; creating s. 440.103, F.S.; requiring proof of secured compensation as a condition to receiving a building permit; creating s. 440.104, F.S.; providing for civil actions for competitive bidders; creating s. 440.105, F.S.; requiring reports of suspected fraudulent acts to the Bureau of Workers' Compensation Fraud; limiting liability; prohibiting certain activities; providing penalties; creating s. 440.0151, F.S.; requiring that the Bureau of Workers' Compensation Insurance Fraud of the Division of Insurance

Fraud of the Department of Insurance establish a toll-free telephone number to receive reports of workers' compensation fraud; providing civil immunity for persons who make such a report; providing criminal penalties; creating s. 440.106, F.S.; providing for civil remedies, stop-work orders, and liens under certain circumstances; authorizing the division to bring certain actions; creating s. 440.107, F.S.; providing powers of the division to enforce certain employer compliance; authorizing the division to bring certain actions in circuit court; providing penalties; providing that certain judgments constitute liens under certain circumstances; providing for application of the Administrative Procedures Act; providing for disposition of penalties; authorizing law enforcement agencies to assist the division; amending s. 440.11, F.S.; expanding provisions with respect to exclusiveness of liability; amending s. 440.13, F.S.; providing definitions; requiring employers to provide certain medical services and supplies; providing for eligibility of providers; requiring notice of treatment to carriers; providing for independent medical examinations; providing for utilization review; providing for resolving utilization and reimbursement disputes; providing for certification of expert medical advisors; providing for witness fees; providing for audits by the division; providing for creation of a three-member panel; providing duties; providing for managed care; providing for a community health purchasing alliance; providing for removal of physicians from lists of those authorized to render medical care under certain conditions; providing for payment of medical fees and employee copayment; providing practice parameters for outpatient services; amending s. 440.135, F.S.; providing legislative intent regarding certain pilot programs; providing for additional pilot programs; specifying criteria; amending s. 440.15, F.S.; revising criteria relating to total and permanent disability; requiring certain reports to the division of all earned income of certain temporarily totally disabled persons; requiring wage-loss and job-search information of temporarily partially disabled persons; providing for repayment of certain benefits under certain circumstances; providing for coordination of benefits; amending s. 440.151, F.S.; specifying application to benefits payable rather than compensation; amending s. 440.16, F.S.; revising certain provisions relating to compensation for death; amending s. 440.185, F.S.; revising certain provisions relating to notice of injury or death; deleting a requirement that the division forward certain files to a judge of compensation claims; amending s. 440.19, F.S.; providing additional claim filing requirements; creating s. 440.191, F.S.; creating the Employment Assistance and Ombudsman Office within the Division of Workers' Compensation; providing duties of the office; amending s. 440.20, F.S.; authorizing an employer to pay a deductible amount under certain circumstances; prohibiting reimbursement of such deductible; requiring rate bases to include such deductible; requiring the division to monitor the timely payment of compensation benefits; providing fines; amending s. 440.21, F.S.; deleting a penalty; creating s. 440.211, F.S.; providing for authorization of collective bargaining agreements; providing criteria; amending s. 440.25, F.S.; revising provisions relating to certain hearings held by a judge of compensation claims; revising procedures relating to such hearings; authorizing the division to adopt rules; amending s. 440.29, F.S.; requiring receipt of certain medical reports into evidence; amending s. 440.32, F.S.; expanding provisions with respect to assessment of costs in proceedings brought without reasonable grounds; providing an administrative penalty; amending s. 440.34, F.S.; providing for award of extraordinary fees under certain circumstances; revising criteria for awarding certain fees; deleting a penalty; amending s. 440.38, F.S.; revising provisions relating to securing the payment of compensation by employers; requiring the division to adopt rules; permitting employers to obtain coverage by use of a 24-hour health insurance policy; specifying certain coverages; deleting a penalty; amending s. 440.381, F.S.; requiring updating of certain insurance applications; amending s. 440.385, F.S.; revising provisions relating to the Florida Self-Insurers Guaranty Association; amending s. 440.386, F.S.; clarifying provisions with respect to individual self-insurers' insolvency; amending s. 440.39, F.S.; prohibiting a company from requiring a waiver of certain provisions; creating s. 440.4415, F.S.; creating the Workers' Compensation Oversight Board; providing for membership; duties and responsibilities; requiring the board to review the workers' compensation system and to submit a report to the Governor and the Legislature; specifying contents of the report; amending s. 440.442, F.S.; revising and expanding provisions with respect to the Code of Judicial Conduct; providing that commissioners appointed to the Workers' Compensation Appeals Commission shall observe and abide by the Code of Judicial Conduct; amending s. 440.45, F.S.; revising provisions relating to membership of the statewide nominating commission; requiring reports; amending s. 440.48, F.S.; requiring the department annually report to the Governor and the Legislature on administration of chapter 440, F.S.; requiring the division to complete a quarterly analysis

