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1 A bill to be entitled
 2 An act relating to guaranty associations; amending s.
 3 631.52, F.S.; expanding an exemption from the
 4 applicability of certain provisions of state law to
 5 include workers' compensation claims under employer
 6 liability coverage; amending s. 631.54, F.S.; conforming
 7 the definition of "account" to changes made by the act;
 8 amending s. 631.55, F.S.; revising the structure of the
 9 Florida Insurance Guaranty Association by combining the
 10 auto liability and auto physical damage accounts; amending
 11 s. 631.57, F.S.; conforming cross-references; providing
 12 legislative intent; deleting provisions relating to
 13 classification and payment of emergency assessments;
 14 providing guidelines for the calculation of recoupment
 15 factors; authorizing an insurer to apply a recalculated
 16 recoupment factor under certain conditions; providing for
 17 the return of excess assessments and recoupment charges;
 18 providing that amounts recouped pursuant to specified
 19 provisions of state law are not premium and not subject to
 20 premium taxes, fees, or commissions; requiring that
 21 insurers treat failure to pay a recoupment charge as
 22 failure to pay the premium; requiring that an insurer file
 23 with the Office of Insurance Regulation a statement
 24 containing certain information within a specified period
 25 before applying a recoupment factor to any policies;
 26 authorizing an insurer to use a recoupment factor after
 27 the expiration of such period; providing that an insurer
 28 need submit only one such statement for all lines of

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29 business; requiring that an insurer file with the office
 30 an accounting report containing certain information within
 31 a specified period after the completion of the recoupment
 32 process; amending s. 631.713, F.S.; expanding the
 33 application of certain provisions of state law to certain
 34 residents of other states who own certain insurance
 35 policies; expanding the list of contracts and policies to
 36 which certain provisions of state law do not apply;
 37 amending s. 631.714, F.S.; revising the definition of
 38 "insolvent insurer" to remove the requirement that an
 39 order of liquidation become final by the exhaustion of
 40 appellate review; expanding the definition of "resident"
 41 to account for persons other than individuals and
 42 residents of foreign countries and United State
 43 possessions, territories, and protectorates; amending s.
 44 631.717, F.S.; limiting a guaranty association's liability
 45 for cash surrender, net cash withdrawal, and annuity
 46 benefits with respect to life insurance on any one life;
 47 authorizing an association to issue substitute coverage
 48 under certain circumstances; requiring that such alternate
 49 policy or contract meet certain criteria; creating s.
 50 631.7295, F.S.; authorizing an association to succeed to
 51 the rights of an insolvent insurer arising after an order
 52 of liquidation or rehabilitation with regard to certain
 53 contracts of reinsurance; requiring that such an
 54 association pay all unpaid premiums due under the
 55 contract; amending s. 631.735, F.S.; providing that
 56 certain provisions of state law do not prohibit a licensed

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57 insurance agent from explaining the existence or function
 58 of the association to policyholders, prospects, or
 59 applicants for coverage; amending s. 631.904, F.S.;
 60 clarifying the definition of "covered claim" to include
 61 unpaid claims under any employer liability coverage of a
 62 workers' compensation policy limited to the lesser of a
 63 specified amount and the limits of the policy; providing
 64 an effective date.

65
 66 Be It Enacted by the Legislature of the State of Florida:

67
 68 Section 1. Section 631.52, Florida Statutes, is amended to
 69 read:

70 631.52 Scope.—This part shall apply to all kinds of direct
 71 insurance, except:

- 72 (1) Life, annuity, health, or disability insurance;
- 73 (2) Mortgage guaranty, financial guaranty, or other forms
 74 of insurance offering protection against investment risks;
- 75 (3) Fidelity or surety bonds, or any other bonding
 76 obligations;
- 77 (4) Credit insurance, vendors' single interest insurance,
 78 or collateral protection insurance or any similar insurance
 79 protecting the interests of a creditor arising out of a
 80 creditor-debtor transaction;
- 81 (5) Warranty, including motor vehicle service, home
 82 warranty, or service warranty;
- 83 (6) Ambulance service, health care service, or preneed
 84 funeral merchandise or service;

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85 (7) Optometric service plan, pharmaceutical service plan,
86 or dental service plan;

87 (8) Legal expense;

88 (9) Health maintenance, prepaid health clinic, or
89 continuing care;

90 (10) Ocean marine or wet marine insurance;

91 (11) Self-insurance and any kind of self-insurance fund,
92 liability pool, or risk management fund;

93 (12) Title insurance;

94 (13) Surplus lines;

95 (14) Workers' compensation, including claims under
96 employer liability coverage;

97 (15) Any transaction or combination of transactions
98 between a person, including affiliates of such person, and an
99 insurer, including affiliates of such insurer, which involves
100 the transfer of investment or credit risk unaccompanied by the
101 transfer of insurance risk; or

102 (16) Any insurance provided by or guaranteed by
103 government.

