

Bill No. CS for SB 2522

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
---------------	----------------	--------------

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
.
.
.
.
.

Senator Campbell moved the following amendment:

Senate Amendment (with title amendment)

On page 16, between lines 20 and 21,

insert:

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

627.351 Insurance risk apportionment plans.--

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

(b) The department shall require all insurers holding a certificate of authority to transact property insurance on a direct basis in this state, other than joint underwriting associations and other entities formed pursuant to this section, to provide windstorm coverage to applicants from areas determined to be eligible pursuant to paragraph (c) who in good faith are entitled to, but are unable to procure, such coverage through ordinary means; or it shall adopt a reasonable plan or plans for the equitable apportionment or sharing among such insurers of windstorm coverage, which may

Bill No. CS for SB 2522

Amendment No. ____

1 include formation of an association for this purpose. As used
 2 in this subsection, the term "property insurance" means
 3 insurance on real or personal property, as defined in s.
 4 624.604, including insurance for fire, industrial fire, allied
 5 lines, farmowners multiperil, homeowners' multiperil,
 6 commercial multiperil, and mobile homes, and including
 7 liability coverages on all such insurance, but excluding
 8 inland marine as defined in s. 624.607(3) and excluding
 9 vehicle insurance as defined in s. 624.605(1)(a) other than
 10 insurance on mobile homes used as permanent dwellings. The
 11 department shall adopt rules that provide a formula for the
 12 recovery and repayment of any deferred assessments.

13 1. For the purpose of this section, properties
 14 eligible for such windstorm coverage are defined as dwellings,
 15 buildings, and other structures, including mobile homes which
 16 are used as dwellings and which are tied down in compliance
 17 with mobile home tie-down requirements prescribed by the
 18 Department of Highway Safety and Motor Vehicles pursuant to s.
 19 320.8325, and the contents of all such properties. An
 20 applicant or policyholder is eligible for coverage only if an
 21 offer of coverage cannot be obtained by or for the applicant
 22 or policyholder from an admitted insurer at approved rates.

23 2.a.(I) All insurers required to be members of such
 24 association shall participate in its writings, expenses, and
 25 losses. Surplus of the association shall be retained for the
 26 payment of claims and shall not be distributed to the member
 27 insurers. Such participation by member insurers shall be in
 28 the proportion that the net direct premiums of each member
 29 insurer written for property insurance in this state during
 30 the preceding calendar year bear to the aggregate net direct
 31 premiums for property insurance of all member insurers, as

Bill No. CS for SB 2522

Amendment No. ____

1 reduced by any credits for voluntary writings, in this state
2 during the preceding calendar year. For the purposes of this
3 subsection, the term "net direct premiums" means direct
4 written premiums for property insurance, reduced by premium
5 for liability coverage and for the following if included in
6 allied lines: rain and hail on growing crops; livestock;
7 association direct premiums booked; National Flood Insurance
8 Program direct premiums; and similar deductions specifically
9 authorized by the plan of operation and approved by the
10 department. A member's participation shall begin on the first
11 day of the calendar year following the year in which it is
12 issued a certificate of authority to transact property
13 insurance in the state and shall terminate 1 year after the
14 end of the calendar year during which it no longer holds a
15 certificate of authority to transact property insurance in the
16 state. The commissioner, after review of annual statements,
17 other reports, and any other statistics that the commissioner
18 deems necessary, shall certify to the association the
19 aggregate direct premiums written for property insurance in
20 this state by all member insurers.

21 (II) The plan of operation shall provide for a board
22 of directors consisting of the Insurance Consumer Advocate
23 appointed under s. 627.0613, 1 consumer representative
24 appointed by the Insurance Commissioner, 1 insurance agent
25 appointed by the Insurance Commissioner who is, at the time of
26 appointment, writing insurance with the Florida Windstorm
27 Underwriting Association, 1 consumer representative appointed
28 by the Governor, and 12 additional members appointed as
29 specified in the plan of operation. One of the 12 additional
30 members shall be elected by the domestic companies of this
31 state on the basis of cumulative weighted voting based on the

Bill No. CS for SB 2522

Amendment No. ____

1 net direct premiums of domestic companies in this state.
2 Nothing in the 1997 amendments to this paragraph terminates
3 the existing board or the terms of any members of the board.

