

By Senator Garcia

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1                                   A bill to be entitled  
2       An act relating to insurance; creating part XXIII of  
3       ch. 627, F.S., entitled "Credit Personal Property  
4       Insurance"; creating s. 627.9921, F.S.; providing the  
5       purpose of certain provisions; creating s. 627.9922,  
6       F.S.; providing the scope of certain provisions;  
7       creating s. 627.9923, F.S.; defining terms; creating  
8       s. 627.9924, F.S.; specifying certain prohibitions for  
9       credit personal property insurance; providing  
10      requirements for credit personal property insurance  
11      coverage; prohibiting the insurer from requiring  
12      bundling of other credit insurance coverages with the  
13      purchase of credit personal property insurance  
14      coverage; requiring the insurer to give certain  
15      choices to the debtor; prohibiting the insurer from  
16      using gross debt in determining certain insurance  
17      premiums; creating s. 627.9925, F.S.; requiring  
18      certain disclosures be made in writing to the debtor;  
19      providing the manner in which the disclosures must be  
20      made; requiring a certain disclosure for open-end  
21      transactions; providing that such disclosures may be  
22      given orally under certain circumstances; requiring  
23      credit personal property insurance to be evidenced by  
24      a policy or certificate of insurance; specifying  
25      requirements for such policy or certificate; requiring  
26      the delivery of the policy or certificate upon  
27      acceptance of the insurance; providing an exception;  
28      creating s. 627.9926, F.S.; providing that policy  
29      forms and certificates of insurance are subject to

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30 certain provisions; requiring that the analysis of  
31 rates include a certain determination; requiring  
32 insurers to refile rates at a specified time;  
33 requiring certain insurers, at a specified time, to  
34 report certain information to the Office of Insurance  
35 Regulation; specifying requirements for such report;  
36 creating s. 627.9927, F.S.; providing that the debtor  
37 is entitled to a refund of unearned premiums upon  
38 cancellation; creating s. 627.9928, F.S.; requiring  
39 the creditor to report all claims to the insurer;  
40 requiring the insurer to maintain adequate files;  
41 requiring all claims to be settled as soon as  
42 practicable and in accordance with the policy;  
43 specifying requirements for the payment of claims;  
44 prohibiting an insurer from making certain plans or  
45 arrangements relating to settling or adjusting claims;  
46 prohibiting the creditor from being designated as a  
47 claim representative for the insurer; specifying  
48 payment of claims for group policyholders; specifying  
49 limitations and requirements relating to the denial of  
50 claims; creating s. 627.9929, F.S.; providing  
51 severability; creating s. 627.9931, F.S.; providing  
52 enforcement and civil penalties; amending s. 635.011,  
53 F.S.; defining terms; amending and reordering s.  
54 635.021, F.S.; prohibiting mortgage guaranty insurers  
55 from transacting any other class of insurance;  
56 amending s. 635.031, F.S.; specifying requirements for  
57 real estate loans in which mortgage guaranty insurance  
58 is written; specifying certain prohibitions for

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59 mortgage guaranty insurers; providing applicability;  
60 prohibiting the mortgage guaranty insurer, holding  
61 company, and certain affiliates from maintaining funds  
62 or depositing funds under certain circumstances;  
63 prohibiting a mortgage guaranty insurer from making  
64 certain payments or conveyances of anything of value  
65 to certain entities or persons; prohibiting a mortgage  
66 guaranty insurer from making a rebate of any portion  
67 of the premium charge or making certain quotes or  
68 rates and premiums; defining the term "rebate";  
69 amending s. 635.042, F.S.; revising capital and  
70 surplus requirements for mortgage guaranty insurers;  
71 authorizing the Financial Services Commission to  
72 reduce by rule the capital and surplus requirements  
73 under certain circumstances; authorizing the  
74 Commissioner of Insurance Regulation to waive certain  
75 requirements upon request; specifying requirements of  
76 such request; authorizing the commissioner to retain  
77 certain experts; specifying that the mortgage guaranty  
78 insurer will bear certain costs; specifying certain  
79 requirements of the waiver; specifying the  
80 considerations that must be made by the commissioner  
81 if a waiver is requested; providing applicability;  
82 amending s. 635.071, F.S.; requiring mortgage guaranty  
83 insurers to make available, on their websites or  
84 through a third-party system, premium charges for  
85 mortgage guaranty insurance; prohibiting a mortgage  
86 guaranty insurer from preparing, distributing, or  
87 assisting in preparing or distributing certain

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88 advertising, media, or communication; providing an  
89 exception; specifying requirements for records of the  
90 insurance company; specifying requirements for the  
91 mortgage guaranty insurer's master policies;  
92 specifying requirements for clarifications or  
93 modifications of certain information; amending s.  
94 635.075, F.S.; providing that the borrower is not  
95 liable to the mortgage guaranty insurer for certain  
96 deficiencies arising from a foreclosure sale; creating  
97 s. 635.076, F.S.; prohibiting certain investments from  
98 being allowed as assets in determining the financial  
99 condition of a mortgage guaranty insurer; providing  
100 applicability; creating s. 635.077, F.S.; prohibiting  
101 a mortgage guaranty insurer from entering into captive  
102 reinsurance arrangements; authorizing a mortgage  
103 guaranty insurer to enter into reinsurance  
104 arrangements under certain circumstances; creating s.  
105 635.078, F.S.; requiring certificates of mortgage  
106 guaranty insurance to be written based on an  
107 assessment of certain evidence; requiring delegated  
108 underwriting decisions to be reviewed by the mortgage  
109 guaranty insurer; specifying requirements for control  
110 review for bulk mortgage guaranty insurance and pool  
111 mortgage guaranty insurance; requiring mortgage  
112 guaranty insurers to establish formal underwriting  
113 standards; specifying requirements for such standards;  
114 requiring a mortgage guaranty insurer to file with the  
115 office at a specified time changes to its underwriting  
116 standards and a certain analysis; specifying

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117 requirements for such analysis; creating s. 635.079,  
118 F.S.; requiring a mortgage guaranty insurer to  
119 establish a mortgage guaranty quality assurance  
120 program; providing requirements of such program;  
121 requiring that the office be provided access to a  
122 mortgage guaranty insurer's mortgage guaranty quality  
123 assurance program; providing construction; creating s.  
124 635.0791, F.S.; authorizing a mortgage guaranty  
125 insurer to underwrite mortgage guaranty insurance  
126 originated by certain entities under certain  
127 circumstances; providing limitations on such  
128 insurance; creating s. 635.0792, F.S.; authorizing a  
129 mortgage guaranty insurer to engage in a specified  
130 educational effort with certain entities and persons  
131 for a specified purpose; amending ss. 624.605,  
132 626.9541, and 627.971, F.S.; conforming provisions to  
133 changes made by the act; providing an effective date.

134  
135 Be It Enacted by the Legislature of the State of Florida:

136  
137 Section 1. Part XXIII of chapter 627, Florida Statutes,  
138 consisting of ss. 627.9921-627.9931, Florida Statutes, is  
139 created and entitled "Credit Personal Property Insurance."

140 Section 2. Section 627.9921, Florida Statutes, is created  
141 to read:

142 627.9921 Purpose.—The purpose of this part is to do all of  
143 the following:

144 (1) Promote the public welfare by regulating credit  
145 personal property insurance.

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146 (2) Create a legal framework within which credit personal  
147 property insurance may be written in this state.

148 (3) Help maintain the separation between creditors and  
149 insurers.

150 (4) Minimize the possibilities of unfair competitive  
151 practices in the sale of credit personal property insurance.

152 (5) Address the problems arising from reverse competition  
153 in the credit insurance market.

