

Bill No. SB 1906

Amendment No. Barcode 353294

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

1		.
2		.
3		.
4		.

5		
6		
7		
8		
9		

11 Senator Geller moved the following amendment:

12

13 **Senate Amendment (with title amendment)**

14 On page 3, between lines 11 and 12,

15

16 insert:

17 Section 3. Paragraph (b) of subsection (2) of section

18 627.351, Florida Statutes, is amended to read:

19 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

20 (b) The department shall require all insurers holding

21 a certificate of authority to transact property insurance on a

22 direct basis in this state, other than joint underwriting

23 associations and other entities formed pursuant to this

24 section, to provide windstorm coverage to applicants from

25 areas determined to be eligible pursuant to paragraph (c) who

26 in good faith are entitled to, but are unable to procure, such

27 coverage through ordinary means; or it shall adopt a

28 reasonable plan or plans for the equitable apportionment or

29 sharing among such insurers of windstorm coverage, which may

30 include formation of an association for this purpose. As used

31 in this subsection, the term "property insurance" means

Bill No. SB 1906

Amendment No. ____ Barcode 353294

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

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

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

Bill No. SB 1906

Amendment No. ____ Barcode 353294

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

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

31 (III) The plan of operation shall provide a formula

Bill No. SB 1906

Amendment No. ____ Barcode 353294

1 whereby a company voluntarily providing windstorm coverage in
2 affected areas will be relieved wholly or partially from
3 apportionment of a regular assessment pursuant to
4 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

5 (IV) A company which is a member of a group of
6 companies under common management may elect to have its
7 credits applied on a group basis, and any company or group may
8 elect to have its credits applied to any other company or
9 group.

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

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

Bill No. SB 1906

Amendment No. ____ Barcode 353294

1 Underwriting Association policies or 15 percent of the total
2 number of Residential Property and Casualty Joint Underwriting
3 Association policies, provided the governing board of the
4 Residential Property and Casualty Joint Underwriting
5 Association certifies that the take-out plan will materially
6 reduce the Residential Property and Casualty Joint
7 Underwriting Association's 100-year probable maximum loss from
8 hurricanes. With the approval of the department, the board
9 may extend such credits for an additional year if the insurer
10 guarantees an additional year of renewability for all policies
11 removed from the Residential Property and Casualty Joint
12 Underwriting Association, or for 2 additional years if the
13 insurer guarantees 2 additional years of renewability for all
14 policies removed from the Residential Property and Casualty
15 Joint Underwriting Association.

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

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

30 d.(I) When the deficit incurred in a particular
31 calendar year is 10 percent or less of the aggregate statewide

Bill No. SB 1906

Amendment No. ____ Barcode 353294

1 direct written premium for property insurance for the prior
2 calendar year for all member insurers, the association shall
3 levy an assessment on member insurers in an amount equal to
4 the deficit.

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

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

Bill No. SB 1906

Amendment No. ____ Barcode 353294

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

Bill No. SB 1906

Amendment No. ____ Barcode 353294

1 indebtedness. Emergency assessments collected under this
2 sub-sub-subparagraph are not part of an insurer's rates, are
3 not premium, and are not subject to premium tax, fees, or
4 commissions; however, failure to pay the emergency assessment
5 shall be treated as failure to pay premium.

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

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

30 e. The governing body of any unit of local government,
31 any residents of which are insured under the plan, may issue

Bill No. SB 1906

Amendment No. ____ Barcode 353294

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

Bill No. SB 1906

Amendment No. ____ Barcode 353294

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

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

Bill No. SB 1906

Amendment No. ____ Barcode 353294

1 the department may direct that all or part of such assessment
2 be deferred. However, there shall be no limitation or
3 deferment of an emergency assessment to be collected from
4 policyholders under sub-sub-subparagraph 2.d.(III).

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

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

22 b. The association may require arbitration of a rate
23 filing under s. 627.062(6). It is the intent of the
24 Legislature that the rates for coverage provided by the
25 association be actuarially sound and not competitive with
26 approved rates charged in the admitted voluntary market such
27 that the association functions as a residual market mechanism
28 to provide insurance only when the insurance cannot be
29 procured in the voluntary market. The plan of operation shall
30 provide a mechanism to assure that, beginning no later than
31 January 1, 1999, the rates charged by the association for each

Bill No. SB 1906

Amendment No. ____ Barcode 353294

1 line of business are reflective of approved rates in the
2 voluntary market for hurricane coverage for each line of
3 business in the various areas eligible for association
4 coverage.

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

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

27 (I) Whether the likelihood of a loss for the
28 individual risk is substantially higher than for other risks
29 of the same class; and

30 (II) Whether the uncertainty associated with the
31 individual risk is such that an appropriate premium cannot be

Bill No. SB 1906

Amendment No. ____ Barcode 353294

1 determined.

2

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

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

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

29 6.a. The plan of operation may authorize the formation
30 of a private nonprofit corporation, a private nonprofit
31 unincorporated association, a partnership, a trust, a limited

Bill No. SB 1906

Amendment No. ____ Barcode 353294

1 liability company, or a nonprofit mutual company which may be
2 empowered, among other things, to borrow money by issuing
3 bonds or by incurring other indebtedness and to accumulate
4 reserves or funds to be used for the payment of insured
5 catastrophe losses. The plan may authorize all actions
6 necessary to facilitate the issuance of bonds, including the
7 pledging of assessments or other revenues.

