

By Senators Laurent and Dyer

14-1349-99

1 A bill to be entitled
2 An act relating to the Florida Windstorm
3 Underwriting Association; amending s. 627.351,
4 F.S.; specifying standards for rates of the
5 Florida Windstorm Underwriting Association;
6 providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Paragraph (b) of subsection (2) of section
11 627.351, Florida Statutes, 1998 Supplement, is amended to
12 read:

13 627.351 Insurance risk apportionment plans.--
14 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--
15 (b) The department shall require all insurers holding
16 a certificate of authority to transact property insurance on a
17 direct basis in this state, other than joint underwriting
18 associations and other entities formed pursuant to this
19 section, to provide windstorm coverage to applicants from
20 areas determined to be eligible pursuant to paragraph (c) who
21 in good faith are entitled to, but are unable to procure, such
22 coverage through ordinary means; or it shall adopt a
23 reasonable plan or plans for the equitable apportionment or
24 sharing among such insurers of windstorm coverage, which may
25 include formation of an association for this purpose. As used
26 in this subsection, the term "property insurance" means
27 insurance on real or personal property, as defined in s.
28 624.604, including insurance for fire, industrial fire, allied
29 lines, farmowners multiperil, homeowners' multiperil,
30 commercial multiperil, and mobile homes, and including
31 liability coverages on all such insurance, but excluding

1 inland marine as defined in s. 624.607(3) and excluding
2 vehicle insurance as defined in s. 624.605(1)(a) other than
3 insurance on mobile homes used as permanent dwellings. The
4 department shall adopt rules that provide a formula for the
5 recovery and repayment of any deferred assessments.

6 1. For the purpose of this section, properties
7 eligible for such windstorm coverage are defined as dwellings,
8 buildings, and other structures, including mobile homes which
9 are used as dwellings and which are tied down in compliance
10 with mobile home tie-down requirements prescribed by the
11 Department of Highway Safety and Motor Vehicles pursuant to s.
12 320.8325, and the contents of all such properties. An
13 applicant or policyholder is eligible for coverage only if an
14 offer of coverage cannot be obtained by or for the applicant
15 or policyholder from an admitted insurer at approved rates.

16 2.a.(I) All insurers required to be members of such
17 association shall participate in its writings, expenses, and
18 losses. Surplus of the association shall be retained for the
19 payment of claims and shall not be distributed to the member
20 insurers. Such participation by member insurers shall be in
21 the proportion that the net direct premiums of each member
22 insurer written for property insurance in this state during
23 the preceding calendar year bear to the aggregate net direct
24 premiums for property insurance of all member insurers, as
25 reduced by any credits for voluntary writings, in this state
26 during the preceding calendar year. For the purposes of this
27 subsection, the term "net direct premiums" means direct
28 written premiums for property insurance, reduced by premium
29 for liability coverage and for the following if included in
30 allied lines: rain and hail on growing crops; livestock;
31 association direct premiums booked; National Flood Insurance

1 Program direct premiums; and similar deductions specifically
2 authorized by the plan of operation and approved by the
3 department. A member's participation shall begin on the first
4 day of the calendar year following the year in which it is
5 issued a certificate of authority to transact property
6 insurance in the state and shall terminate 1 year after the
7 end of the calendar year during which it no longer holds a
8 certificate of authority to transact property insurance in the
9 state. The commissioner, after review of annual statements,
10 other reports, and any other statistics that the commissioner
11 deems necessary, shall certify to the association the
12 aggregate direct premiums written for property insurance in
13 this state by all member insurers.

14 (II) The plan of operation shall provide for a board
15 of directors consisting of the Insurance Consumer Advocate
16 appointed under s. 627.0613, 1 consumer representative
17 appointed by the Insurance Commissioner, 1 consumer
18 representative appointed by the Governor, and 12 additional
19 members appointed as specified in the plan of operation. One
20 of the 12 additional members shall be elected by the domestic
21 companies of this state on the basis of cumulative weighted
22 voting based on the net direct premiums of domestic companies
23 in this state. Nothing in the 1997 amendments to this
24 paragraph terminates the existing board or the terms of any
25 members of the board.

26 (III) The plan of operation shall provide a formula
27 whereby a company voluntarily providing windstorm coverage in
28 affected areas will be relieved wholly or partially from
29 apportionment of a regular assessment pursuant to
30 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

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1 (IV) A company which is a member of a group of
2 companies under common management may elect to have its
3 credits applied on a group basis, and any company or group may
4 elect to have its credits applied to any other company or
5 group.