of injuries resulting in claims; requiring the division to submit an annual closed claim report to the Governor and the Legislature; requiring the division to engage in certain continuous studies; amending s. 440.49, F.S.; revising provisions relating to reemployment of injured workers and rehabilitation; providing definitions; providing intent; providing for reemployment status reviews and reports; providing for reemployment assessments; providing for medical care coordination and reemployment services; providing for training and education; specifying provider qualifications; requiring the division to monitor selection of providers and provision of services; revising provisions related to limiting liability for subsequent injuries through the Special Disabilities Trust Fund; providing for a preferred worker program; providing for temporary compensation and medical benefits; revising the list of compensable injuries; amending s. 440.50, F.S.; authorizing the division to transfer certain amounts from the Workers' Compensation Administration Trust Fund to the Insurance Commissioner's Prosecutorial Account in the Insurance Commissioner's Regulatory Trust Fund; amending ss. 440.51 and 440.515, F.S., to conform; renumbering and amending ss. 440.57, 440.5705, 440.571, 440.575, and 440.58, F.S., to conform; amending s. 440.572, F.S.; correcting cross references; creating s. 440.593, F.S.; providing for data collection by the division; creating s. 440.595, F.S.; establishing a pilot program for designated physicians; requiring the department to make an interim report; creating the "Florida Occupational Safety and Health Act," consisting of ss. 442.001, 442.002, 442.003, 442.004, 442.005, 442.006, 442.007, 442.008, 442.009, 442.010, 442.011, 442.012, 442.013, 442.014, 442.015, 442.016, 442.017, 442.018, 442.019, 442.020, 442.021, and 442.022, F.S.; renumbering and amending portions of ss. 440.09, 440.46, and 440.56, F.S.; renumbering s. 440.152, F.S.; providing a short title; providing definitions; providing legislative intent; authorizing the division to adopt rules; providing powers and duties of the division; providing employer responsibilities related to safety; providing for jurisdiction and authority of the division; providing for a right of entry; requiring the division to develop safety and health programs for certain employers; requiring safety consultations with policyholders under certain circumstances; providing criteria; authorizing the division to adopt rules related to such committees; providing penalties for employers who fail or refuse to comply with division rules; requiring the division to cooperate with the Federal Government; providing for cancellation of contracts of certain employers under certain circumstances; providing for expenses of administration; authorizing the division to enter and inspect places of employment for purposes of compliance; providing a penalty for refusing to admit; providing employees' rights and responsibilities; providing for compliance; prohibiting making false statements to carriers; providing penalties for carriers under certain circumstances; providing preemptive authority to the division to adopt certain rules; prohibiting certain acts; providing penalties; amending s. 489.115, F.S.; requiring the Construction Industry Licensing Board to specify by rule the content of certain continuing education courses under certain circumstances; providing for transfer of certain functions of the Department of Labor and Employment Security to the Department of Insurance; creating s. 624.461, F.S.; providing a definition; amending s. 624.462, F.S.; providing for participation by commercial self-insurance funds in the Florida Self-Insurer's Guaranty Fund Association; amending ss. 624.463, 624.473, 624.474, 624.476, 624.480, 624.482, 624.484, 624.486, and 624.488, F.S., to conform; creating s. 624.4741, F.S.; providing for venue in assessment actions; creating s. 624.522, F.S.; creating the Insurance Commissioner's prosecutorial account within the Insurance Commissioner's Regulatory Trust Fund; amending s. 627.041, F.S.; correcting a cross reference; amending s. 627.0915, F.S.; requiring the Department of Insurance to provide for giving consideration in setting rates to certain employers who implement certain safety programs; creating s. 627.0916, F.S.; providing for rates of agricultural horse farms; amending s. 627.092, F.S.; placing the Workers' Compensation Administrator within the Division of Insurer Services; amending s. 627.101, F.S.; requiring the department to publish certain approved filings; providing for effect and operation of certain filings; creating s. 627.212, F.S.; authorizing the department to approve certain workers' compensation coverage insurance rating plans; amending s. 627.311, F.S., relating to self-insurer participation in equitable apportionment; amending s. 627.4133, F.S.; excluding workers' compensation insurance from certain notice provisions; creating part XXII of chapter 627; creating the Workers' Compensation Insurance Purchasing Alliance within the Department of Insurance; providing powers, duties, and responsibilities of the alliance; providing for membership; creating part V of chapter 631, F.S.; creating the "Florida Group Self-Insurer's Fund Guaranty Association Act"; providing definitions; providing purposes; creating the Florida Group Self-insurer's Guaranty Fund Association, Incorporated; providing for a board of directors; providing powers and duties of the association; authorizing the board to