154 Section 3. Section 627.9922, Florida Statutes, is created  
155 to read:

156 627.9922 Scope.—

157 (1) This part applies to an insurer or producer transacting  
158 credit personal property insurance.

159 (2) All credit personal property insurance written in  
160 connection with credit transactions for personal, family, or  
161 household purposes is subject to this part, excepting all of the  
162 following:

163 (a) Insurance resulting from transactions involving  
164 extensions of credit primarily for business or commercial  
165 purposes.

166 (b) Insurance on motor vehicles or mobile homes.

167 (c) Insurance written in connection with a credit  
168 transaction that is secured by a real estate mortgage or deed of  
169 trust.

170 (d) Creditor-placed insurance.

171 (e) Title insurance.

172 (f) Nonrecording insurance.

173 (g) Insurance purchased by a creditor after repossession or  
174 a similar event in which the creditor gains possession of the

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175 property.

176 (h) Insurance for which no identifiable charge is made to  
177 or collected from the debtor.

178 Section 4. Section 627.9923, Florida Statutes, is created  
179 to read:

180 627.9923 Definitions.—As used in this part, the term:

181 (1) "Closed-end transaction" means a credit transaction  
182 that does not meet the definition of an open-end transaction.

183 (2) "Collateral" means personal property in which a  
184 purchase money security interest is retained, or that is pledged  
185 as security for the satisfaction of a debt.

186 (3) "Compensation" means commissions, dividends,  
187 retrospective rate credits, service fees, expense allowances or  
188 reimbursements, gifts, furnishing of equipment, facilities,  
189 goods and services, or any other form of remuneration that is  
190 paid either directly or indirectly as a result of the sale of  
191 credit property insurance.

192 (4) "Credit agreement" means the written document that sets  
193 forth the terms of the credit transaction and includes the  
194 security agreement.

195 (5) "Credit personal property insurance" has the same  
196 meaning as in s. 624.605(1)(j).

197 (6) "Credit transaction" means a transaction by which the  
198 repayment of money loaned or credit commitment made, or payment  
199 of goods, services, or properties sold or leased, is to be made  
200 at a future date or dates.

201 (7) "Creditor" means the lender of money or vendor or  
202 lessor of goods, services, property, rights, or privileges for  
203 which payment is arranged through a credit transaction, or any

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204 successor to the right, title, or interest of a lender, vendor,  
205 or lessor and an affiliate, associate, or subsidiary of any of  
206 them or any director, officer, or employee of any of them or any  
207 person in any way associated with any of them.

208 (8) "Creditor-placed insurance" means insurance that is  
209 purchased unilaterally by the creditor, who is the named  
210 insured, subsequent to the date of the credit transaction, which  
211 provides coverage against loss, expense, or damage to the  
212 collateralized personal property as a result of fire, theft,  
213 collision, or other risks of loss that would either impair a  
214 creditor's interest or adversely affect the value of collateral  
215 covered by dual interest insurance. The insurance is purchased  
216 according to the terms of the credit agreement as a result of  
217 the debtor's failure to provide required insurance, with the  
218 cost of the coverage being charged to the debtor. The insurance  
219 may be either single interest insurance or dual interest  
220 insurance.

221 (9) "Debtor" means the borrower of money or a purchaser or  
222 lessee of goods, services, property, rights, or privileges for  
223 which payment is arranged through a credit transaction.

224 (10) "Dual interest insurance" means credit personal  
225 property insurance covering the creditor's interest and at least  
226 partially the borrower's interest in the goods purchased through  
227 the credit transaction or pledged as collateral for the credit  
228 transaction.

229 (11) "Experience" means earned premiums and incurred losses  
230 during the experience period.

231 (12) "Experience period" means the most recent period of  
232 time for which earned premiums and incurred losses are reported,



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233 but not for a period longer than 3 years.

234 (13) "Finance charge" means any charge payable directly or  
235 indirectly as an incident to or as a condition of the extension  
236 of credit, including, but not limited to, interest or time price  
237 differentials; amount payable under a discount system of  
238 additional charges; service, transaction, or carrying charges;  
239 loan fees; points or similar charges; appraisal fees; or charges  
240 incurred for investigating the credit worthiness of the  
241 consumer. The term does not include charges as a result of  
242 default, taxes, license fees, delinquency charges, or filing  
243 fees.

244 (14) "Gross debt" means the sum of the remaining payments  
245 owed to the creditor by the debtor.

246 (15) "Incurred losses" means total claims and claim  
247 adjustment expenses paid during the experience period plus any  
248 change in claim and claim adjustment expense reserves.

249 (16) "Identifiable charge" means a charge for credit  
250 personal property insurance that is made to debtors having such  
251 insurance and not made to debtors not having such insurance. It  
252 includes a charge for insurance that is disclosed in the credit  
253 or other instrument furnished to the debtor which sets out the  
254 financial elements of the credit transaction and any difference  
255 in the finance, interest, service, or other similar charge made  
256 to debtors who are in like circumstances except for the insured  
257 or noninsured status of the debtor.

258 (17) "Loss ratio" means incurred losses divided by the sum  
259 of earned premiums.

260 (18) "Mobile home" has the same meaning as in s. 513.01.

261 (19) "Open-end transaction" means credit extended by a

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262 creditor under an agreement in which all the following are true:

263 (a) The creditor reasonably contemplates repeated  
264 transactions.

265 (b) The creditor imposes a finance charge from time to time  
266 on an outstanding unpaid balance.

267 (c) The amount of credit that may be extended to the debtor  
268 during the term of the agreement, up to any limit set by the  
269 creditor, is generally made available to the extent that any  
270 outstanding balance is repaid.

271 (20) "Producer" means a licensed agent, broker, or  
272 insurance agency that receives compensation for insurance  
273 written or that, on behalf of an insurer or creditor, solicits,  
274 negotiates, effects, procures, delivers, renews, continues, or  
275 binds credit personal property insurance.

276 (21) "Reverse competition" means competition among insurers  
277 which regularly takes the form of insurers vying with each other  
278 for the favor of persons who control, or may control, the  
279 placement of the insurance with insurers. Reverse competition  
280 tends to increase insurance premiums or prevent the lowering of  
281 premiums in order that greater compensation may be paid to  
282 persons for such business as a means of obtaining the placement  
283 of business. In these situations, the competitive pressure to  
284 obtain business by paying higher compensation to these persons  
285 overwhelms any downward pressures consumers may exert on the  
286 price of insurance, thus causing prices to rise or remain higher  
287 than they would otherwise.

288 (22) "Single interest insurance" means credit personal  
289 property insurance covering only the seller's or creditor's  
290 interest in the goods purchased through the credit transaction

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291 or pledged as collateral in the credit transaction.

292 Section 5. Section 627.9924, Florida Statutes, is created  
293 to read:

294 627.9924 Amount, term, and coverage of credit personal  
295 property insurance; prohibited practices.-

296 (1) For credit personal property insurance sold in  
297 conjunction with a closed-end transaction, an insurer may not  
298 issue credit personal property insurance coverage unless the  
299 amount financed exceeds \$500.

300 (2) Unless otherwise provided by law, for credit personal  
301 property insurance sold in conjunction with a closed-end  
302 transaction, an insurer may not issue credit personal property  
303 insurance in an amount that exceeds the amount financed in the  
304 underlying credit transaction, or with a term that exceeds in  
305 duration the scheduled term of the underlying credit  
306 transaction.

307 (3) Credit personal property insurance coverage must, at a  
308 minimum, include the coverages in the standard fire policy with  
309 coverage attachment and extended coverage endorsement. Credit  
310 personal property insurance must cover a substantial risk of  
311 loss of or damage to the property related to the credit  
312 transaction.