104 Section 2. Subsection (1) of section 631.54, Florida
105 Statutes, is amended to read:

106 631.54 Definitions.—As used in this part:

107 (1) "Account" means ~~any~~ one of the ~~three~~ accounts created
108 by s. 631.55.

109 Section 3. Subsection (2) of section 631.55, Florida
110 Statutes, is amended to read:

111 631.55 Creation of the association.—

112 (2) For the purposes of administration and assessment, the

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113 association shall be divided into two ~~three~~ separate accounts:

114 (a) The auto liability and auto physical damage account;
 115 and

116 ~~(b) The auto physical damage account; and~~

117 (b)~~(e)~~ The account for all other insurance to which this
 118 part applies.

119 Section 4. Subsection (3) of section 631.57, Florida
 120 Statutes, is amended to read:

121 631.57 Powers and duties of the association.—

122 (3) (a) To the extent necessary to secure the funds for the
 123 respective accounts for the payment of covered claims, to pay
 124 the reasonable costs to administer the same, and to the extent
 125 necessary to secure the funds for the account specified in
 126 s.631.55(2) (b) ~~s. 631.55(2) (e)~~ or to retire indebtedness,
 127 including, without limitation, the principal, redemption
 128 premium, if any, and interest on, and related costs of issuance
 129 of, bonds issued under s. 631.695 and the funding of any
 130 reserves and other payments required under the bond resolution
 131 or trust indenture pursuant to which such bonds have been
 132 issued, the office, upon certification of the board of
 133 directors, shall levy assessments in the proportion that each
 134 insurer's net direct written premiums in this state in the
 135 classes protected by the account bears to the total of said net
 136 direct written premiums received in this state by all such
 137 insurers for the preceding calendar year for the kinds of
 138 insurance included within such account. Assessments shall be
 139 remitted to and administered by the board of directors in the
 140 manner specified by the approved plan. Each insurer so assessed

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141 shall have at least 30 days' written notice as to the date the
 142 assessment is due and payable. Every assessment shall be made as
 143 a uniform percentage applicable to the net direct written
 144 premiums of each insurer in the kinds of insurance included
 145 within the account in which the assessment is made. The
 146 assessments levied against any insurer shall not exceed in any
 147 one year more than 2 percent of that insurer's net direct
 148 written premiums in this state for the kinds of insurance
 149 included within such account during the calendar year next
 150 preceding the date of such assessments.

151 (b) If sufficient funds from such assessments, together
 152 with funds previously raised, are not available in any one year
 153 in the respective account to make all the payments or
 154 reimbursements then owing to insurers, the funds available shall
 155 be prorated and the unpaid portion shall be paid as soon
 156 thereafter as funds become available.

157 (c) The Legislature finds and declares that all
 158 assessments paid by an insurer or insurer group as a result of a
 159 levy by the office, including regular and emergency assessments,
 160 constitute advances of funds from the insurer to the
 161 association. The insurer is entitled to fully recoup such
 162 advances by applying a separate recoupment factor to the premium
 163 of policies of the same kind, line or type as were considered by
 164 the office in determining the assessment liability of the
 165 insurer or insurer group. ~~Assessments shall be included as an~~
 166 ~~appropriate factor in the making of rates.~~

167 (d) No state funds of any kind shall be allocated or paid
 168 to said association or any of its accounts.

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169 (e)1.a. In addition to assessments otherwise authorized in
 170 paragraph (a) and to the extent necessary to secure the funds
 171 for the account specified in s. 631.55(2)(b) ~~s. 631.55(2)(e)~~ for
 172 the direct payment of covered claims of insurers rendered
 173 insolvent by the effects of a hurricane and to pay the
 174 reasonable costs to administer such claims, or to retire
 175 indebtedness, including, without limitation, the principal,
 176 redemption premium, if any, and interest on, and related costs
 177 of issuance of, bonds issued under s. 631.695 and the funding of
 178 any reserves and other payments required under the bond
 179 resolution or trust indenture pursuant to which such bonds have
 180 been issued, the office, upon certification of the board of
 181 directors, shall levy emergency assessments upon insurers
 182 holding a certificate of authority. The emergency assessments
 183 payable under this paragraph by any insurer shall not exceed in
 184 any single year more than 2 percent of that insurer's direct
 185 written premiums, net of refunds, in this state during the
 186 preceding calendar year for the kinds of insurance within the
 187 account specified in s. 631.55(2)(b) ~~s. 631.55(2)(e)~~.