6 (V) There shall be no credits or relief from
7 apportionment to a company for emergency assessments collected
8 from its policyholders under sub-sub-subparagraph d.(III).

9 (VI) The plan of operation may also provide for the
10 award of credits, for a period not to exceed 3 years, from a
11 regular assessment pursuant to sub-sub-subparagraph d.(I) or
12 sub-sub-subparagraph d.(II) as an incentive for taking
13 policies out of the Residential Property and Casualty Joint
14 Underwriting Association. In order to qualify for the
15 exemption under this sub-sub-subparagraph, the take-out plan
16 must provide that at least 40 percent of the policies removed
17 from the Residential Property and Casualty Joint Underwriting
18 Association cover risks located in Dade, Broward, and Palm
19 Beach Counties or at least 30 percent of the policies so
20 removed cover risks located in Dade, Broward, and Palm Beach
21 Counties and an additional 50 percent of the policies so
22 removed cover risks located in other coastal counties, and
23 must also provide that no more than 15 percent of the policies
24 so removed may exclude windstorm coverage. With the approval
25 of the department, the association may waive these geographic
26 criteria for a take-out plan that removes at least the lesser
27 of 100,000 Residential Property and Casualty Joint
28 Underwriting Association policies or 15 percent of the total
29 number of Residential Property and Casualty Joint Underwriting
30 Association policies, provided the governing board of the
31 Residential Property and Casualty Joint Underwriting

1 Association certifies that the take-out plan will materially
2 reduce the Residential Property and Casualty Joint
3 Underwriting Association's 100-year probable maximum loss from
4 hurricanes. With the approval of the department, the board
5 may extend such credits for an additional year if the insurer
6 guarantees an additional year of renewability for all policies
7 removed from the Residential Property and Casualty Joint
8 Underwriting Association, or for 2 additional years if the
9 insurer guarantees 2 additional years of renewability for all
10 policies removed from the Residential Property and Casualty
11 Joint Underwriting Association.

12 b. Assessments to pay deficits in the association
13 under this subparagraph shall be included as an appropriate
14 factor in the making of rates as provided in s. 627.3512.

15 c. The Legislature finds that the potential for
16 unlimited deficit assessments under this subparagraph may
17 induce insurers to attempt to reduce their writings in the
18 voluntary market, and that such actions would worsen the
19 availability problems that the association was created to
20 remedy. It is the intent of the Legislature that insurers
21 remain fully responsible for paying regular assessments and
22 collecting emergency assessments for any deficits of the
23 association; however, it is also the intent of the Legislature
24 to provide a means by which assessment liabilities may be
25 amortized over a period of years.

26 d.(I) When the deficit incurred in a particular
27 calendar year is 10 percent or less of the aggregate statewide
28 direct written premium for property insurance for the prior
29 calendar year for all member insurers, the association shall
30 levy an assessment on member insurers in an amount equal to
31 the deficit.

1 (II) When the deficit incurred in a particular
2 calendar year exceeds 10 percent of the aggregate statewide
3 direct written premium for property insurance for the prior
4 calendar year for all member insurers, the association shall
5 levy an assessment on member insurers in an amount equal to
6 the greater of 10 percent of the deficit or 10 percent of the
7 aggregate statewide direct written premium for property
8 insurance for the prior calendar year for member insurers. Any
9 remaining deficit shall be recovered through emergency
10 assessments under sub-sub-subparagraph (III).

11 (III) Upon a determination by the board of directors
12 that a deficit exceeds the amount that will be recovered
13 through regular assessments on member insurers, pursuant to
14 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
15 board shall levy, after verification by the department,
16 emergency assessments to be collected by member insurers and
17 by underwriting associations created pursuant to this section
18 which write property insurance, upon issuance or renewal of
19 property insurance policies other than National Flood
20 Insurance policies in the year or years following levy of the
21 regular assessments. The amount of the emergency assessment
22 collected in a particular year shall be a uniform percentage
23 of that year's direct written premium for property insurance
24 for all member insurers and underwriting associations,
25 excluding National Flood Insurance policy premiums, as
26 annually determined by the board and verified by the
27 department. The department shall verify the arithmetic
28 calculations involved in the board's determination within 30
29 days after receipt of the information on which the
30 determination was based. Notwithstanding any other provision
31 of law, each member insurer and each underwriting association