313 (4) An insurer may not require the bundling of other credit  
314 insurance coverages with the purchase of credit personal  
315 property insurance coverage. An insurer must give a debtor the  
316 choice to purchase credit personal property insurance separately  
317 from other credit insurance coverage.

318 (5) An insurer may not use gross debt as an exposure base  
319 in determining credit personal property insurance premiums.

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320 Section 6. Section 627.9925, Florida Statutes, is created  
321 to read:

322 627.9925 Disclosure to debtors; provisions of policies;  
323 certificates of insurance.-

324 (1) All of the following must be disclosed in writing to  
325 the debtor:

326 (a) That the purchase of credit personal property insurance  
327 through the creditor is optional and not a condition of  
328 obtaining credit approval.

329 (b) If more than one kind of credit insurance is being made  
330 available to the debtor, that the debtor can purchase credit  
331 personal property insurance separately.

332 (c) That if the consumer has other insurance that covers  
333 the risk, he or she may not want or need credit personal  
334 property insurance.

335 (d) That within the first 30 days after receiving the  
336 individual policy or certificate of insurance, the debtor may  
337 cancel the coverage and have all of his or her paid premiums  
338 refunded or credited. Thereafter, the debtor may cancel the  
339 policy at any time during the term of the loan and receive a  
340 refund of any unearned premium. However, if the creditor  
341 requires evidence of insurance for the extension of credit, the  
342 debtor may be required to offer evidence of alternative  
343 insurance acceptable to the creditor at the time of  
344 cancellation.

345 (e) If not already contained in the certificate or policy  
346 the debtor received at the time of the credit transaction, a  
347 brief description of the coverage, including a description of  
348 the major perils and exclusions, any deductible, to whom the

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349 benefits would be paid, and the premium or premium rate for the  
350 credit personal property coverage.

351 (f) If the premium or insurance charge is financed, that it  
352 will be subject to finance charges at the rate applicable to the  
353 credit transaction.

354 (2) The disclosures required in subsection (1) must be  
355 provided in the manner specified in this subsection.

356 (a) In connection with credit personal property insurance  
357 offered concurrently with the extension of credit or offered  
358 through direct mail advertisements, the disclosures must be made  
359 in writing and presented to the consumer in a clear and  
360 conspicuous manner.

361 (b) When the offer of credit personal property insurance is  
362 subsequent to the extension of credit or not offered by direct  
363 mail advertisements, the disclosures may be provided in  
364 conjunction with the offer either orally or electronically so  
365 long as written disclosures are provided to the debtor no later  
366 than the earlier of either of the following:

367 1. Ten days after the election to purchase the credit  
368 personal property insurance.

369 2. The date any other written material is provided to the  
370 debtor.

371 (3) (a) An offer to extend coverage for an open-end  
372 transaction shall include, at the time of the invitation to  
373 contract, the following written disclosure in at least 12-point  
374 type: "This coverage might duplicate existing coverage if you  
375 have a residential property insurance policy. It applies to any  
376 item of covered property on which you owe a debt. This coverage  
377 is primary, so it is the first source to be used in the event of

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378 a loss on property it covers. You may cancel this coverage at  
379 any time by calling the insurer at the telephone number provided  
380 to you, or by writing to the insurer. We are charging you a  
381 premium that may be based on things for which a claim cannot be  
382 made, such as services, meals or other consumables,  
383 entertainment, finance or service fees, loan interest, delivery  
384 charges, or other insurance premiums."

385 (b) If the solicitation as specified in paragraph (a) is  
386 made by telephone, the disclosure may be summarized and given  
387 orally, provided that written disclosure is mailed to the debtor  
388 within 10 days after enrollment.

389 (4) All credit personal property insurance must be  
390 evidenced by an individual policy or a certificate of insurance  
391 that must be delivered to the debtor. The individual policy or  
392 certificate of insurance must, in addition to other requirements  
393 of law, set forth all of the following:

394 (a) The name and home office address of the insurer.

395 (b) The name or names of the debtor or debtors, or, in the  
396 case of a certificate of insurance, the identity by name or  
397 otherwise of the debtor or debtors.

398 (c) The premium or amount of payment by the debtor, except  
399 that for open-end transactions, the premium rate and balance to  
400 which the rate applies shall be specified.

401 (d) A full description of the coverage or coverages,  
402 including the amount and term, and any exceptions, limitations,  
403 and exclusions.

404 (e) A statement that the benefits shall be paid to the  
405 creditor to reduce or extinguish the unpaid debt or to repair or  
406 replace the property and, whenever the amount of loss payment

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407 exceeds the unpaid debt, that any excess payment is payable to  
408 the debtor.

409 (f) If the scheduled term of the insurance is less than the  
410 scheduled term of the credit transaction, a statement to that  
411 effect on the face of the individual policy or certificate of  
412 insurance in at least 12-point boldface type.

413 (g) If the policy is issued to cover open-end transactions,  
414 it must provide that the policyholder or certificateholder will  
415 be furnished the following disclosure notice with the account  
416 statement at least annually, printed in no smaller than 12-point  
417 type: "You are paying a credit property insurance premium based  
418 on the outstanding balance of this account. You may cancel this  
419 coverage at any time by calling the insurer at the telephone  
420 number the insurer has provided to you, or by writing to the  
421 insurer. Your premium may be based on things for which a claim  
422 cannot be made, such as services, meals or other consumables,  
423 entertainment, finance or service fees, loan interest, delivery  
424 charges, or other insurance premiums."

425 (5) Except as provided in subsection (6), the individual  
426 policy or group certificate must be delivered to the debtor upon  
427 acceptance of the insurance by the insurer.

428 (6) An individual policy or group certificate delivered in  
429 conjunction with an open-end credit agreement or any credit  
430 personal property insurance requested by the debtor after the  
431 date the indebtedness was incurred must be delivered within 30  
432 days after the date the insurance is requested by the debtor.

433 Section 7. Section 627.9926, Florida Statutes, is created  
434 to read:

435 627.9926 Filing, approval, and withdrawal of forms and

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436 rates.-

437 (1) Except as otherwise provided in this part, all policy  
438 forms and certificates of insurance to be delivered or issued  
439 for delivery in this state are subject to the applicable  
440 provisions of s. 627.410, and the schedules of premium rates  
441 pertaining thereto are subject to the applicable provisions of  
442 s. 627.062.

443 (2) With respect to any analysis of rates in accordance  
444 with s. 627.062(1), the analysis must also include a  
445 determination as to whether expenses included by the insurer in  
446 the rate are appropriate.

447 (3) Notwithstanding s. 627.0645, insurers subject to this  
448 part shall refile credit personal property insurance rates at  
449 least once every 3 years.

450 (4) By April 1 of each year, each insurer with at least  
451 \$100,000 in direct written premium for personal credit  
452 protection insurance in this state during the prior calendar  
453 year shall report to the office all of the following information  
454 for the prior calendar year:

455 (a) Actual loss ratio.

456 (b) Earned premium.

457 (c) Any aggregate schedule rating debit or credit to earned  
458 premium.

459 (d) Itemized expenses.

460 (e) Paid losses.

461 (f) Loss reserves, including case reserves and reserves for  
462 incurred but not reported losses.

463  
464 The report must be separately produced for each credit personal



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465 protection insurance program and presented on both an  
466 individual-jurisdiction and nationwide basis.

467 Section 8. Section 627.9927, Florida Statutes, is created  
468 to read:

469 627.9927 Cancellation and refund of unearned premium.—Upon  
470 cancellation for any reason, the debtor is entitled to a refund  
471 of unearned premiums calculated on a daily pro rata basis. The  
472 creditor is not required to refund less than \$1 of unearned  
473 premium.