188 b. Any emergency assessments authorized under this
 189 paragraph shall be levied by the office upon insurers referred
 190 to in sub-subparagraph a., upon certification as to the need for
 191 such assessments by the board of directors. In the event the
 192 board of directors participates in the issuance of bonds in
 193 accordance with s. 631.695, emergency assessments shall be
 194 levied in each year that bonds issued under s. 631.695 and
 195 secured by such emergency assessments are outstanding, in such
 196 amounts up to such 2-percent limit as required in order to

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197 provide for the full and timely payment of the principal of,
 198 redemption premium, if any, and interest on, and related costs
 199 of issuance of, such bonds. The emergency assessments provided
 200 for in this paragraph are assigned and pledged to the
 201 municipality, county, or legal entity issuing bonds under s.
 202 631.695 for the benefit of the holders of such bonds, in order
 203 to enable such municipality, county, or legal entity to provide
 204 for the payment of the principal of, redemption premium, if any,
 205 and interest on such bonds, the cost of issuance of such bonds,
 206 and the funding of any reserves and other payments required
 207 under the bond resolution or trust indenture pursuant to which
 208 such bonds have been issued, without the necessity of any
 209 further action by the association, the office, or any other
 210 party. To the extent bonds are issued under s. 631.695 and the
 211 association determines to secure such bonds by a pledge of
 212 revenues received from the emergency assessments, such bonds,
 213 upon such pledge of revenues, shall be secured by and payable
 214 from the proceeds of such emergency assessments, and the
 215 proceeds of emergency assessments levied under this paragraph
 216 shall be remitted directly to and administered by the trustee or
 217 custodian appointed for such bonds.

218 c. Emergency assessments under this paragraph may be
 219 payable in a single payment or, at the option of the
 220 association, may be payable in 12 monthly installments with the
 221 first installment being due and payable at the end of the month
 222 after an emergency assessment is levied and subsequent
 223 installments being due not later than the end of each succeeding
 224 month.

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225 d. If emergency assessments are imposed, the report
 226 required by s. 631.695(7) shall include an analysis of the
 227 revenues generated from the emergency assessments imposed under
 228 this paragraph.

229 e. If emergency assessments are imposed, the references in
 230 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
 231 assessments levied under paragraph (a) shall include emergency
 232 assessments imposed under this paragraph.

233 ~~2. In order to ensure that insurers paying emergency~~
 234 ~~assessments levied under this paragraph continue to charge rates~~
 235 ~~that are neither inadequate nor excessive, within 90 days after~~
 236 ~~being notified of such assessments, each insurer that is to be~~
 237 ~~assessed pursuant to this paragraph shall submit a rate filing~~
 238 ~~for coverage included within the account specified in s.~~
 239 ~~631.55(2)(c) and for which rates are required to be filed under~~
 240 ~~s. 627.062. If the filing reflects a rate change that, as a~~
 241 ~~percentage, is equal to the difference between the rate of such~~
 242 ~~assessment and the rate of the previous year's assessment under~~
 243 ~~this paragraph, the filing shall consist of a certification so~~
 244 ~~stating and shall be deemed approved when made. Any rate change~~
 245 ~~of a different percentage shall be subject to the standards and~~
 246 ~~procedures of s. 627.062.~~

247 2.3. ~~If In the event~~ the board of directors participates
 248 in the issuance of bonds in accordance with s. 631.695, an
 249 annual assessment under this paragraph shall continue while the
 250 bonds issued with respect to which the assessment was imposed
 251 are outstanding, including any bonds the proceeds of which were
 252 used to refund bonds issued pursuant to s. 631.695, unless

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253 adequate provision has been made for the payment of the bonds in
 254 the documents authorizing the issuance of such bonds.

255 4. Emergency assessments under this paragraph are not
 256 premium and are not subject to the premium tax, to any fees, or
 257 to any commissions. An insurer is liable for all emergency
 258 assessments that the insurer collects and shall treat the
 259 failure of an insured to pay an emergency assessment as a
 260 failure to pay the premium. An insurer is not liable for
 261 uncollectible emergency assessments.

