

By Senator Garcia

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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.

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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,

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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.

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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,

36-00761-24

20241194__

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:

36-00761-24

20241194__

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

36-00761-24

20241194__

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.

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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,

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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,

36-00761-24

20241194__

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,

36-00761-24

20241194__

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.

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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.

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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.

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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

36-00761-24

20241194__

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,

36-00761-24

20241194__

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.