474 Section 9. Section 627.9928, Florida Statutes, is created  
475 to read:

476 627.9928 Claims.—

477 (1) The creditor must report all claims to the insurer or  
478 its designated claim representative, and the insurer must  
479 maintain adequate claim files. The insurer shall settle all  
480 claims as soon as practicable and in accordance with the terms  
481 of the insurance policy provisions.

482 (2) All claims must be paid either by draft drawn upon the  
483 insurer, by electronic funds transfer, or by check of the  
484 insurer to the order of the claimant to whom payment of the  
485 claim is due pursuant to the insurance policy provisions, or  
486 upon direction of the claimant to the party specified by the  
487 claimant.

488 (3) An insurer may not make a plan or arrangement whereby  
489 any person, firm, or corporation other than the insurer or its  
490 designated claim representative is authorized to settle or  
491 adjust claims. The creditor may not be designated as a claim  
492 representative for the insurer in adjusting claims. However, a  
493 group policyholder may, by arrangement with the group insurer,

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494 draw drafts, checks, or electronic transfers in payment of  
495 claims due to the group policyholder subject to audit and review  
496 by the insurer.

497 (4) A claim may not be denied because the debtor was  
498 ineligible for coverage later than 90 days after the initiation  
499 of coverage unless the debtor misrepresented a material fact. If  
500 a claim is denied because the debtor was ineligible for coverage  
501 within 90 days after initiation of coverage or because the  
502 debtor misrepresented a material fact for coverage, the insurer  
503 shall refund to the debtor all premiums paid and the creditor  
504 shall refund any finance charge paid on the premium.

505 Section 10. Section 627.9929, Florida Statutes, is created  
506 to read:

507 627.9929 Severability.—If any provision of this part or its  
508 application to any person or circumstance is held invalid, the  
509 invalidity does not affect other provisions or applications of  
510 this part which can be given effect without the invalid  
511 provision or application, and to this end the provisions of this  
512 part are severable.

513 Section 11. Section 627.9931, Florida Statutes, is created  
514 to read:

515 627.9931 Enforcement; proceedings; penalties.—The office  
516 has all rights and powers to enforce the provisions of this part  
517 as provided by s. 624.307. All proceedings must be conducted in  
518 accordance with chapter 120. Any penalty must be assessed in  
519 accordance with s. 624.4211.

520 Section 12. Section 635.011, Florida Statutes, is reordered  
521 and amended, to read:

522 635.011 Definitions.—As used in this chapter, the term:

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523           (1) (a) "Authorized real estate security" means an amortized  
524 note, bond, or other instrument of indebtedness, except for  
525 reverse mortgage loans, evidencing a loan, not exceeding 103  
526 percent of the fair market value of the real estate, secured by  
527 a mortgage, deed of trust, or other instrument that constitutes,  
528 or is equivalent to, a first lien or junior lien or charge on  
529 real estate, with any percentage in excess of 100 percent being  
530 used to finance the fees and closing costs on such indebtedness.  
531 The lien may be subject to and subordinate to other liens,  
532 leases, rights, restrictions, easements, covenants, conditions,  
533 or regulations of use that do not impair the use of the real  
534 estate for its intended purpose.

535           (b) Notwithstanding paragraph (a), an authorized real  
536 estate security may exceed 103 percent of the fair market value  
537 of the real estate if the mortgage guaranty insurer has  
538 approved, for loss mitigation purposes, a request to refinance a  
539 loan that constitutes an existing risk in force for the insurer.

540           (c) The term includes an amortized note, bond, or other  
541 instrument of indebtedness evidencing a loan secured by an  
542 ownership interest in, and a proprietary lease from, a  
543 corporation or partnership formed for the purpose of the  
544 cooperative ownership of real estate and at the time the loan  
545 does not exceed 103 percent of the fair market value of the  
546 ownership interest and proprietary lease.

547           (2) "Bulk mortgage guaranty insurance" means mortgage  
548 guaranty insurance that provides coverage under a single  
549 transaction on each mortgage loan included in a defined  
550 portfolio of loans that have already been originated.

551           (3) "Certificate of insurance" means a document issued by a

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552 mortgage guaranty insurer to the initial insured to evidence  
553 that it has insured a particular authorized real estate security  
554 under a master policy, identifying the terms, conditions, and  
555 representations, in addition to those contained in the master  
556 policy and endorsements, applicable to such coverage.

557 (5) "Effective guaranty" means the assumed backing of  
558 existing or future holders of securities by virtue of their  
559 issuer's conservatorship or perceived access to credit from the  
560 U.S. Treasury, as opposed to the direct full faith and credit  
561 guarantee provided by the Federal Government.

562 (6) "Loss" means losses and loss adjustment expenses.

563 (7) "Master policy" means a document issued by a mortgage  
564 guaranty insurer which establishes the terms and conditions of  
565 mortgage guaranty insurance coverage provided, including any  
566 endorsements.

567 (8) "Mortgage guaranty insurance" means a form of casualty  
568 insurance insuring lenders against:

569 (a) Financial loss by reason of nonpayment of principal,  
570 interest, and other sums agreed to be paid under the terms of  
571 any note, bond, or other evidence of indebtedness secured by a  
572 mortgage, deed of trust, or other instrument constituting a lien  
573 or charge on real estate which contains a residential building  
574 or a building designed to be occupied for industrial or  
575 commercial purposes.

576 (b) Financial loss by reason of nonpayment of rent and  
577 other sums agreed to be paid under the terms of a written lease  
578 for the possession, use, or occupancy of real estate, provided  
579 such real estate is designed to be occupied for industrial or  
580 commercial purposes.

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581        (4)~~(2)~~ "Contingency reserve" means a special premium  
582 reserve which is in addition to other premium reserves required  
583 by law and which is established for the protection of  
584 policyholders against the effect of adverse economic cycles.

585        (9) "Mortgage guaranty quality assurance program" means an  
586 early detection warning system for potential underwriting  
587 compliance issues which could potentially impact solvency or  
588 operational risk within a mortgage guaranty insurer.

589        (10) "Pool mortgage guaranty insurance" means mortgage  
590 guaranty insurance that provides coverage under a single  
591 transaction or a defined series of transactions on a defined  
592 portfolio of loans for losses up to an aggregate limit.

593        (11) "Right of rescission" means a remedy available to a  
594 mortgage guaranty insurer to void a certificate and restore  
595 parties to their original position, based on inaccurate,  
596 incomplete, or misleading information provided to, or  
597 information omitted or concealed from, the mortgage guaranty  
598 insurer in connection with the insurance application, resulting  
599 in an insured loan that did not meet the mortgage guaranty  
600 insurer's eligibility requirements in effect on the date of  
601 submission of the insurance application.

602        (12) "Risk in force" means the mortgage guaranty insurance  
603 coverage percentage applied to the unpaid principal balance.

604        Section 13. Section 635.021, Florida Statutes, is amended  
605 to read:

606        635.021 Authority to transact mortgage guaranty insurance.—  
607 Mortgage guaranty insurance may be transacted by a stock  
608 casualty insurer or a stock surety insurer holding a certificate  
609 of authority for the transaction of mortgage guaranty insurance

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610 in this state. A mortgage guaranty insurer that holds a  
611 certificate of authority for the transaction of mortgage  
612 guaranty insurance in this state may not transact any other  
613 class of insurance.

614 Section 14. Subsection (2) of section 635.031, Florida  
615 Statutes, is amended, and subsections (3) through (7) are added  
616 to that section, to read:

617 635.031 Additional limitations.—In addition to laws  
618 otherwise applicable, mortgage guaranty insurers are subject to  
619 the following limitations:

620 (2) Mortgage guaranty insurance may be written with respect  
621 to real estate loans only on those loans which a bank, a savings  
622 and loan association, or an insurance company regulated by this  
623 state or an agency of the Federal Government is authorized to  
624 make. Such loans must only finance the acquisition, initial  
625 construction, or refinancing of real estate that is one of the  
626 following:

627 (a) A residential building designed for occupancy by not  
628 more than four families, a single-family residential condominium  
629 or unit in a planned unit development, or any other single-  
630 family residential unit to which title may be conveyed freely.