4 (III) The plan of operation shall provide a formula
5 whereby a company voluntarily providing windstorm coverage in
6 affected areas will be relieved wholly or partially from
7 apportionment of a regular assessment pursuant to
8 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

9 (IV) A company which is a member of a group of
10 companies under common management may elect to have its
11 credits applied on a group basis, and any company or group may
12 elect to have its credits applied to any other company or
13 group.

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

17 (VI) The plan of operation may also provide for the
18 award of credits, for a period not to exceed 3 years, from a
19 regular assessment pursuant to sub-sub-subparagraph d.(I) or
20 sub-sub-subparagraph d.(II) as an incentive for taking
21 policies out of the Residential Property and Casualty Joint
22 Underwriting Association. In order to qualify for the
23 exemption under this sub-sub-subparagraph, the take-out plan
24 must provide that at least 40 percent of the policies removed
25 from the Residential Property and Casualty Joint Underwriting
26 Association cover risks located in Dade, Broward, and Palm
27 Beach Counties or at least 30 percent of the policies so
28 removed cover risks located in Dade, Broward, and Palm Beach
29 Counties and an additional 50 percent of the policies so
30 removed cover risks located in other coastal counties, and
31 must also provide that no more than 15 percent of the policies

Bill No. CS for SB 2522

Amendment No. ____

1 so removed may exclude windstorm coverage. With the approval
2 of the department, the association may waive these geographic
3 criteria for a take-out plan that removes at least the lesser
4 of 100,000 Residential Property and Casualty Joint
5 Underwriting Association policies or 15 percent of the total
6 number of Residential Property and Casualty Joint Underwriting
7 Association policies, provided the governing board of the
8 Residential Property and Casualty Joint Underwriting
9 Association certifies that the take-out plan will materially
10 reduce the Residential Property and Casualty Joint
11 Underwriting Association's 100-year probable maximum loss from
12 hurricanes. With the approval of the department, the board
13 may extend such credits for an additional year if the insurer
14 guarantees an additional year of renewability for all policies
15 removed from the Residential Property and Casualty Joint
16 Underwriting Association, or for 2 additional years if the
17 insurer guarantees 2 additional years of renewability for all
18 policies removed from the Residential Property and Casualty
19 Joint Underwriting Association.

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

23 c. The Legislature finds that the potential for
24 unlimited deficit assessments under this subparagraph may
25 induce insurers to attempt to reduce their writings in the
26 voluntary market, and that such actions would worsen the
27 availability problems that the association was created to
28 remedy. It is the intent of the Legislature that insurers
29 remain fully responsible for paying regular assessments and
30 collecting emergency assessments for any deficits of the
31 association; however, it is also the intent of the Legislature

Bill No. CS for SB 2522

Amendment No. ____

1 to provide a means by which assessment liabilities may be
2 amortized over a period of years.

3 d.(I) When the deficit incurred in a particular
4 calendar year is 10 percent or less of the aggregate statewide
5 direct written premium for property insurance for the prior
6 calendar year for all member insurers, the association shall
7 levy an assessment on member insurers in an amount equal to
8 the deficit.

9 (II) When the deficit incurred in a particular
10 calendar year exceeds 10 percent of the aggregate statewide
11 direct written premium for property insurance for the prior
12 calendar year for all member insurers, the association shall
13 levy an assessment on member insurers in an amount equal to
14 the greater of 10 percent of the deficit or 10 percent of the
15 aggregate statewide direct written premium for property
16 insurance for the prior calendar year for member insurers. Any
17 remaining deficit shall be recovered through emergency
18 assessments under sub-sub-subparagraph (III).

19 (III) Upon a determination by the board of directors
20 that a deficit exceeds the amount that will be recovered
21 through regular assessments on member insurers, pursuant to
22 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the
23 board shall levy, after verification by the department,
24 emergency assessments to be collected by member insurers and
25 by underwriting associations created pursuant to this section
26 which write property insurance, upon issuance or renewal of
27 property insurance policies other than National Flood
28 Insurance policies in the year or years following levy of the
29 regular assessments. The amount of the emergency assessment
30 collected in a particular year shall be a uniform percentage
31 of that year's direct written premium for property insurance