1 created pursuant to this section shall collect emergency
2 assessments from its policyholders without such obligation
3 being affected by any credit, limitation, exemption, or
4 deferment. The emergency assessments so collected shall be
5 transferred directly to the association on a periodic basis as
6 determined by the association. The aggregate amount of
7 emergency assessments levied under this sub-sub-subparagraph
8 in any calendar year may not exceed the greater of 10 percent
9 of the amount needed to cover the original deficit, plus
10 interest, fees, commissions, required reserves, and other
11 costs associated with financing of the original deficit, or 10
12 percent of the aggregate statewide direct written premium for
13 property insurance written by member insurers and underwriting
14 associations for the prior year, plus interest, fees,
15 commissions, required reserves, and other costs associated
16 with financing the original deficit. The board may pledge the
17 proceeds of the emergency assessments under this
18 sub-sub-subparagraph as the source of revenue for bonds, to
19 retire any other debt incurred as a result of the deficit or
20 events giving rise to the deficit, or in any other way that
21 the board determines will efficiently recover the deficit. The
22 emergency assessments under this sub-sub-subparagraph shall
23 continue as long as any bonds issued or other indebtedness
24 incurred with respect to a deficit for which the assessment
25 was imposed remain outstanding, unless adequate provision has
26 been made for the payment of such bonds or other indebtedness
27 pursuant to the document governing such bonds or other
28 indebtedness. Emergency assessments collected under this
29 sub-sub-subparagraph are not part of an insurer's rates, are
30 not premium, and are not subject to premium tax, fees, or
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1 commissions; however, failure to pay the emergency assessment
2 shall be treated as failure to pay premium.

3 (IV) Each member insurer's share of the total regular
4 assessments under sub-sub-subparagraph (I) or
5 sub-sub-subparagraph (II) shall be in the proportion that the
6 insurer's net direct premium for property insurance in this
7 state, for the year preceding the assessment bears to the
8 aggregate statewide net direct premium for property insurance
9 of all member insurers, as reduced by any credits for
10 voluntary writings for that year.

11 (V) If regular deficit assessments are made under
12 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by
13 the Residential Property and Casualty Joint Underwriting
14 Association under sub-subparagraph (6)(b)3.a. or
15 sub-subparagraph (6)(b)3.b., the association shall levy upon
16 the association's policyholders, as part of its next rate
17 filing, or by a separate rate filing solely for this purpose,
18 a market equalization surcharge in a percentage equal to the
19 total amount of such regular assessments divided by the
20 aggregate statewide direct written premium for property
21 insurance for member insurers for the prior calendar year.
22 Market equalization surcharges under this sub-sub-subparagraph
23 are not considered premium and are not subject to commissions,
24 fees, or premium taxes; however, failure to pay a market
25 equalization surcharge shall be treated as failure to pay
26 premium.

27 e. The governing body of any unit of local government,
28 any residents of which are insured under the plan, may issue
29 bonds as defined in s. 125.013 or s. 166.101 to fund an
30 assistance program, in conjunction with the association, for
31 the purpose of defraying deficits of the association. In order

1 to avoid needless and indiscriminate proliferation,
2 duplication, and fragmentation of such assistance programs,
3 any unit of local government, any residents of which are
4 insured by the association, may provide for the payment of
5 losses, regardless of whether or not the losses occurred
6 within or outside of the territorial jurisdiction of the local
7 government. Revenue bonds may not be issued until validated
8 pursuant to chapter 75, unless a state of emergency is
9 declared by executive order or proclamation of the Governor
10 pursuant to s. 252.36 making such findings as are necessary to
11 determine that it is in the best interests of, and necessary
12 for, the protection of the public health, safety, and general
13 welfare of residents of this state and the protection and
14 preservation of the economic stability of insurers operating
15 in this state, and declaring it an essential public purpose to
16 permit certain municipalities or counties to issue bonds as
17 will provide relief to claimants and policyholders of the
18 association and insurers responsible for apportionment of plan
19 losses. Any such unit of local government may enter into such
20 contracts with the association and with any other entity
21 created pursuant to this subsection as are necessary to carry
22 out this paragraph. Any bonds issued under this
23 sub-subparagraph shall be payable from and secured by moneys
24 received by the association from assessments under this
25 subparagraph, and assigned and pledged to or on behalf of the
26 unit of local government for the benefit of the holders of
27 such bonds. The funds, credit, property, and taxing power of
28 the state or of the unit of local government shall not be
29 pledged for the payment of such bonds. If any of the bonds
30 remain unsold 60 days after issuance, the department shall
31 require all insurers subject to assessment to purchase the

1 bonds, which shall be treated as admitted assets; each insurer
2 shall be required to purchase that percentage of the unsold
3 portion of the bond issue that equals the insurer's relative
4 share of assessment liability under this subsection. An
5 insurer shall not be required to purchase the bonds to the
6 extent that the department determines that the purchase would
7 endanger or impair the solvency of the insurer. The authority
8 granted by this sub-subparagraph is additional to any bonding
9 authority granted by subparagraph 6.