262 (f) The recoupment factor applied to policies in
 263 accordance with paragraph (c) shall be selected by the insurer
 264 or insurer group so as to provide for the probable recoupment of
 265 both regular and emergency assessments over a period of 12
 266 months, unless the insurer or insurer group, at its option,
 267 elects to recoup the assessment over a longer period. The
 268 recoupment factor shall apply to all policies of the same kind,
 269 line, or type as were considered by the office in determining
 270 the assessment liability of the insurer or insurer group issued
 271 or renewed during a 12-month period. If the insurer or insurer
 272 group does not collect the full amount of the assessment during
 273 one 12-month period, the insurer or insurer group may apply
 274 recalculated recoupment factors to policies issued or renewed
 275 during one or more succeeding 12-month periods. If, at the end
 276 of a 12-month period, the insurer or insurer group has collected
 277 from the combined kinds, types or lines of policies subject to
 278 assessment more than the total amount of the assessment paid by
 279 the insurer or insurer group, the excess amount shall be
 280 disbursed as follows: (i) if the excess amount does not exceed

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281 fifteen percent of the total assessment paid by the insurer or
 282 insurer group, it shall be remitted to the association within 60
 283 days of the end of the 12-month period in which the excess
 284 recoupment charges were collected; (ii) if the excess amount
 285 exceeds fifteen percent of the total assessment paid by the
 286 insurer or insurer group, it shall be returned to the insurer's
 287 or insurer group's current policyholders either by refunds or
 288 premium credits. The association shall use any remitted excess
 289 recoupment amounts to reduce future assessments.

290 (g) Amounts recouped under this subsection for assessments
 291 levied under paragraph (a) due to insolvencies on or after July
 292 1, 2010 are not premium and are not subject to premium taxes,
 293 fees, or commissions. However, insurers shall treat the failure
 294 of an insured to pay a recoupment charge as a failure to pay the
 295 premium.

296 (h) At least 15 days before applying the recoupment factor
 297 to any policies, the insurer or insurer group shall file with
 298 the office a statement for informational purposes only setting
 299 forth the amount of the recoupment factor and an explanation of
 300 how the recoupment factor will be applied. Such statement shall
 301 include documentation of the assessment paid by the insurer or
 302 insurer group and the arithmetic calculations supporting the
 303 recoupment factor. The insurer or insurer group may use the
 304 recoupment factor at any time after the expiration of the 15-day
 305 period. The insurer or insurer group need submit only one
 306 informational statement for all lines of business using the same
 307 recoupment factor.

308 (i) No later than 90 days after the insurer or insurer

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309 group has completed the recoupment process, it shall file with
 310 the office, for information purposes only, a final accounting
 311 report documenting the recoupment. The report shall provide the
 312 amounts of assessments paid by the insurer or insurer group, the
 313 amounts and percentages recouped by year from each affected line
 314 of business, and the direct written premium subject to
 315 recoupment by year. The insurer or insurer group need submit
 316 only one informational statement for all lines of business using
 317 the same recoupment factor.

318 Section 5. Paragraph (b) of subsection (2) of section
 319 631.713, Florida Statutes, is amended, paragraphs (n), (o), and
 320 (p) are added to subsection (3) of that section, and subsection
 321 (5) is added to that section, to read:

322 631.713 Application of part.—

323 (2) Coverage under this part shall be provided to:

324 (b) Persons who are owners of or certificateholders under
 325 such policies or contracts, and who:

326 1. Are residents of this state; or

327 2. Are residents of other states, but only if:

328 a. The insurers which issued such policies or contracts
 329 are domiciled in this state;

330 b. Such insurers were not licensed ~~never held a license or~~
 331 ~~certificate of authority~~ in the states in which such persons
 332 reside at the time specified in a state's guaranty association
 333 law as necessary for coverage by that state's association;

334 c. Such other states have associations similar to the
 335 association created by this part; and

336 d. Such persons are not eligible for coverage by such

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337 associations.