Bill No. CS for SB 2522

Amendment No. ____

1 for all member insurers and underwriting associations,
2 excluding National Flood Insurance policy premiums, as
3 annually determined by the board and verified by the
4 department. The department shall verify the arithmetic
5 calculations involved in the board's determination within 30
6 days after receipt of the information on which the
7 determination was based. Notwithstanding any other provision
8 of law, each member insurer and each underwriting association
9 created pursuant to this section shall collect emergency
10 assessments from its policyholders without such obligation
11 being affected by any credit, limitation, exemption, or
12 deferment. The emergency assessments so collected shall be
13 transferred directly to the association on a periodic basis as
14 determined by the association. The aggregate amount of
15 emergency assessments levied under this sub-sub-subparagraph
16 in any calendar year may not exceed the greater of 10 percent
17 of the amount needed to cover the original deficit, plus
18 interest, fees, commissions, required reserves, and other
19 costs associated with financing of the original deficit, or 10
20 percent of the aggregate statewide direct written premium for
21 property insurance written by member insurers and underwriting
22 associations for the prior year, plus interest, fees,
23 commissions, required reserves, and other costs associated
24 with financing the original deficit. The board may pledge the
25 proceeds of the emergency assessments under this
26 sub-sub-subparagraph as the source of revenue for bonds, to
27 retire any other debt incurred as a result of the deficit or
28 events giving rise to the deficit, or in any other way that
29 the board determines will efficiently recover the deficit. The
30 emergency assessments under this sub-sub-subparagraph shall
31 continue as long as any bonds issued or other indebtedness

Bill No. CS for SB 2522

Amendment No. ____

1 incurred with respect to a deficit for which the assessment
 2 was imposed remain outstanding, unless adequate provision has
 3 been made for the payment of such bonds or other indebtedness
 4 pursuant to the document governing such bonds or other
 5 indebtedness. Emergency assessments collected under this
 6 sub-sub-subparagraph are not part of an insurer's rates, are
 7 not premium, and are not subject to premium tax, fees, or
 8 commissions; however, failure to pay the emergency assessment
 9 shall be treated as failure to pay premium.

10 (IV) Each member insurer's share of the total regular
 11 assessments under sub-sub-subparagraph (I) or
 12 sub-sub-subparagraph (II) shall be in the proportion that the
 13 insurer's net direct premium for property insurance in this
 14 state, for the year preceding the assessment bears to the
 15 aggregate statewide net direct premium for property insurance
 16 of all member insurers, as reduced by any credits for
 17 voluntary writings for that year.

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

Bill No. CS for SB 2522

Amendment No. ____

1 equalization surcharge shall be treated as failure to pay
2 premium.

3 e. The governing body of any unit of local government,
4 any residents of which are insured under the plan, may issue
5 bonds as defined in s. 125.013 or s. 166.101 to fund an
6 assistance program, in conjunction with the association, for
7 the purpose of defraying deficits of the association. In order
8 to avoid needless and indiscriminate proliferation,
9 duplication, and fragmentation of such assistance programs,
10 any unit of local government, any residents of which are
11 insured by the association, may provide for the payment of
12 losses, regardless of whether or not the losses occurred
13 within or outside of the territorial jurisdiction of the local
14 government. Revenue bonds may not be issued until validated
15 pursuant to chapter 75, unless a state of emergency is
16 declared by executive order or proclamation of the Governor
17 pursuant to s. 252.36 making such findings as are necessary to
18 determine that it is in the best interests of, and necessary
19 for, the protection of the public health, safety, and general
20 welfare of residents of this state and the protection and
21 preservation of the economic stability of insurers operating
22 in this state, and declaring it an essential public purpose to
23 permit certain municipalities or counties to issue bonds as
24 will provide relief to claimants and policyholders of the
25 association and insurers responsible for apportionment of plan
26 losses. Any such unit of local government may enter into such
27 contracts with the association and with any other entity
28 created pursuant to this subsection as are necessary to carry
29 out this paragraph. Any bonds issued under this
30 sub-subparagraph shall be payable from and secured by moneys
31 received by the association from assessments under this

Bill No. CS for SB 2522

Amendment No. ____

1 subparagraph, and assigned and pledged to or on behalf of the
2 unit of local government for the benefit of the holders of
3 such bonds. The funds, credit, property, and taxing power of
4 the state or of the unit of local government shall not be
5 pledged for the payment of such bonds. If any of the bonds
6 remain unsold 60 days after issuance, the department shall
7 require all insurers subject to assessment to purchase the
8 bonds, which shall be treated as admitted assets; each insurer
9 shall be required to purchase that percentage of the unsold
10 portion of the bond issue that equals the insurer's relative
11 share of assessment liability under this subsection. An
12 insurer shall not be required to purchase the bonds to the
13 extent that the department determines that the purchase would
14 endanger or impair the solvency of the insurer. The authority
15 granted by this sub-subparagraph is additional to any bonding
16 authority granted by subparagraph 6.

