CHAPTER 2011-11

House Bill No. 4081

An act relating to the repeal of obsolete insurance provisions; amending s. 215.5595, F.S.; deleting an obsolete requirement for the State Board of Administration to transfer to the Citizens Property Insurance Corporation certain funds of the Insurance Capital Build-Up Incentive Program; amending s. 627.311, F.S.; deleting an obsolete presuit notice requirement for the Florida Automobile Joint Underwriting Association; amending s. 627.706, F.S.; deleting an obsolete form filing deadline for sinkhole coverage; amending s. 627.7065, F.S.; deleting an obsolete reporting requirement for activities relating to the sinkhole database; repealing s. 627.7077, F.S., relating to a feasibility and cost-benefit study of a Florida Sinkhole Insurance Facility and other matters related to affordability and availability of sinkhole insurance; amending s. 627.712, F.S.; deleting an obsolete effective date for the exclusion of windstorm and contents coverage; providing an effective date.

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

Section 1. Subsection (11) of section 215.5595, Florida Statutes, is amended to read:

215.5595 Insurance Capital Build-Up Incentive Program.—

(11) On January 15, 2009, the State Board of Administration shall transfer to Citizens Property Insurance Corporation any funds that have not been committed or reserved for insurers approved to receive such funds under the program, from the funds that were transferred from Citizens Property Insurance Corporation in 2008-2009 for such purposes.

Section 2. Paragraph (k) of subsection (3) of section 627.311, Florida Statutes, is amended to read:

627.311 Joint underwriters and joint reinsurers; public records and public meetings exemptions.—

(3) The office may, after consultation with insurers licensed to write automobile insurance in this state, approve a joint underwriting plan for purposes of equitable apportionment or sharing among insurers of automobile liability insurance and other motor vehicle insurance, as an alternate to the plan required in s. 627.351(1). All insurers authorized to write automobile insurance in this state shall subscribe to the plan and participate therein. The plan shall be subject to continuous review by the office which may at any time disapprove the entire plan or any part thereof if it determines that conditions have changed since prior approval and that in view of the purposes of the plan changes are warranted. Any disapproval by the office shall be subject to the provisions of chapter 120. The Florida

Automobile Joint Underwriting Association is created under the plan. The plan and the association:

(k)1. Shall have no liability, and no cause of action of any nature shall arise against any member insurer or its agents or employees, agents or employees of the association, members of the board of governors of the association, the Chief Financial Officer, or the office or its representatives for any action taken by them in the performance of their duties or responsibilities under this subsection. Such immunity does not apply to actions for or arising out of breach of any contract or agreement pertaining to insurance, or any willful tort.

2. Notwithstanding the requirements of s. 624.155(3)(a), as a condition precedent to bringing an action against the plan under s. 624.155, the department and the plan must have been given 90 days' written notice of the violation. If the department returns a notice for lack of specificity, the 90-day time period shall not begin until a proper notice is filed. This notice must comply with the information requirements of s. 624.155(3)(b). Effective October 1, 2007, this subparagraph shall expire unless reenacted by the Legislature prior to that date.

Section 3. Subsections (4) and (5) of section 627.706, Florida Statutes, are renumbered as subsections (3) and (4), respectively, and present subsection (3) of that section is amended to read:

627.706 Sinkhole insurance; catastrophic ground cover collapse; definitions.—

(3) On or before June 1, 2007, every insurer authorized to transact property insurance in this state shall make a proper filing with the office for the purpose of extending the appropriate forms of property insurance to include coverage for catastrophic ground cover collapse or for sinkhole losses. Coverage for catastrophic ground cover collapse may not go into effect until the effective date provided for in the filing approved by the office.

Section 4. Subsection (6) of section 627.7065, Florida Statutes, is renumbered as subsection (5), and present subsection (5) of that section is amended to read:

627.7065 Database of information relating to sinkholes; the Department of Financial Services and the Department of Environmental Protection.—

(5) The Department of Environmental Protection, in consultation with the Department of Financial Services, shall present a report of activities relating to the sinkhole database, including recommendations regarding the database and similar matters, to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the Chief Financial Officer by December 31, 2005. The report may consider the need for the Legislature to create an entity to study the increase in sinkhole activity in the state and other similar issues relating to sinkhole damage, including

~~recommendations and costs for staffing the entity. The report may include other information, as appropriate.~~

Section 5.   <u>Section 627.7077, Florida Statutes, is repealed.</u>

Section 6.   Subsection (7) of section 627.712, Florida Statutes, is amended to read:

627.712   Residential windstorm coverage required; availability of exclusions for windstorm or contents.—

~~(7) This section is effective July 1, 2007, but the office may delay application of this section until a date no later than October 1, 2007, upon approval by the Financial Services Commission.~~

Section 7.   This act shall take effect July 1, 2011.

Approved by the Governor April 27, 2011.

Filed in Office Secretary of State April 27, 2011.