631 (b) A mixed-use building with only one nonresidential use  
632 and one single-family dwelling unit.

633 (c) A building or buildings designed for occupancy by five  
634 or more families or designed to be occupied for industrial or  
635 commercial purposes.

636 (3) A mortgage guaranty insurer may not insure loans  
637 secured by a single risk in excess of 10 percent of the  
638 insurer's aggregate capital, surplus, and contingency reserve. A

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639 mortgage guaranty insurer may not have more than 20 percent of  
640 its total insurance in force in any one metropolitan statistical  
641 area. This subsection does not apply to a mortgage guaranty  
642 insurer until it has possessed a certificate of authority in  
643 this state for 3 years.

644 (4) Except for commercial checking accounts and deposits in  
645 support of an active bank line of credit, a mortgage guaranty  
646 insurer, holding company, or any affiliate of such insurer or  
647 company may not maintain funds on deposit with the lender for  
648 which the mortgage guaranty insurer has insured loans. Any  
649 deposit account bearing interest at rates less than what is  
650 currently being paid other depositors on similar deposits or any  
651 deposit in excess of amounts insured by an agency of the Federal  
652 Government shall be presumed to be an account in violation of  
653 this section. Furthermore, a mortgage guaranty insurance company  
654 may not use compensating balances, special deposit accounts, or  
655 engage in any practice that unduly delays its receipt of moneys  
656 due or that involves the use of its financial resources for the  
657 benefit of any owner, mortgagee of the real property or any  
658 interest therein, or any person who is acting as agent,  
659 representative, attorney, or employee of the owner, purchaser,  
660 or mortgagee as a means of circumventing any part of this  
661 section.

662 (5) A mortgage guaranty insurer may not pay or cause to be  
663 paid either directly or indirectly, to any owner, purchaser,  
664 lessor, lessee, mortgagee, or prospective mortgagee of the real  
665 property that secures the authorized real estate security or  
666 that is the fee of an insured lease, or any interest therein, or  
667 to any person who is acting as an agent, representative,

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668 attorney, or employee of such owner, purchaser, lessor, lessee,  
669 or mortgagee, any commission, any part of its premium charges,  
670 or any other consideration as an inducement for or as  
671 compensation on any mortgage guaranty insurance business.

672 (6) In connection with the placement of any mortgage  
673 guaranty insurance, a mortgage guaranty insurer may not cause or  
674 permit the conveyance of anything of value, including, but not  
675 limited to, any commission, fee, premium adjustment,  
676 remuneration, or other form of compensation of any kind to be  
677 paid to or received by an insured lender or lessor; any  
678 subsidiary or affiliate of an insured; an officer, director, or  
679 employee of an insured or any member of the person's immediate  
680 family; a corporation, partnership, trust, trade association in  
681 which an insured is a member, or other entity in which an  
682 insured or an officer, director, or employee or any member of  
683 the person's immediate family has a financial interest; or any  
684 designee, trustee, nominee, or other agent or representative of  
685 any of the foregoing, except for the value of the insurance  
686 itself or claim payments as provided by contract or settlement.

687 (7) A mortgage guaranty insurer may not make a rebate of  
688 any portion of the premium charge. A mortgage guaranty insurer  
689 may not quote any rate or premium charge to a person which is  
690 different than that currently available to others for the same  
691 type of coverage. As used in this subsection, "rebate" includes  
692 a premium charge that is less than the current schedule of  
693 premium charges.

694 Section 15. Section 635.042, Florida Statutes, is amended  
695 to read:

696 635.042 Minimum surplus and capital requirements



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697 requirement.-

698 (1) A mortgage guaranty insurer may not transact the  
699 business of mortgage guaranty insurance unless, if it is a stock  
700 insurance company, it has paid-in capital of at least \$10  
701 million and paid-in surplus of at least \$15 million, or if it is  
702 a mutual insurance company, a minimum initial surplus of \$25  
703 million. A stock insurance company or a mutual insurance company  
704 must, at all times thereafter, maintain a minimum policyholders'  
705 surplus of at least \$20 million ~~A mortgage guaranty insurer~~  
706 ~~shall maintain a minimum surplus of not less than the greater of~~  
707 ~~\$4 million or 10 percent of the insurer's total outstanding~~  
708 ~~liabilities other than the required contingency reserve. A~~  
709 ~~mortgage guaranty insurer is not required to have a surplus as~~  
710 ~~to policyholders greater than \$100 million.~~

711 (2) The commission may by rule reduce the minimum amount of  
712 capital and surplus or minimum policyholders' surplus required  
713 under subsection (1) under all of the following circumstances:

714 (a) For an affiliated reinsurer that is a mortgage guaranty  
715 insurer and that is or will be engaged solely in the assumption  
716 of risks from affiliated mortgage guaranty insurers, provided  
717 that the affiliated reinsurer is in run-off and the office finds  
718 that the business plan and other relevant circumstances of the  
719 affiliated reinsurer justify the proposed reduction in  
720 requirements.

721 (b) For mortgage guaranty insurers that are in run-off and  
722 not writing new business, provided the office finds that such  
723 insurers are justified in a business plan.

724 (3) (a) A mortgage guaranty insurer must possess sufficient  
725 capital and surplus so that the total outstanding aggregate

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726 exposure net of reinsurance under mortgage guaranty policies  
727 written by the insurer does not exceed 25 times its paid-in  
728 capital, surplus, and contingency reserve combined. A mortgage  
729 guaranty insurer shall disclose in the audited financial reports  
730 required under s. 624.424(8), the total aggregate exposure net  
731 of reinsurance under mortgage guaranty policies written by the  
732 insurer. The Commissioner of Insurance Regulation may waive  
733 ~~permit a temporary exception to~~ the requirements of this  
734 subsection at the written request of a mortgage guaranty insurer  
735 upon a finding that the mortgage guaranty insurer's financial  
736 position is reasonable in relationship to the mortgage guaranty  
737 insurer's aggregate insured risk and financial needs.

738 (b) The request for a waiver must be made in writing at  
739 least 90 days before the date that the mortgage guaranty insurer  
740 expects to not meet the requirement of paragraph (a) and shall,  
741 at a minimum, address the factors specified in paragraph (e).

742 (c) The commissioner may retain accountants, actuaries, or  
743 other experts to assist in the review of the mortgage guaranty  
744 insurer's request submitted pursuant to paragraph (b). The  
745 mortgage guaranty insurer shall bear the commissioner's cost of  
746 retaining those persons.

747 (d) Any waiver shall be all of the following:

748 1. For a specified period of time, not to exceed 2 years.

749 2. Subject to any terms and conditions that the  
750 commissioner deems best suited to restoring the mortgage  
751 guaranty insurer's minimum policyholders position required by  
752 paragraph (a).

753 (e) In determining whether a mortgage guaranty insurer's  
754 policyholders position is reasonable in relation to the mortgage

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755 guaranty insurer's aggregate insured risk in force and adequate  
756 to its financial needs, all of the following factors, among  
757 others, may be considered:

758 1. The size of the mortgage guaranty insurer, as measured  
759 by its assets, capital and surplus, reserves, premium writings,  
760 insurance in force, and other appropriate criteria.

761 2. The extent to which the mortgage guaranty insurer's  
762 business is diversified across time, geography, credit quality,  
763 origination, and distribution channels.