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

Bill No. CS for SB 2522

Amendment No. ____

1 emergency assessment imposed under sub-sub-subparagraph
2 2.d.(III). The plan shall provide that, if the department
3 determines that any regular assessment will result in an
4 impairment of the surplus of a limited apportionment company,
5 the department may direct that all or part of such assessment
6 be deferred. However, there shall be no limitation or
7 deferment of an emergency assessment to be collected from
8 policyholders under sub-sub-subparagraph 2.d.(III).

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

22 5.a. The plan of operation may include deductibles and
23 rules for classification of risks and rate modifications
24 consistent with the objective of providing and maintaining
25 funds sufficient to pay catastrophe losses.

26 b. The association may require arbitration of a rate
27 filing under s. 627.062(6). It is the intent of the
28 Legislature that the rates for coverage provided by the
29 association be actuarially sound and not competitive with
30 approved rates charged in the admitted voluntary market such
31 that the association functions as a residual market mechanism

Bill No. CS for SB 2522

Amendment No. ____

1 to provide insurance only when the insurance cannot be
2 procured in the voluntary market. The plan of operation shall
3 provide a mechanism to assure that, beginning no later than
4 January 1, 1999, the rates charged by the association for each
5 line of business are reflective of approved rates in the
6 voluntary market for hurricane coverage for each line of
7 business in the various areas eligible for association
8 coverage.

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

25 d. The plan of operation must provide objective
26 criteria and procedures, approved by the department, to be
27 uniformly applied for all applicants in determining whether an
28 individual risk is so hazardous as to be uninsurable. In
29 making this determination and in establishing the criteria and
30 procedures, the following shall be considered:

31 (I) Whether the likelihood of a loss for the

Bill No. CS for SB 2522

Amendment No. ____

1 individual risk is substantially higher than for other risks
2 of the same class; and

3 (II) Whether the uncertainty associated with the
4 individual risk is such that an appropriate premium cannot be
5 determined.

6
7 The acceptance or rejection of a risk by the association
8 pursuant to such criteria and procedures must be construed as
9 the private placement of insurance, and the provisions of
10 chapter 120 do not apply.

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

25 f. Association policies and applications must include
26 a notice that the association policy could, under this
27 section, be replaced with a policy issued by an authorized
28 insurer that does not provide coverage identical to the
29 coverage provided by the association. The notice shall also
30 specify that acceptance of association coverage creates a
31 conclusive presumption that the applicant or policyholder is

Bill No. CS for SB 2522

Amendment No. ____

1 aware of this potential.

2 g. Notwithstanding other provisions of this section,
3 no insured shall become ineligible for coverage from the
4 association if the department determines that:

5 (I) Loss of eligibility would result in an increase in
6 the total premium which exceeds 15 percent;

7 (II) The insurer has not committed in writing that it
8 will retain the risk for at least 3 years; or

9 (III) The insurer has failed to provide notice of all
10 terms of the offer to the insured and insured's existing
11 insurer at least 45 days prior to the proposed effective date
12 of coverage.

13
14 Any request for a determination of eligibility must be filed
15 with the association and the department within 45 days after
16 the insured's receipt of the alternative offer of coverage.

17 6.a. The plan of operation may authorize the formation
18 of a private nonprofit corporation, a private nonprofit
19 unincorporated association, a partnership, a trust, a limited
20 liability company, or a nonprofit mutual company which may be
21 empowered, among other things, to borrow money by issuing
22 bonds or by incurring other indebtedness and to accumulate
23 reserves or funds to be used for the payment of insured
24 catastrophe losses. The plan may authorize all actions
25 necessary to facilitate the issuance of bonds, including the
26 pledging of assessments or other revenues.