10 3. The plan shall also provide that any member with a
11 surplus as to policyholders of \$20 million or less writing 25
12 percent or more of its total countrywide property insurance
13 premiums in this state may petition the department, within the
14 first 90 days of each calendar year, to qualify as a limited
15 apportionment company. The apportionment of such a member
16 company in any calendar year for which it is qualified shall
17 not exceed its gross participation, which shall not be
18 affected by the formula for voluntary writings. In no event
19 shall a limited apportionment company be required to
20 participate in any apportionment of losses pursuant to
21 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II)
22 in the aggregate which exceeds \$50 million after payment of
23 available plan funds in any calendar year. However, a limited
24 apportionment company shall collect from its policyholders any
25 emergency assessment imposed under sub-sub-subparagraph
26 2.d.(III). The plan shall provide that, if the department
27 determines that any regular assessment will result in an
28 impairment of the surplus of a limited apportionment company,
29 the department may direct that all or part of such assessment
30 be deferred. However, there shall be no limitation or

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1 deferment of an emergency assessment to be collected from
2 policyholders under sub-sub-subparagraph 2.d.(III).

3 4. The plan shall provide for the deferment, in whole
4 or in part, of a regular assessment of a member insurer under
5 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II),
6 but not for an emergency assessment collected from
7 policyholders under sub-sub-subparagraph 2.d.(III), if, in the
8 opinion of the commissioner, payment of such regular
9 assessment would endanger or impair the solvency of the member
10 insurer. In the event a regular assessment against a member
11 insurer is deferred in whole or in part, the amount by which
12 such assessment is deferred may be assessed against the other
13 member insurers in a manner consistent with the basis for
14 assessments set forth in sub-sub-subparagraph 2.d.(I) or
15 sub-sub-subparagraph 2.d.(II).

16 5.a. The plan of operation may include deductibles and
17 rules for classification of risks and rate modifications
18 consistent with the objective of providing and maintaining
19 funds sufficient to pay catastrophe losses.

20 b. The association may require arbitration of a rate
21 filing under s. 627.062(6). It is the intent of the
22 Legislature that the rates for coverage provided by the
23 association be actuarially sound and not competitive with
24 approved rates charged in the admitted voluntary market such
25 that the association functions as a residual market mechanism
26 to provide insurance only when the insurance cannot be
27 procured in the voluntary market. Rates of the association
28 must be adequate to provide for both expected annual average
29 costs and a component for the cost of financing losses that
30 are not covered by accumulated premium and based on a
31 hurricane simulation model or models found acceptable by the

1 State Board of Administration for use in establishing rates of
2 the Florida Hurricane Catastrophe Fund; however, the effect of
3 this standard must be limited so that it does not result in
4 increases in windstorm premiums exceeding 40 percent in any
5 one calendar year for any single insured.The plan of
6 operation shall provide a mechanism to assure that, beginning
7 no later than January 1, 1999, the rates charged by the
8 association for each line of business are reflective of
9 approved rates in the voluntary market for hurricane coverage
10 for each line of business in the various areas eligible for
11 association coverage.

12 c. The association shall provide for windstorm
13 coverage on residential properties in limits up to \$10 million
14 for commercial lines residential risks and up to \$1 million
15 for personal lines residential risks. If coverage with the
16 association is sought for a residential risk valued in excess
17 of these limits, coverage shall be available to the risk up to
18 the replacement cost or actual cash value of the property, at
19 the option of the insured, if coverage for the risk cannot be
20 located in the authorized market. The association must accept
21 a commercial lines residential risk with limits above \$10
22 million or a personal lines residential risk with limits above
23 \$1 million if coverage is not available in the authorized
24 market. The association may write coverage above the limits
25 specified in this subparagraph with or without facultative or
26 other reinsurance coverage, as the association determines
27 appropriate.

