

Bill No. CS for SB 1108

Amendment No. ____

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Silver moved the following amendment to House		
12	Amendment 2:		
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14	Senate Amendment (with title amendment)		
15	On page 1, between lines 16 and 17,		
16			
17	insert:		
18	Section 5. Section 627.0628, Florida Statutes, is		
19	amended to read:		
20	627.0628 Florida Commission on Hurricane Loss		
21	Projection Methodology.--		
22	(1) LEGISLATIVE FINDINGS AND INTENT.--		
23	(a) Reliable projections of hurricane losses are		
24	necessary in order to assure that rates for residential		
25	property insurance meet the statutory requirement that rates		
26	be neither excessive nor inadequate. The ability to		
27	accurately project hurricane losses has been enhanced greatly		
28	in recent years through the use of computer modeling. It is		
29	the public policy of this state to encourage the use of the		
30	most sophisticated actuarial methods to assure that consumers		
31	are charged lawful rates for residential property insurance		

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1 coverage.

2 (b) The Legislature recognizes the need for expert
3 advice to the department concerning the evaluation of computer
4 models and other recently developed or improved actuarial
5 methodologies for projecting hurricane losses, in order to
6 enhance the department's ability to resolve conflicts among
7 actuarial professionals, and in order to provide both
8 immediate and continuing improvement in the sophistication of
9 actuarial methods used to set rates charged to consumers.

10 (c) It is the intent of the Legislature to create the
11 Florida Commission on Hurricane Loss Projection Methodology as
12 a panel of advisory experts to make recommendations to the
13 department concerning the components necessary to construct
14 provide the most actuarially sophisticated computer models and
15 actuarial methodologies possible guidelines and standards for
16 projection of potential hurricane losses ~~possible~~, given the
17 current state of actuarial science. It is the further intent
18 of the Legislature that such components may ~~standards and~~
19 ~~guidelines must~~ be used by the State Board of Administration
20 in developing reimbursement premium rates for the Florida
21 Hurricane Catastrophe Fund, and may be used by an insurer
22 insurers in a rate filing filings under s. 627.062, subject to
23 the following:

24 1. If the filing is a "file and use" filing and the
25 department has issued a notice of intent to disapprove the
26 filing, the insurer must demonstrate by clear and convincing
27 evidence that the results produced by the computer model or
28 actuarial methodology are accurate, reliable, and applied by
29 the insurer in a reasonable manner.

30 2. If the filing is a "use and file" filing and the
31 department finds preliminarily that the rate might be

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1 excessive, inadequate, or unfairly discriminatory, the
 2 insurer, with respect to the proceedings initiated by the
 3 department to disapprove the rate, if the insurer contests the
 4 finding, must demonstrate by clear and convincing evidence
 5 that the results produced by the computer model or actuarial
 6 methodology are accurate, reliable, and applied by the insurer
 7 in a reasonable manner.~~unless the way in which such standards~~
 8 ~~and guidelines were applied by the insurer was erroneous, as~~
 9 ~~shown by a preponderance of the evidence.~~

10 (d) It is the intent of the Legislature that such
 11 models and methodologies ~~standards and guidelines~~ be employed
 12 as soon as possible, and that they be subject to continuing
 13 review thereafter.

14 (2) COMMISSION CREATED.--

15 (a) There is created the Florida Commission on
 16 Hurricane Loss Projection Methodology, which is assigned to
 17 the State Board of Administration. The commission shall be
 18 administratively housed within the State Board of
 19 Administration, but it shall independently exercise the
 20 advisory responsibilities ~~powers~~ and duties specified in this
 21 section.

22 (b) The commission shall consist of the following 11
 23 members:

- 24 1. The insurance consumer advocate.
- 25 2. The Chief Operating Officer of the Florida
 26 Hurricane Catastrophe Fund.
- 27 3. The Executive Director of the Residential Property
 28 and Casualty Joint Underwriting Association.
- 29 4. The Director of the Division of Emergency
 30 Management of the Department of Community Affairs.
- 31 5. The actuary member of the Florida Hurricane

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1 Catastrophe Fund Advisory Council.

2 6. Six members appointed by the Insurance
3 Commissioner, as follows:

4 a. An employee of the Department of Insurance who is
5 an actuary responsible for property insurance rate filings.

6 b. An actuary who is employed full time by a property
7 and casualty insurer which was responsible for at least 1
8 percent of the aggregate statewide direct written premium for
9 homeowner's insurance in the calendar year preceding the
10 member's appointment to the commission.

11 c. An expert in insurance finance who is a full time
12 member of the faculty of the State University System and who
13 has a background in actuarial science.

14 d. An expert in statistics who is a full time member
15 of the faculty of the State University System and who has a
16 background in insurance.

17 e. An expert in computer system design who is a full
18 time member of the faculty of the State University System.

19 f. An expert in meteorology who is a full time member
20 of the faculty of the State University System and who
21 specializes in hurricanes.

22 (c) Members designated under subparagraphs (b)1.-5.
23 shall serve on the commission as long as they maintain the
24 respective offices designated in subparagraphs (b)1.-5.

25 Members appointed by the Insurance Commissioner under
26 subparagraph (b)6. shall serve on the commission until the end
27 of the term of office of the Insurance Commissioner who
28 appointed them, unless earlier removed by the Insurance
29 Commissioner for cause. Vacancies on the commission shall be
30 filled in the same manner as the original appointment.

31 (d) The State Board of Administration shall annually

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1 appoint one of the members of the commission to serve as
2 chair.

3 (e) Members of the commission shall serve without
4 compensation, but shall be reimbursed for per diem and travel
5 expenses pursuant to s. 112.061.