338 (3) This part does not apply to:

339 (n) A portion of a policy or contract, to the extent that
 340 the rate of interest on which it is based, or the interest rate,
 341 crediting rate, or similar factor determined by use of an index
 342 or other external reference stated in the policy or contract
 343 employed in calculating returns or changes in value:

344 1. Averaged over the period of 4 years immediately
 345 preceding the date on which the member insurer becomes an
 346 impaired or insolvent insurer under this part, whichever is
 347 earlier, exceeds the rate of interest determined by subtracting
 348 2 percentage points from Moody's Corporate Bond Yield Average
 349 averaged for that same 4-year period or for such lesser period
 350 if the policy or contract was issued less than 4 years before
 351 the member insurer becomes an impaired or insolvent insurer
 352 under this part, whichever is earlier; and

353 2. On and after the date on which the member insurer
 354 becomes an impaired or insolvent insurer under this part,
 355 whichever is earlier, exceeds the rate of interest determined by
 356 subtracting 3 percentage points from the most current version of
 357 Moody's Corporate Bond Yield Average.

358 (o) A portion of a policy or contract to the extent it
 359 provides for interest or other changes in value to be determined
 360 by the use of an index or other external reference stated in the
 361 policy or contract, but which has not been credited to the
 362 policy or contract, or as to which the policy or contract owner's
 363 rights are subject to forfeiture, as of the date the member
 364 insurer becomes an impaired or insolvent insurer under this Act.

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365 However, if the interest or change in value is credited less
 366 frequently than annually as determined by using the procedures
 367 defined in the policy or contract, then interest or change in
 368 value will be credited by using the procedure defined in the
 369 policy or contract as if the contractual date of crediting
 370 interest or changing values was the date of impairment or
 371 insolvency, whichever is earlier, and will not be subject to
 372 forfeiture.

373 (p) A policy or contract providing any hospital, medical,
 374 prescription drug, or other health care benefits pursuant to
 375 Medicare Part C or D or any regulations issued pursuant to
 376 Medicare Part C or D.

377 (5) Notwithstanding any other provisions of this part,
 378 this part includes coverage to a person who is a payee under a
 379 structured settlement annuity, or a beneficiary if the payee is
 380 deceased, with a coverage limit of \$300,000 by the association,
 381 if:

382 (a) The payee is a resident of this state, regardless of
 383 where the contract owner resides; and

384 (b) Neither the payee, beneficiary, nor contract owner is
 385 eligible for coverage by the association of the state in which
 386 the contract owner resides.

387 Section 6. Subsections (6) and (10) of section 631.714,
 388 Florida Statutes, are amended to read:

389 631.714 Definitions.—As used in this part, the term:

390 (6) "Insolvent insurer" means a member insurer authorized
 391 to transact insurance in this state, either at the time the
 392 policy was issued or when the insured event occurred, and

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393 against which an order of liquidation with a finding of
 394 insolvency has been entered by a court of competent
 395 jurisdiction, ~~if such order has become final by the exhaustion~~
 396 ~~of appellate review.~~

397 (10) "Resident" means any person who resides in this state
 398 at the time a member insurer is determined to be an impaired or
 399 insolvent insurer and to whom contractual obligations are owed
 400 by such impaired or insolvent member insurer. A person may be a
 401 resident of only one state, which in the case of a person other
 402 than an individual shall be the person's principal place of
 403 business. Citizens of the United States who are residents of
 404 foreign countries or United States possessions, territories, or
 405 protectorates that do not have an association similar to the
 406 guaranty association created by this part, shall be deemed
 407 residents of the state of domicile of the insurer issuing the
 408 policies or contracts.

409 Section 7. Subsection (9) of section 631.717, Florida
 410 Statutes, is amended, and paragraph (g) is added to subsection
 411 (12) of that section, to read:

412 631.717 Powers and duties of the association.—

413 (9) The association's liability for the contractual
 414 obligations of the insolvent insurer shall be as great as, but
 415 no greater than, the contractual obligations of the insurer in
 416 the absence of such insolvency, unless such obligations are
 417 reduced as permitted by subsection (4), but the aggregate
 418 liability of the association shall not exceed \$100,000 in net
 419 cash surrender and net cash withdrawal values for life
 420 insurance, \$250,000 net cash surrenders and net cash withdrawal

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421 values for deferred annuity contracts, or \$300,000 for all
 422 benefits including cash values, with respect to any one life. In
 423 no event shall the association be liable for any penalties or
 424 interest.