764 3. The nature and extent of the mortgage guaranty insurer's  
765 reinsurance program.

766 4. The quality, diversification, and liquidity of the  
767 mortgage guaranty insurer's assets and its investment portfolio.

768 5. The historical and forecasted trend in the size of the  
769 mortgage guaranty insurer's policyholders position.

770 6. The policyholders position maintained by other  
771 comparable mortgage guaranty insurers in relation to the nature  
772 of their respective insured risks.

773 7. The adequacy of the mortgage guaranty insurer's  
774 reserves.

775 8. The quality and liquidity of investments in affiliates.  
776 The commissioner may treat any such investment as a nonadmitted  
777 asset for purposes of determining the adequacy of surplus as  
778 regards policyholders.

779 9. The quality of the mortgage guaranty insurer's earnings  
780 and the extent to which the reported earnings of the mortgage  
781 guaranty insurer include extraordinary items.

782 10. An independent actuary's opinion as to the  
783 reasonableness and adequacy of the mortgage guaranty insurer's

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784 historical and projected policyholders position.

785 11. The capital contributions that have been infused or are  
786 available for future infusion into the mortgage guaranty  
787 insurer.

788 12. The historical and projected trends in the components  
789 of the mortgage guaranty insurer's aggregate insured risk,  
790 including, but not limited to, the quality and type of the risks  
791 included in the aggregate insured risk.

792 Section 16. The amendments made to s. 635.042, Florida  
793 Statutes, by this act do not apply to mortgage guaranty insurers  
794 formed before July 1, 2024, until July 1, 2025.

795 Section 17. Section 635.071, Florida Statutes, is amended  
796 to read:

797 635.071 Filings, approval of forms; rate filings; records.-

798 (1) No policy form or related form may be issued or used in  
799 this state unless it has been filed with and approved by the  
800 office as provided by laws applicable to casualty or surety  
801 insurance.

802 (2) Each insurer shall file with the office for  
803 informational purposes the rate to be charged and the premium to  
804 be paid by the policyholder, including all modifications of  
805 rates and premiums. Every mortgage guaranty insurer shall make  
806 available to insureds the premium charges for mortgage guaranty  
807 insurance policies on its website or through an integration with  
808 a third-party system. The premium rate provided must show the  
809 entire amount of premium charge for the type of mortgage  
810 guaranty insurance policy to be issued by the insurance company.

811 (3) An insurer may not insure mortgages that are offered  
812 for sale to the public by advertisement, whether in newspapers,

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813 brochures, direct mailings, or similar media, if the  
814 advertisement expressly or impliedly represents or stresses that  
815 the worth, value, or safety of the mortgage investment arises by  
816 virtue of the proposed mortgage guaranty insurance rather than  
817 by virtue of the safety inherent in the value of the underlying  
818 security as it relates to the face value of the mortgage debt,  
819 or if the advertisement stresses the fact that the mortgage  
820 guaranty insurance is regulated by an agency of the state or  
821 Federal Government. A mortgage guaranty insurer may not prepare  
822 or distribute or assist in preparing or distributing any  
823 advertising, media, or communication stating that the real  
824 estate investments of any financial institution are insured  
825 investments, unless the advertising, media, or communication  
826 clearly states that the loans are insured by a mortgage guaranty  
827 insurer possessing a certificate of authority to transact  
828 mortgage guaranty insurance in this state or are insured by an  
829 agency of the Federal Government.

830 (4) (a) A licensed mortgage guaranty insurer shall maintain  
831 its records in a manner which allows the office to readily  
832 ascertain during an examination the insurer's compliance with  
833 the Florida Insurance Code and rules adopted by the commission,  
834 including, but not limited to, records regarding the insurer's  
835 management, operations, policy issuance and servicing,  
836 marketing, underwriting, rating, and claims practices.

837 (b) Policy and claim records shall be retained for the  
838 period during which the certificate or claim is active plus 5  
839 years, unless otherwise specified by the commission.

840 (c) Any record required to be maintained by a mortgage  
841 guaranty insurer may be created and stored in the form of paper,

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842 photograph, magnetic, mechanical, or electronic medium.

843 (d) A mortgage guaranty insurer shall comply with all of  
844 the following:

845 1. The mortgage guaranty insurer shall provide for record  
846 storage in a location that will allow the records to be  
847 reasonably produced for examination within the time period  
848 required.

849 2. If using a third party for storage of records, the  
850 mortgage guaranty insurer shall ensure that a written agreement  
851 is made with such third party to maintain a copy of the  
852 agreement and to make a copy of the agreement available for  
853 purposes of examination.

854 (5) All mortgage guaranty insurers' master policies shall  
855 include a detailed description of provisions governing  
856 rescissions, repricing, and cancellations which specify the  
857 insurer's and insured's rights, obligations, and eligibility  
858 terms under which those actions may occur to ensure  
859 transparency.

860 (6) Any contract, letter agreement, or other arrangement  
861 used to clarify any terms, conditions, or interpretations of a  
862 master policy or certificate shall be documented in writing. Any  
863 contractual or letter agreements used to modify or clarify  
864 general business practices and administrative, underwriting,  
865 claim submission, or other information exchange processes shall  
866 not contain provisions that override or significantly undermine  
867 the intent of key provisions of this part, including mortgage  
868 guaranty insurer discretion, rights, and responsibilities  
869 related to all of the following:

870 (a) Underwriting standards.

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871 (b) Quality assurance.

872 (c) Rescission.

873 Section 18. Section 635.075, Florida Statutes, is amended  
874 to read:

875 635.075 Defaults ~~Restoration of property.~~ Mortgage guaranty  
876 insurance policies issued for delivery in this state shall  
877 contain, as a condition precedent to payment in the event of  
878 default, a provision that the insured must restore the property  
879 to its condition at the time of issuance of the policy, except  
880 for reasonable wear and tear. With respect to owner-occupied,  
881 single-family dwellings or mixed-use buildings as described in  
882 s. 635.031(2) which are owner-occupied at the time of loan  
883 origination and for at least 50 percent of the days within the  
884 12 consecutive months before borrower default, the borrower is  
885 not liable to the mortgage guaranty insurer for any deficiency  
886 arising from a foreclosure sale.

887 Section 19. Section 635.076, Florida Statutes, is created  
888 to read:

889 635.076 Investment limitation.—Investments in notes or  
890 other evidence of indebtedness secured by a mortgage or other  
891 liens upon residential real property may not be allowed as  
892 assets in any determination of the financial condition of a  
893 mortgage guaranty insurer. This section does not apply to any of  
894 the following:

895 (1) Obligations secured by real property, or contracts for  
896 the sale of real property, which obligations or contracts for  
897 sale are acquired in the course of good faith settlement of  
898 claims under policies of insurance issued by the mortgage  
899 guaranty insurer or in the good faith disposition of real

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900 property so acquired.

901 (2) Investments backed by the full faith and credit of the  
902 Federal Government or investments with the effective guaranty of  
903 the Federal Government.

904 (3) Investments held by a mortgage guaranty insurer before  
905 July 1, 2024.

906 Section 20. Section 635.077, Florida Statutes, is created  
907 to read:

908 635.077 Reinsurance.—

909 (1) A mortgage guaranty insurer may not enter into captive  
910 reinsurance arrangements that involve the direct or indirect  
911 ceding of any portion of its insurance risks or obligations to a  
912 reinsurer owned or controlled by an insured; any subsidiary or  
913 affiliate of an insured; an officer, director, or employee of an  
914 insured or any member of the person's immediate family; a  
915 corporation, partnership, trust, trade association in which an  
916 insured is a member, or other entity owned or controlled by an  
917 insured or an insured's officer, director, or employee or any  
918 member of the person's immediate family that has a financial  
919 interest; or any designee, trustee, nominee, or other agent or  
920 representative of any of the foregoing.