28 d. The plan of operation must provide objective
29 criteria and procedures, approved by the department, to be
30 uniformly applied for all applicants in determining whether an
31 individual risk is so hazardous as to be uninsurable. In

1 making this determination and in establishing the criteria and
2 procedures, the following shall be considered:

3 (I) Whether the likelihood of a loss for the
4 individual risk is substantially higher than for other risks
5 of the same class; and

6 (II) Whether the uncertainty associated with the
7 individual risk is such that an appropriate premium cannot be
8 determined.

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10 The acceptance or rejection of a risk by the association
11 pursuant to such criteria and procedures must be construed as
12 the private placement of insurance, and the provisions of
13 chapter 120 do not apply.

14 e. The policies issued by the association must provide
15 that if the association obtains an offer from an authorized
16 insurer to cover the risk at its approved rates under either a
17 standard policy including wind coverage or, if consistent with
18 the insurer's underwriting rules as filed with the department,
19 a basic policy including wind coverage, the risk is no longer
20 eligible for coverage through the association. Upon
21 termination of eligibility, the association shall provide
22 written notice to the policyholder and agent of record stating
23 that the association policy must be canceled as of 60 days
24 after the date of the notice because of the offer of coverage
25 from an authorized insurer. Other provisions of the insurance
26 code relating to cancellation and notice of cancellation do
27 not apply to actions under this sub-subparagraph.

28 f. Association policies and applications must include
29 a notice that the association policy could, under this
30 section, be replaced with a policy issued by an authorized
31 insurer that does not provide coverage identical to the

1 coverage provided by the association. The notice shall also
2 specify that acceptance of association coverage creates a
3 conclusive presumption that the applicant or policyholder is
4 aware of this potential.

5 6.a. The plan of operation may authorize the formation
6 of a private nonprofit corporation, a private nonprofit
7 unincorporated association, a partnership, a trust, a limited
8 liability company, or a nonprofit mutual company which may be
9 empowered, among other things, to borrow money by issuing
10 bonds or by incurring other indebtedness and to accumulate
11 reserves or funds to be used for the payment of insured
12 catastrophe losses. The plan may authorize all actions
13 necessary to facilitate the issuance of bonds, including the
14 pledging of assessments or other revenues.

15 b. Any entity created under this subsection, or any
16 entity formed for the purposes of this subsection, may sue and
17 be sued, may borrow money; issue bonds, notes, or debt
18 instruments; pledge or sell assessments, market equalization
19 surcharges and other surcharges, rights, premiums, contractual
20 rights, projected recoveries from the Florida Hurricane
21 Catastrophe Fund, other reinsurance recoverables, and other
22 assets as security for such bonds, notes, or debt instruments;
23 enter into any contracts or agreements necessary or proper to
24 accomplish such borrowings; and take other actions necessary
25 to carry out the purposes of this subsection. The association
26 may issue bonds or incur other indebtedness, or have bonds
27 issued on its behalf by a unit of local government pursuant to
28 subparagraph (g)2., in the absence of a hurricane or other
29 weather-related event, upon a determination by the association
30 subject to approval by the department that such action would
31 enable it to efficiently meet the financial obligations of the

1 association and that such financings are reasonably necessary
2 to effectuate the requirements of this subsection. Any such
3 entity may accumulate reserves and retain surpluses as of the
4 end of any association year to provide for the payment of
5 losses incurred by the association during that year or any
6 future year. The association shall incorporate and continue
7 the plan of operation and articles of agreement in effect on
8 the effective date of chapter 76-96, Laws of Florida, to the
9 extent that it is not inconsistent with chapter 76-96, and as
10 subsequently modified consistent with chapter 76-96. The board
11 of directors and officers currently serving shall continue to
12 serve until their successors are duly qualified as provided
13 under the plan. The assets and obligations of the plan in
14 effect immediately prior to the effective date of chapter
15 76-96 shall be construed to be the assets and obligations of
16 the successor plan created herein.

17 c. In recognition of s. 10, Art. I of the State
18 Constitution, prohibiting the impairment of obligations of
19 contracts, it is the intent of the Legislature that no action
20 be taken whose purpose is to impair any bond indenture or
21 financing agreement or any revenue source committed by
22 contract to such bond or other indebtedness issued or incurred
23 by the association or any other entity created under this
24 subsection.

25 7. On such coverage, an agent's remuneration shall be
26 that amount of money payable to the agent by the terms of his
27 or her contract with the company with which the business is
28 placed. However, no commission will be paid on that portion of
29 the premium which is in excess of the standard premium of that
30 company.