27 b. Any entity created under this subsection, or any
28 entity formed for the purposes of this subsection, may sue and
29 be sued, may borrow money; issue bonds, notes, or debt
30 instruments; pledge or sell assessments, market equalization
31 surcharges and other surcharges, rights, premiums, contractual

Bill No. CS for SB 2522

Amendment No. ____

1 rights, projected recoveries from the Florida Hurricane
2 Catastrophe Fund, other reinsurance recoverables, and other
3 assets as security for such bonds, notes, or debt instruments;
4 enter into any contracts or agreements necessary or proper to
5 accomplish such borrowings; and take other actions necessary
6 to carry out the purposes of this subsection. The association
7 may issue bonds or incur other indebtedness, or have bonds
8 issued on its behalf by a unit of local government pursuant to
9 subparagraph (g)2., in the absence of a hurricane or other
10 weather-related event, upon a determination by the association
11 subject to approval by the department that such action would
12 enable it to efficiently meet the financial obligations of the
13 association and that such financings are reasonably necessary
14 to effectuate the requirements of this subsection. Any such
15 entity may accumulate reserves and retain surpluses as of the
16 end of any association year to provide for the payment of
17 losses incurred by the association during that year or any
18 future year. The association shall incorporate and continue
19 the plan of operation and articles of agreement in effect on
20 the effective date of chapter 76-96, Laws of Florida, to the
21 extent that it is not inconsistent with chapter 76-96, and as
22 subsequently modified consistent with chapter 76-96. The board
23 of directors and officers currently serving shall continue to
24 serve until their successors are duly qualified as provided
25 under the plan. The assets and obligations of the plan in
26 effect immediately prior to the effective date of chapter
27 76-96 shall be construed to be the assets and obligations of
28 the successor plan created herein.

29 c. In recognition of s. 10, Art. I of the State
30 Constitution, prohibiting the impairment of obligations of
31 contracts, it is the intent of the Legislature that no action

Bill No. CS for SB 2522

Amendment No. ____

1 be taken whose purpose is to impair any bond indenture or
2 financing agreement or any revenue source committed by
3 contract to such bond or other indebtedness issued or incurred
4 by the association or any other entity created under this
5 subsection.

6 7. On such coverage, an agent's remuneration shall be
7 that amount of money payable to the agent by the terms of his
8 or her contract with the company with which the business is
9 placed. However, no commission will be paid on that portion of
10 the premium which is in excess of the standard premium of that
11 company.

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

28 9. Notwithstanding any other provision of law:

29 a. The pledge or sale of, the lien upon, and the
30 security interest in any rights, revenues, or other assets of
31 the association created or purported to be created pursuant to

Bill No. CS for SB 2522

Amendment No. ____

1 any financing documents to secure any bonds or other
 2 indebtedness of the association shall be and remain valid and
 3 enforceable, notwithstanding the commencement of and during
 4 the continuation of, and after, any rehabilitation,
 5 insolvency, liquidation, bankruptcy, receivership,
 6 conservatorship, reorganization, or similar proceeding against
 7 the association under the laws of this state or any other
 8 applicable laws.

9 b. No such proceeding shall relieve the association of
 10 its obligation, or otherwise affect its ability to perform its
 11 obligation, to continue to collect, or levy and collect,
 12 assessments, market equalization or other surcharges,
 13 projected recoveries from the Florida Hurricane Catastrophe
 14 Fund, reinsurance recoverables, or any other rights, revenues,
 15 or other assets of the association pledged.

16 c. Each such pledge or sale of, lien upon, and
 17 security interest in, including the priority of such pledge,
 18 lien, or security interest, any such assessments, emergency
 19 assessments, market equalization or renewal surcharges,
 20 projected recoveries from the Florida Hurricane Catastrophe
 21 Fund, reinsurance recoverables, or other rights, revenues, or
 22 other assets which are collected, or levied and collected,
 23 after the commencement of and during the pendency of or after
 24 any such proceeding shall continue unaffected by such
 25 proceeding.

26 d. As used in this subsection, the term "financing
 27 documents" means any agreement, instrument, or other document
 28 now existing or hereafter created evidencing any bonds or
 29 other indebtedness of the association or pursuant to which any
 30 such bonds or other indebtedness has been or may be issued and
 31 pursuant to which any rights, revenues, or other assets of the

Bill No. CS for SB 2522

Amendment No. ____

1 association are pledged or sold to secure the repayment of
2 such bonds or indebtedness, together with the payment of
3 interest on such bonds or such indebtedness, or the payment of
4 any other obligation of the association related to such bonds
5 or indebtedness.