425 (12)

426 (g) In carrying out its duties in connection with
 427 guaranteeing, assuming, or reinsuring policies or contracts
 428 under subsections (2) and (3), the association may, subject to
 429 approval of the receivership court, issue substitute coverage
 430 for a policy or contract that provides an interest rate,
 431 crediting rate, or similar factor determined by use of an index
 432 or other external reference stated in the policy or contract
 433 employed in calculating returns or changes in value by issuing
 434 an alternative policy or contract. In lieu of the index or other
 435 external reference provided for in the original policy or
 436 contract, the alternative policy or contract must provide for a
 437 fixed interest rate, payment of dividends with minimum
 438 guarantees, or a different method for calculating interest or
 439 changes in value. In such case:

440 1. There is no requirement for evidence of insurability,
 441 waiting period, or other exclusion that would not have applied
 442 under the replaced policy or contract; and

443 2. The alternative policy or contract shall be
 444 substantially similar to the replaced policy or contract in all
 445 other material terms.

446 Section 8. Section 631.7295, Florida Statutes, is created
 447 to read:

448 631.7295 Reinsurance.—With respect to covered policies for

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449 which the association becomes obligated after an entry of an
 450 order of liquidation or rehabilitation, the association may
 451 elect to succeed to the rights of the insolvent insurer arising
 452 after the order of liquidation or rehabilitation under any
 453 contract of reinsurance to which the insolvent insurer was a
 454 party, to the extent that such contract provides coverage for
 455 losses occurring after the date of the order of liquidation or
 456 rehabilitation. As a condition to making such election, the
 457 association must pay all unpaid premiums due under the contract
 458 for coverage relating to periods before and after the date on
 459 which the order of liquidation or rehabilitation was entered.

460 Section 9. Section 631.735, Florida Statutes, is amended
 461 to read:

462 631.735 Prohibited advertisement of Florida Life and
 463 Health Insurance Guaranty Association Act in sale of insurance.—
 464 No person shall make, publish, disseminate, circulate, or place
 465 before the public, or cause directly or indirectly to be made,
 466 published, disseminated, circulated, or placed before the
 467 public, in any newspaper, magazine, or other publication, or in
 468 the form of a notice, circular, pamphlet, letter, or poster, or
 469 over any radio station or television station, or in any other
 470 way, any advertisement, announcement, or statement which uses
 471 the existence of the Insurance Guaranty Association of this
 472 state for the purpose of sales, solicitation, or inducement to
 473 purchase any form of insurance covered by the Florida Life and
 474 Health Insurance Guaranty Association Act. However, this section
 475 does ~~shall~~ not apply to the Florida Life and Health Insurance
 476 Guaranty Association or any other entity that ~~which~~ does not

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477 | sell or solicit insurance, and does not prohibit a duly licensed
 478 | insurance agent from explaining the existence or function of the
 479 | association to policyholders, prospects, or applicants for
 480 | coverage.

481 | Section 10. Subsection (2) of section 631.904, Florida
 482 | Statutes, is amended to read:

483 | 631.904 Definitions.—As used in this part, the term:

484 | (2) "Covered claim" means an unpaid claim, including a
 485 | claim for return of unearned premiums, which arises out of, is
 486 | within the coverage of, and is not in excess of the applicable
 487 | limits of, an insurance policy to which this part applies, which
 488 | policy was issued by an insurer and which claim is made on
 489 | behalf of a claimant or insured who was a resident of this state
 490 | at the time of the injury. The term "covered claim" includes
 491 | unpaid claims under any employer liability coverage of a
 492 | workers' compensation policy limited to the lesser of \$300,000
 493 | and the limits of the policy. The term "covered claim" does not
 494 | include any amount sought as a return of premium under any
 495 | retrospective rating plan; any amount due any reinsurer,
 496 | insurer, insurance pool, or underwriting association, as
 497 | subrogation recoveries or otherwise; any claim that would
 498 | otherwise be a covered claim that has been rejected by any other
 499 | state guaranty fund on the grounds that the insured's net worth
 500 | is greater than that allowed under that state's guaranty fund or
 501 | liquidation law, except this exclusion from the definition of
 502 | covered claim shall not apply to employers who, prior to April
 503 | 30, 2004, entered into an agreement with the corporation
 504 | preserving the employer's right to seek coverage of claims

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505 | rejected by another state's guaranty fund; or any return of
 506 | premium resulting from a policy that was not in force on the
 507 | date of the final order of liquidation. Member insurers have no
 508 | right of subrogation against the insured of any insolvent
 509 | insurer. This provision shall be applied retroactively to cover
 510 | claims of an insolvent self-insurance fund resulting from
 511 | accidents or losses incurred prior to January 1, 1994,
 512 | regardless of the date the petition in circuit court was filed
 513 | alleging insolvency and the date the court entered an order
 514 | appointing a receiver.

515 | Section 11. This act shall take effect on July 1, 2010.