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1 8. Subject to approval by the department, the
2 association may establish different eligibility requirements
3 and operational procedures for any line or type of coverage
4 for any specified eligible area or portion of an eligible area
5 if the board determines that such changes to the eligibility
6 requirements and operational procedures are justified due to
7 the voluntary market being sufficiently stable and competitive
8 in such area or for such line or type of coverage and that
9 consumers who, in good faith, are unable to obtain insurance
10 through the voluntary market through ordinary methods would
11 continue to have access to coverage from the association. When
12 coverage is sought in connection with a real property
13 transfer, such requirements and procedures shall not provide
14 for an effective date of coverage later than the date of the
15 closing of the transfer as established by the transferor, the
16 transferee, and, if applicable, the lender.

17 9. Notwithstanding any other provision of law:

18 a. The pledge or sale of, the lien upon, and the
19 security interest in any rights, revenues, or other assets of
20 the association created or purported to be created pursuant to
21 any financing documents to secure any bonds or other
22 indebtedness of the association shall be and remain valid and
23 enforceable, notwithstanding the commencement of and during
24 the continuation of, and after, any rehabilitation,
25 insolvency, liquidation, bankruptcy, receivership,
26 conservatorship, reorganization, or similar proceeding against
27 the association under the laws of this state or any other
28 applicable laws.

29 b. No such proceeding shall relieve the association of
30 its obligation, or otherwise affect its ability to perform its
31 obligation, to continue to collect, or levy and collect,

1 assessments, market equalization or other surcharges,
2 projected recoveries from the Florida Hurricane Catastrophe
3 Fund, reinsurance recoverables, or any other rights, revenues,
4 or other assets of the association pledged.

5 c. Each such pledge or sale of, lien upon, and
6 security interest in, including the priority of such pledge,
7 lien, or security interest, any such assessments, emergency
8 assessments, market equalization or renewal surcharges,
9 projected recoveries from the Florida Hurricane Catastrophe
10 Fund, reinsurance recoverables, or other rights, revenues, or
11 other assets which are collected, or levied and collected,
12 after the commencement of and during the pendency of or after
13 any such proceeding shall continue unaffected by such
14 proceeding.

15 d. As used in this subsection, the term "financing
16 documents" means any agreement, instrument, or other document
17 now existing or hereafter created evidencing any bonds or
18 other indebtedness of the association or pursuant to which any
19 such bonds or other indebtedness has been or may be issued and
20 pursuant to which any rights, revenues, or other assets of the
21 association are pledged or sold to secure the repayment of
22 such bonds or indebtedness, together with the payment of
23 interest on such bonds or such indebtedness, or the payment of
24 any other obligation of the association related to such bonds
25 or indebtedness.

26 e. Any such pledge or sale of assessments, revenues,
27 contract rights or other rights or assets of the association
28 shall constitute a lien and security interest, or sale, as the
29 case may be, that is immediately effective and attaches to
30 such assessments, revenues, contract, or other rights or
31 assets, whether or not imposed or collected at the time the

1 | pledge or sale is made. Any such pledge or sale is effective,
2 | valid, binding, and enforceable against the association or
3 | other entity making such pledge or sale, and valid and binding
4 | against and superior to any competing claims or obligations
5 | owed to any other person or entity, including policyholders in
6 | this state, asserting rights in any such assessments,
7 | revenues, contract, or other rights or assets to the extent
8 | set forth in and in accordance with the terms of the pledge or
9 | sale contained in the applicable financing documents, whether
10 | or not any such person or entity has notice of such pledge or
11 | sale and without the need for any physical delivery,
12 | recordation, filing, or other action.

13 | f. There shall be no liability on the part of, and no
14 | cause of action of any nature shall arise against, any member
15 | insurer or its agents or employees, agents or employees of the
16 | association, members of the board of directors of the
17 | association, or the department or its representatives, for any
18 | action taken by them in the performance of their duties or
19 | responsibilities under this subsection. Such immunity does not
20 | apply to actions for breach of any contract or agreement
21 | pertaining to insurance, or any willful tort.

22 | Section 2. This act shall take effect upon becoming a
23 | law.

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26 | SENATE SUMMARY

27 | Provides that rates of the Florida Windstorm Underwriting
28 | Association must be adequate to provide both expected
29 | annual average costs and a component for the cost of
30 | financing losses that are not covered by accumulated
31 | premium and based on a hurricane simulation model. The
 standard must be limited so that it does not result in
 increases in windstorm premiums exceeding 40 percent in a
 calendar year for a single insured.