921 (2) A mortgage guaranty insurer may, by written contract,  
922 reinsure any insurance that it transacts, except that no  
923 mortgage guaranty insurer may enter into reinsurance  
924 arrangements designed to circumvent s. 625.041. The unearned  
925 premium reserve and the reserves for payment of losses required  
926 by s. 625.041 must be established and maintained by the direct  
927 insurer or by the assuming reinsurer so that the aggregate  
928 reserves are equal to or greater than the reserves required by



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929 direct writer.

930 Section 21. Section 635.078, Florida Statutes, is created  
931 to read:

932 635.078 Sound underwriting practices.-

933 (1) All certificates of mortgage guaranty insurance,  
934 excluding policies of reinsurance, must be written based on an  
935 assessment of evidence that prudent underwriting standards have  
936 been met by the originator of the mortgage. Delegated  
937 underwriting decisions must be reviewed by the mortgage guaranty  
938 insurer based on a reasonable method of sampling of post-closing  
939 loan documentation to ensure compliance with the mortgage  
940 guaranty insurer's underwriting standards.

941 (2) Control reviews for bulk mortgage guaranty insurance  
942 and pool mortgage guaranty insurance must be based on a  
943 reasonable method of sampling of post-closing loan documentation  
944 for delegated underwriting decisions to ensure compliance with  
945 the representations and warranties of the creditors or creditors  
946 originating the loans and with the mortgage guaranty insurer's  
947 underwriting standards.

948 (3) Mortgage guaranty insurers shall establish formal  
949 underwriting standards which set forth the basis for concluding  
950 that prudent underwriting standards have been met.

951 (4) A mortgage guaranty insurance company's underwriting  
952 standards shall be:

953 (a) Reviewed and approved by executive management,  
954 including, but not limited to, the highest-ranking executive  
955 officer and financial officer; and

956 (b) Communicated across the organization to promote  
957 consistent business practices with respect to underwriting.

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958       (5) On or before March 1 of each year, a mortgage guaranty  
959 insurer shall file with the office changes to its underwriting  
960 standards and an analysis of the changes implemented during the  
961 course of the immediately preceding year. The annual analysis of  
962 material underwriting standards changes should include any  
963 change associated with loan to value ratios, debt to income  
964 ratios, borrower credit standing, or maximum loan amount which  
965 has resulted in a material impact on net premium written from  
966 the preceding year.

967       Section 22. Section 635.079, Florida Statutes, is created  
968 to read:

969       635.079 Quality assurance program.—

970       (1) A mortgage guaranty insurer shall establish a formal  
971 internal mortgage guaranty quality assurance program. This  
972 mortgage guaranty quality assurance program shall provide for  
973 the documentation, monitoring, evaluation, and reporting on the  
974 integrity of the ongoing loan origination process based on  
975 indicators of potential underwriting inadequacies or  
976 noncompliance. The program shall meet all of the following  
977 requirements:

978       (a) Administration of the quality assurance program shall  
979 be delegated to designated risk management, quality assurance,  
980 or internal audit personnel, who are technically trained and  
981 independent from underwriting activities that they audit.

982       (b) Quality assurance personnel shall provide periodic  
983 quality assurance reports to an enterprise risk management  
984 committee or other equivalent senior management level oversight  
985 body.

986       (c) Quality assurance personnel shall provide periodic

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987 quality assurance reports to the board of directors or a  
988 designated committee of directors established to facilitate the  
989 board's oversight.

990 (d) A mortgage guaranty quality assurance program,  
991 excluding policies and procedures of reinsurance, shall be  
992 formally established and documented to define scope, roles, and  
993 responsibilities.

994 (e) Quality assurance review shall include an examination  
995 of underwriting risks, including classification of risk and  
996 compliance with risk tolerance levels.

997 (f) Quality assurance monitoring provisions shall include  
998 an assessment of lender performance.

999 (g) Quality assurance monitoring provisions shall assess  
1000 compliance with underwriting standards.

1001 (h) Quality assurance monitoring provisions shall assess  
1002 prospective risks associated with timely loan payment, including  
1003 delinquency, default inventory, foreclosure, and persistency  
1004 trends.

1005 (i) Underwriting system program changes shall be monitored  
1006 to ensure the integrity of underwriting and pricing programs,  
1007 which impact automated underwriting system decisionmaking.

1008 (j) Pricing controls shall be monitored to ensure that  
1009 business segment pricing supports applicable performance goals.

1010 (k) Periodic internal audits shall be conducted to validate  
1011 compliance with the mortgage guaranty quality assurance program.

1012 (2) The office shall be provided access to a mortgage  
1013 guaranty insurer's mortgage guaranty quality assurance program  
1014 for review at any reasonable time upon request and during any  
1015 financial regulatory examination. This section may not be

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1016 construed to limit a regulator's right to access any of the  
1017 records of an insurer in an examination or as otherwise  
1018 necessary to meet regulatory responsibilities.

1019 Section 23. Section 635.0791, Florida Statutes, is created  
1020 to read:

1021 635.0791 Conflict of interest.—A mortgage guaranty insurer  
1022 may underwrite mortgage guaranty insurance on mortgages  
1023 originated by the holding company system or affiliate or on  
1024 mortgages originated by any mortgage lender to which credit is  
1025 extended, directly or indirectly, by the holding company system  
1026 or affiliate only if the insurance is underwritten on the same  
1027 basis, for the same consideration, and subject to the same  
1028 insurability requirements as insurance provided to nonaffiliated  
1029 lenders. Mortgage guaranty insurance underwritten on mortgages  
1030 originated by the holding company system or affiliate or on  
1031 mortgages originated by any mortgage lender to which credit is  
1032 extended, directly or indirectly, by the holding company system  
1033 or affiliate shall be limited to 50 percent of the insurer's  
1034 direct premium written in any calendar year, or such higher  
1035 percentage established by rule by the commission.

1036 Section 24. Section 635.0792, Florida Statutes, is created  
1037 to read:

1038 635.0792 Educational efforts and promotional materials  
1039 permitted.—A mortgage guaranty insurer may engage in any  
1040 educational effort with borrowers, members of the general  
1041 public, and officers, directors, employees, contractors, and  
1042 agents of insured lenders which may reasonably be expected to  
1043 reduce its risk of loss or promote its operational efficiency  
1044 and may distribute promotional materials of minor value.

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1045 Section 25. Paragraph (j) of subsection (1) of section  
1046 624.605, Florida Statutes, is amended to read:

1047 624.605 "Casualty insurance" defined.—

1048 (1) "Casualty insurance" includes:

1049 (j) *Credit personal property insurance*.—Credit personal  
1050 property insurance is a limited line of insurance providing  
1051 coverage on personal property used as collateral for securing a  
1052 loan or on personal property purchased under an installment  
1053 sales agreement. Credit personal property insurance shall not be  
1054 considered to be property insurance. The coverage shall be  
1055 issued on an inland marine policy form, and coverage limits  
1056 shall be restricted to the initial amount of the loan or the  
1057 amount of the installment sale.