6 (f) The State Board of Administration shall, as a cost
7 of administration of the Florida Hurricane Catastrophe Fund,
8 provide for travel, expenses, and staff support for the
9 commission.

10 (g) There shall be no liability on the part of, and no
11 cause of action of any nature shall arise against, any member
12 of the commission, any member of the State Board of
13 Administration, or any employee of the State Board of
14 Administration for any action taken in the performance of
15 their duties under this section. In addition, the commission
16 may, in writing, waive any potential cause of action for
17 negligence of a consultant, contractor, or contract employee
18 engaged to assist the commission.

19 (3) ~~ADOPTION AND~~ EFFECT OF STANDARDS AND GUIDELINES.--

20 (a) In developing its recommendations to the
21 department, the commission shall consider any actuarial
22 methods, principles, standards, models, or output ranges that
23 have the potential for improving the accuracy of or
24 reliability of the hurricane loss projections used in
25 residential property insurance rate filings. The commission
26 shall, from time to time, provide information to the
27 department concerning ~~adopt findings as to~~ the accuracy or
28 reliability of particular methods, principles, standards,
29 models, or output ranges. It is not the role of the commission
30 to validate the use of any particular method, principle,
31 standard, model, or output range.

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1 (b) In establishing reimbursement premiums for the
2 Florida Hurricane Catastrophe Fund, the State Board of
3 Administration ~~may~~ must, to the extent feasible, employ
4 actuarial methods, principles, standards, models, or output
5 ranges provided ~~found~~ by the commission ~~to be accurate or~~
6 ~~reliable~~.

7 (c) With respect to a rate filing under s. 627.062, an
8 insurer may employ actuarial methods, principles, standards,
9 models, or output ranges provided ~~found~~ by the commission ~~to~~
10 ~~be accurate or reliable~~ to determine hurricane loss factors
11 for use in a rate filing under s. 627.062, which findings and
12 factors are admissible and relevant in consideration of a rate
13 filing by the department or in any ~~arbitration or~~
14 administrative or judicial review, subject to a determination
15 by the department, based on clear and convincing evidence,
16 that the methods, principles, standards, models, or output
17 ranges used by the insurer are, with respect to the specific
18 filing, including any characteristics of the area or risks
19 applicable to the filing, accurate and reliable and that they
20 are applied in a reasonable manner. The burden of proof shall
21 lie with the insurer.

22 (d) The commission shall provide information to the
23 department concerning the accuracy and reliability of
24 particular ~~adopt initial~~ actuarial methods, principles,
25 standards, models, or output ranges, including information
26 regarding any computer models or output ranges derived from
27 computer models, no later than December 31, 1998 ~~1995~~. The
28 commission shall furnish ~~adopt~~ revisions to such information
29 provided to the department ~~actuarial methods, principles,~~
30 ~~standards, models, or output ranges~~ at least annually
31 thereafter. ~~As soon as possible, but no later than July 1,~~

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1 ~~1996, the commission shall adopt revised actuarial methods,~~
2 ~~principles, standards, models, or output ranges which include~~
3 ~~specification of acceptable computer models or output ranges~~
4 ~~derived from computer models.~~

5 Section 6. Subsections (11) and (12) are added to
6 section 627.0629, Florida Statutes, to read:

7 627.0629 Residential property insurance; rate
8 filings.--

9 (11) The Department of Insurance shall contract with
10 one or more institutions of higher learning which are a part
11 of the State University System for the development of a model
12 or improved actuarial methodologies to be used by insurers as
13 the standard in assessing hurricane risk and to project
14 hurricane losses, to be used in the development of rates for
15 residential property insurance located in this state. In
16 developing the model or methodologies, the Department of
17 Insurance may, without a bidding process, negotiate and enter
18 into a contract or contracts with one or more institutions of
19 higher learning located in this state and, as necessary or
20 appropriate, with individual professionals or consultants
21 working in relation with such institutions, if any. The model
22 or methodologies shall include items or factors that should be
23 considered in light of local or regional conditions that may
24 affect the accuracy and reliability of the model when used in
25 specific rate filings. Any model or methodologies so developed
26 may be used by insurers in rate filings, and shall be used by
27 the Florida Hurricane Catastrophe Fund established under s.
28 215.555 in determining its reimbursement premiums, but shall
29 be subject to further review by the department on a
30 case-by-case basis. The model or methodologies shall be
31 nonproprietary and available for use in this state by insurers

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1 in developing rates with respect to assessing hurricane risk
2 and hurricane losses.

3 (12) When considering the reimbursement capacity of
4 the Florida Hurricane Catastrophe Fund, a rate filing for
5 residential property insurance shall include the effect of
6 premiums to be received by the fund during the policy period
7 for which the rates are to be in effect.

8 Section 7. There is appropriated for Fiscal Year
9 1998-1999 the sum of \$2 million from the Insurance
10 Commissioner's Regulatory Trust Fund to the Department of
11 Insurance for the purpose of funding the contract or contracts
12 authorized under section 6.

13
14 (Redesignate subsequent sections.)

15
16

17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 On page 20, line 5, after the colon,

20

21 insert:

22 amending s. 627.0628, F.S.; providing that the
23 recommendations of the Florida Commission on
24 Hurricane Loss Methodology are advisory to the
25 Department of Insurance; clarifying the nature
26 of such recommendations; establishing the
27 burden of proof and level of evidence necessary
28 regarding the use of models and methodologies
29 in certain rate filings; providing duties of
30 the department; requiring submission of the
31 commission's recommendations by a specified

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date; amending s. 627.0629, F.S.; authorizing the department to develop and adopt certain actuarial methodologies for certain purposes; authorizing the department to enter into contracts for such development; providing criteria; requiring that certain rate filings include the effect of premiums to be received by the Florida Hurricane Catastrophe Fund; providing an appropriation;