6 e. Any such pledge or sale of assessments, revenues,
7 contract rights or other rights or assets of the association
8 shall constitute a lien and security interest, or sale, as the
9 case may be, that is immediately effective and attaches to
10 such assessments, revenues, contract, or other rights or
11 assets, whether or not imposed or collected at the time the
12 pledge or sale is made. Any such pledge or sale is effective,
13 valid, binding, and enforceable against the association or
14 other entity making such pledge or sale, and valid and binding
15 against and superior to any competing claims or obligations
16 owed to any other person or entity, including policyholders in
17 this state, asserting rights in any such assessments,
18 revenues, contract, or other rights or assets to the extent
19 set forth in and in accordance with the terms of the pledge or
20 sale contained in the applicable financing documents, whether
21 or not any such person or entity has notice of such pledge or
22 sale and without the need for any physical delivery,
23 recordation, filing, or other action.

24 f. There shall be no liability on the part of, and no
25 cause of action of any nature shall arise against, any member
26 insurer or its agents or employees, agents or employees of the
27 association, members of the board of directors of the
28 association, or the department or its representatives, for any
29 action taken by them in the performance of their duties or
30 responsibilities under this subsection. Such immunity does not
31 apply to actions for breach of any contract or agreement

Bill No. CS for SB 2522

Amendment No. ____

1 pertaining to insurance, or any willful tort.

2 Section 3. Paragraph (a) of subsection (2) of section
3 627.4025, Florida Statutes, is amended to read:

4 627.4025 Residential coverage and hurricane coverage
5 defined.--

6 (2) As used in policies providing residential
7 coverage:

8 (a) "Hurricane coverage" is coverage for loss or
9 damage caused by the peril of windstorm during a hurricane if
10 such loss or damage occurs in a county in which the Division
11 of Emergency Management of the Department of Community
12 Affairs, based upon official forecasting information from the
13 National Weather Service, declares that an area of the county
14 sustained winds that were part of the storm system. The term
15 includes ensuing damage to the interior of a building, or to
16 property inside a building, caused by rain, snow, sleet, hail,
17 sand, or dust if the direct force of the windstorm first
18 damages the building, causing an opening through which rain,
19 snow, sleet, hail, sand, or dust enters and causes damage.

20 Section 4. Section 627.0621, Florida Statutes, is
21 created to read:

22 627.0621 Expedited proceedings for file and use
23 filings.--When an organization of insurers authorized under s.
24 627.351 makes a "file and use" rate filing as defined in s.
25 627.062(2)(a)1., notwithstanding any other provision of law,
26 the following shall apply:

27 (1) The department shall, within 90 days after receipt
28 of the filing, notify the organization of the department's
29 approval or intent to disapprove the rate. At any time during
30 this 90-day period, the department may request additional
31 information from the organization, and such organization shall

Bill No. CS for SB 2522

Amendment No. ____

1 provide responsive information that is within its possession
2 or control within 45 days after receipt of such request, but
3 the making of or compliance with such request does not toll
4 the running of the 90-day period.

5 (2) If the organization requests formal administrative
6 proceedings as to the legality of its proposed rates, the
7 parties to the proceedings, and the hearing officer, shall
8 expedite discovery, and the final hearing shall begin within
9 45 days after the date of the hearing officer's initial order.

10 (3) The final determination of the hearing officer
11 shall be rendered to the department and the organization
12 within 15 days after conclusion of the hearing and constitutes
13 final agency action, which may be stayed or appealed as
14 provided in the Florida Rules of Appellate Procedure.

15
16 (Redesignate subsequent sections.)

17
18

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

20 And the title is amended as follows:

21 On page 2, line 5, after the semicolon,
22
23 insert:
24 amending s. 627.351, F.S.; revising the
25 composition of the board of the Florida
26 Windstorm Underwriting Association; revising
27 the requirement that certain insureds lose
28 their eligibility for the Florida Windstorm
29 Underwriting Association under certain
30 circumstances; amending s. 627.4025, F.S. ;
31 redefining the term "hurricane coverage" for

Bill No. CS for SB 2522

Amendment No. ____

1 purposes of residential property insurance;
2 creating s. 627.0621, F.S.; providing
3 procedures for an expedited review of "file and
4 use" filings;
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31