1058 Section 26. Paragraph (q) of subsection (1) of section  
1059 626.9541, Florida Statutes, is amended to read:

1060 626.9541 Unfair methods of competition and unfair or  
1061 deceptive acts or practices defined.—

1062 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE  
1063 ACTS.—The following are defined as unfair methods of competition  
1064 and unfair or deceptive acts or practices:

1065 (q) *Certain insurance transactions through credit card*  
1066 *facilities prohibited*.—

1067 1. Except as provided in subparagraph 3., no person shall  
1068 knowingly solicit or negotiate insurance; seek or accept  
1069 applications for insurance; issue or deliver any policy;  
1070 receive, collect, or transmit premiums, to or for an insurer; or  
1071 otherwise transact insurance in this state, or relative to a  
1072 subject of insurance resident, located, or to be performed in  
1073 this state, through the arrangement or facilities of a credit

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1074 card facility or organization, for the purpose of insuring  
1075 credit card holders or prospective credit card holders. The term  
1076 "credit card holder" as used in this paragraph means a person  
1077 who may pay the charge for purchases or other transactions  
1078 through the credit card facility or organization, whose credit  
1079 with such facility or organization is evidenced by a credit card  
1080 identifying such person as being one whose charges the credit  
1081 card facility or organization will pay, and who is identified as  
1082 such upon the credit card by name, account number, symbol,  
1083 insignia, or other method or device of identification. This  
1084 subparagraph does not apply as to health insurance or to credit  
1085 life, credit disability, or credit personal property insurance.

1086 2. If any person does or performs in this state any of the  
1087 acts in violation of subparagraph 1. for or on behalf of an  
1088 insurer or credit card facility, such insurer or credit card  
1089 facility shall be deemed to be doing business in this state and,  
1090 if an insurer, shall be subject to the same state, county, and  
1091 municipal taxes as insurers that have been legally qualified and  
1092 admitted to do business in this state by agents or otherwise are  
1093 subject, the same to be assessed and collected against such  
1094 insurers; and such person so doing or performing any of such  
1095 acts is personally liable for all such taxes.

1096 3. A licensed agent or insurer may solicit or negotiate  
1097 insurance; seek or accept applications for insurance; issue or  
1098 deliver any policy; receive, collect, or transmit premiums, to  
1099 or for an insurer; or otherwise transact insurance in this  
1100 state, or relative to a subject of insurance resident, located,  
1101 or to be performed in this state, through the arrangement or  
1102 facilities of a credit card facility or organization, for the

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1103 purpose of insuring credit card holders or prospective credit  
1104 card holders if:

1105 a. The insurance or policy which is the subject of the  
1106 transaction is noncancelable by any person other than the named  
1107 insured, the policyholder, or the insurer;

1108 b. Any refund of unearned premium is made to the credit  
1109 card holder by mail or electronic transfer; and

1110 c. The credit card transaction is authorized by the  
1111 signature of the credit card holder or other person authorized  
1112 to sign on the credit card account.

1113  
1114 The conditions enumerated in sub-subparagraphs a.-c. do not  
1115 apply to health insurance or to credit life, credit disability,  
1116 or credit personal property insurance; and sub-subparagraph c.  
1117 does not apply to property and casualty insurance if the  
1118 transaction is authorized by the insured.

1119 4. No person may use or disclose information resulting from  
1120 the use of a credit card in conjunction with the purchase of  
1121 insurance if such information is to the advantage of the credit  
1122 card facility or an insurance agent, or is to the detriment of  
1123 the insured or any other insurance agent; except that this  
1124 provision does not prohibit a credit card facility from using or  
1125 disclosing such information in a judicial proceeding or  
1126 consistent with applicable law on credit reporting.

1127 5. Such insurance may not be sold through a credit card  
1128 facility in conjunction with membership in any automobile club.  
1129 The term "automobile club" means a legal entity that, in  
1130 consideration of dues, assessments, or periodic payments of  
1131 money, promises its members or subscribers to assist them in

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1132 matters relating to the ownership, operation, use, or  
1133 maintenance of a motor vehicle; however, the term does not  
1134 include persons, associations, or corporations that are  
1135 organized and operated solely for the purpose of conducting,  
1136 sponsoring, or sanctioning motor vehicle races, exhibitions, or  
1137 contests upon racetracks, or upon race courses established and  
1138 marked as such for the duration of such particular event. The  
1139 words "motor vehicle" used herein shall be the same as defined  
1140 in chapter 320.

1141 Section 27. Paragraph (b) of subsection (1) of section  
1142 627.971, Florida Statutes, is amended to read:

1143 627.971 Definitions.—As used in this part:

1144 (1)

1145 (b) However, "financial guaranty insurance" does not  
1146 include:

1147 1. Insurance of a loss resulting from an event described in  
1148 paragraph (a), if the loss is payable only upon the occurrence  
1149 of any of the following, as specified in a surety bond,  
1150 insurance policy, or indemnity contract:

1151 a. A fortuitous physical event;

1152 b. A failure of or deficiency in the operation of  
1153 equipment; or

1154 c. An inability to extract or recover a natural resource;

1155 2. An individual or schedule public official bond;

1156 3. A court bond required in connection with judicial,  
1157 probate, bankruptcy, or equity proceedings, including a waiver,  
1158 probate, open estate, or life tenant bond;

1159 4. A bond running to a federal, state, county, municipal  
1160 government, or other political subdivision, as a condition



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1161 precedent to the granting of a license to engage in a particular  
1162 business or of a permit to exercise a particular privilege;

1163 5. A loss security bond or utility payment indemnity bond  
1164 running to a governmental unit, railroad, or charitable  
1165 organization;

1166 6. A lease, purchase and sale, or concessionaire surety  
1167 bond;

1168 7. Credit unemployment insurance on a debtor in connection  
1169 with a specific loan or other credit transaction, to provide  
1170 payments to a creditor in the event of unemployment of the  
1171 debtor for the installments or other periodic payments becoming  
1172 due while a debtor is unemployed;

1173 8. Credit insurance indemnifying a manufacturer, merchant,  
1174 or educational institution which extends credit against loss or  
1175 damage resulting from nonpayment of debts owed to her or him for  
1176 goods or services provided in the normal course of her or his  
1177 business;

1178 9. Guaranteed investment contracts that are issued by life  
1179 insurance companies and that provide that the life insurer will  
1180 make specified payments in exchange for specific premiums or  
1181 contributions;

1182 10. Mortgage guaranty insurance as defined in s. 635.011 ~~s.~~  
1183 ~~635.011(1) or s. 635.021~~;

1184 11. Indemnity contracts or similar guaranties, to the  
1185 extent that they are not otherwise limited or proscribed by this  
1186 part, in which a life insurer guarantees:

1187 a. Its obligations or indebtedness or the obligations or  
1188 indebtedness of a subsidiary of which it owns more than 50  
1189 percent, other than a financial guaranty insurance corporation,

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1190 if:

1191 (I) For any such obligations or indebtedness that are  
1192 backed by specific assets, such assets are at all times owned by  
1193 the insurer or the subsidiary; and

1194 (II) For the obligations or indebtedness of the subsidiary  
1195 that are not backed by specific assets of the life insurer, the  
1196 guaranty terminates once the subsidiary ceases to be a  
1197 subsidiary; or

1198 b. The obligations or indebtedness, including the  
1199 obligation to substitute assets where appropriate, with respect  
1200 to specific assets acquired by a life insurer in the course of  
1201 normal investment activities and not for the purpose of resale  
1202 with credit enhancement, or guarantees obligations or  
1203 indebtedness acquired by its subsidiary, provided that the  
1204 assets so acquired have been:

1205 (I) Acquired by a special purpose entity where the sole  
1206 purpose is to acquire specific assets of the life insurer or the  
1207 subsidiary and issue securities or participation certificates  
1208 backed by such assets; or

1209 (II) Sold to an independent third party; or

1210 c. The obligations or indebtedness of an employee or agent  
1211 of the life insurer;

1212 12. Any form of surety insurance as defined in s. 624.606;

1213 13. Guarantees of higher education loans, unless written by  
1214 a financial guaranty insurance corporation; or

1215 14. Any other form of insurance covering risks which the  
1216 office determines to be substantially similar to any of the  
1217 foregoing.

1218 Section 28. This act shall take effect July 1, 2024.