make assessments; requiring the association to submit a plan of operation to the division; providing for preventing self-insurer's fund insolvencies or impairments; providing for public disclosure of certain records of the association; providing for confidentiality of certain reports and information of the association; providing for liability for unpaid claims; providing immunity; prohibiting certain advertisements or solicitations; providing for the establishment of a legal counsel in certain proceedings before the department; providing duties of the legal counsel; providing for assumption by the association of certain liabilities of the Certified Pulpwood Dealers Self-Insurers Fund; creating the Workers' Compensation Small Employer Self-Insurance Fund in the Department of Insurance; providing for coverage, eligibility, and administration of the fund; providing duties and responsibilities of the Insurance Commissioner; providing for a board of trustees; amending s. 772.102, F.S.; including certain activities relating to workers' compensation within a list of criminal activities; amending s. 895.02, F.S.; including certain activities relating to workers' compensation within a list of racketeering activities; repealing s. 440.077, F.S., relating to the effect of electing to be exempt; repealing s. 440.20(12), F.S., relating to lump-sum payments; repealing s. 440.37, F.S., relating to misrepresentation and fraudulent activities; repealing s. 440.43, F.S., relating to a penalty for failure to secure payment of compensation; repealing s. 440.56(4), F.S., relating to employers with work-related injuries; repealing s. 440.59, F.S., relating to risk management reports; providing for appropriations; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

ROLL CALLS ON SENATE BILLS

SB 18-C—Amendment 10

Yeas—26

Bankhead	Crist	Harden	Meadows
Beard	Dantzler	Hargrett	Myers
Brown-Waite	Diaz-Balart	Jennings	Scott
Burt	Dudley	Johnson	Siegel
Casas	Foley	Kiser	Silver
Childers	Forman	Kurth	
Crenshaw	Gutman	McKay	

Nays—13

Mr. President	Grogan	Kirkpatrick	Williams
Boczar	Holzendorf	Sullivan	
Dyer	Jenne	Weinstein	
Grant	Jones	Wexler	

SB 30-C

Yeas—40

Mr. President	Dantzler	Hargrett	Meadows
Bankhead	Diaz-Balart	Holzendorf	Myers
Beard	Dudley	Jenne	Scott
Boczar	Dyer	Jennings	Siegel
Brown-Waite	Foley	Johnson	Silver
Burt	Forman	Jones	Sullivan
Casas	Grant	Kirkpatrick	Turner
Childers	Grogan	Kiser	Weinstein
Crenshaw	Gutman	Kurth	Wexler
Crist	Harden	McKay	Williams

Nays—None

CS for SB 32-C

Yeas—38

Bankhead	Diaz-Balart	Jenne	Scott
Beard	Dudley	Jennings	Siegel
Boczar	Dyer	Johnson	Silver
Brown-Waite	Foley	Jones	Sullivan
Burt	Forman	Kirkpatrick	Turner
Casas	Grant	Kiser	Weinstein
Childers	Grogan	Kurth	Wexler
Crenshaw	Gutman	McKay	Williams
Crist	Harden	Meadows	
Dantzler	Hargrett	Myers	

Nays—None

Vote after roll call:

Yea—Mr. President

SM 46-C

Yeas—40

Mr. President	Dantzler	Hargrett	Meadows
Bankhead	Diaz-Balart	Holzendorf	Myers
Beard	Dudley	Jenne	Scott
Boczar	Dyer	Jennings	Siegel
Brown-Waite	Foley	Johnson	Silver
Burt	Forman	Jones	Sullivan
Casas	Grant	Kirkpatrick	Turner
Childers	Grogan	Kiser	Weinstein
Crenshaw	Gutman	Kurth	Wexler
Crist	Harden	McKay	Williams

Nays—None

All Senators voting were recorded as co-sponsors of **SM 46-C**.

ROLL CALLS ON HOUSE BILLS

HB 31-C

Yeas—32

Mr. President	Dudley	Jenne	Meadows
Bankhead	Dyer	Jennings	Myers
Brown-Waite	Foley	Johnson	Siegel
Casas	Forman	Jones	Silver
Childers	Grant	Kirkpatrick	Sullivan
Crenshaw	Grogan	Kiser	Weinstein
Crist	Harden	Kurth	Wexler
Diaz-Balart	Holzendorf	McKay	Williams

Nays—6

Beard	Burt	Gutman
Boczar	Dantzler	Hargrett

Vote after roll call:

Yea—Scott

CS for HB's 33-C and 43-C

Yeas—37

Mr. President	Dantzler	Jenne	Scott
Bankhead	Diaz-Balart	Jennings	Siegel
Beard	Dyer	Johnson	Silver
Boczar	Foley	Jones	Sullivan
Brown-Waite	Forman	Kirkpatrick	Turner
Burt	Grant	Kiser	Weinstein
Casas	Gutman	Kurth	Williams
Childers	Harden	McKay	
Crenshaw	Hargrett	Meadows	
Crist	Holzendorf	Myers	

Nays—3

Dudley Grogan Wexler

VOTES RECORDED AFTER ROLL CALL

On motion by Senator Kirkpatrick, by unanimous consent of the Senate, Senator Scott was recorded as voting "yea" on **CS for HB 31-C**.

On motion by Senator Thomas, by unanimous consent of the Senate, he was recorded as voting "yea" on **CS for SB 32-C**.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of November 2 was corrected and approved.

CO-SPONSORS

Senators Boczar and McKay—**SB 34-C**

RECESS

On motion by Senator Kirkpatrick, the Senate recessed at 5:32 p.m. for the purpose of holding committee meetings and conducting other Senate business until 9:00 a.m., Thursday, November 4.