8 b. Any entity created under this subsection, or any
9 entity formed for the purposes of this subsection, may sue and
10 be sued, may borrow money; issue bonds, notes, or debt
11 instruments; pledge or sell assessments, market equalization
12 surcharges and other surcharges, rights, premiums, contractual
13 rights, projected recoveries from the Florida Hurricane
14 Catastrophe Fund, other reinsurance recoverables, and other
15 assets as security for such bonds, notes, or debt instruments;
16 enter into any contracts or agreements necessary or proper to
17 accomplish such borrowings; and take other actions necessary
18 to carry out the purposes of this subsection. The association
19 may issue bonds or incur other indebtedness, or have bonds
20 issued on its behalf by a unit of local government pursuant to
21 subparagraph (g)2., in the absence of a hurricane or other
22 weather-related event, upon a determination by the association
23 subject to approval by the department that such action would
24 enable it to efficiently meet the financial obligations of the
25 association and that such financings are reasonably necessary
26 to effectuate the requirements of this subsection. Any such
27 entity may accumulate reserves and retain surpluses as of the
28 end of any association year to provide for the payment of
29 losses incurred by the association during that year or any
30 future year. The association shall incorporate and continue
31 the plan of operation and articles of agreement in effect on

Bill No. SB 1906

Amendment No. ____ Barcode 353294

1 the effective date of chapter 76-96, Laws of Florida, to the
 2 extent that it is not inconsistent with chapter 76-96, and as
 3 subsequently modified consistent with chapter 76-96. The board
 4 of directors and officers currently serving shall continue to
 5 serve until their successors are duly qualified as provided
 6 under the plan. The assets and obligations of the plan in
 7 effect immediately prior to the effective date of chapter
 8 76-96 shall be construed to be the assets and obligations of
 9 the successor plan created herein.

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

18 7. On such coverage, an agent's remuneration shall be
 19 that amount of money payable to the agent by the terms of his
 20 or her contract with the company with which the business is
 21 placed. However, no commission will be paid on that portion of
 22 the premium which is in excess of the standard premium of that
 23 company.

24 8. Subject to approval by the department, the
 25 association may establish different eligibility requirements
 26 and operational procedures for any line or type of coverage
 27 for any specified eligible area or portion of an eligible area
 28 if the board determines that such changes to the eligibility
 29 requirements and operational procedures are justified due to
 30 the voluntary market being sufficiently stable and competitive
 31 in such area or for such line or type of coverage and that

Bill No. SB 1906

Amendment No. ____ Barcode 353294

1 consumers who, in good faith, are unable to obtain insurance
 2 through the voluntary market through ordinary methods would
 3 continue to have access to coverage from the association. When
 4 coverage is sought in connection with a real property
 5 transfer, such requirements and procedures shall not provide
 6 for an effective date of coverage later than the date of the
 7 closing of the transfer as established by the transferor, the
 8 transferee, and, if applicable, the lender.

9 9. Notwithstanding any other provision of law:

10 a. The pledge or sale of, the lien upon, and the
 11 security interest in any rights, revenues, or other assets of
 12 the association created or purported to be created pursuant to
 13 any financing documents to secure any bonds or other
 14 indebtedness of the association shall be and remain valid and
 15 enforceable, notwithstanding the commencement of and during
 16 the continuation of, and after, any rehabilitation,
 17 insolvency, liquidation, bankruptcy, receivership,
 18 conservatorship, reorganization, or similar proceeding against
 19 the association under the laws of this state or any other
 20 applicable laws.

21 b. No such proceeding shall relieve the association of
 22 its obligation, or otherwise affect its ability to perform its
 23 obligation, to continue to collect, or levy and collect,
 24 assessments, market equalization or other surcharges,
 25 projected recoveries from the Florida Hurricane Catastrophe
 26 Fund, reinsurance recoverables, or any other rights, revenues,
 27 or other assets of the association pledged.

28 c. Each such pledge or sale of, lien upon, and
 29 security interest in, including the priority of such pledge,
 30 lien, or security interest, any such assessments, emergency
 31 assessments, market equalization or renewal surcharges,

Bill No. SB 1906

Amendment No. ____ Barcode 353294

1 projected recoveries from the Florida Hurricane Catastrophe
2 Fund, reinsurance recoverables, or other rights, revenues, or
3 other assets which are collected, or levied and collected,
4 after the commencement of and during the pendency of or after
5 any such proceeding shall continue unaffected by such
6 proceeding.

7 d. As used in this subsection, the term "financing
8 documents" means any agreement, instrument, or other document
9 now existing or hereafter created evidencing any bonds or
10 other indebtedness of the association or pursuant to which any
11 such bonds or other indebtedness has been or may be issued and
12 pursuant to which any rights, revenues, or other assets of the
13 association are pledged or sold to secure the repayment of
14 such bonds or indebtedness, together with the payment of
15 interest on such bonds or such indebtedness, or the payment of
16 any other obligation of the association related to such bonds
17 or indebtedness.

18 e. Any such pledge or sale of assessments, revenues,
19 contract rights or other rights or assets of the association
20 shall constitute a lien and security interest, or sale, as the
21 case may be, that is immediately effective and attaches to
22 such assessments, revenues, contract, or other rights or
23 assets, whether or not imposed or collected at the time the
24 pledge or sale is made. Any such pledge or sale is effective,
25 valid, binding, and enforceable against the association or
26 other entity making such pledge or sale, and valid and binding
27 against and superior to any competing claims or obligations
28 owed to any other person or entity, including policyholders in
29 this state, asserting rights in any such assessments,
30 revenues, contract, or other rights or assets to the extent
31 set forth in and in accordance with the terms of the pledge or

Bill No. SB 1906

Amendment No. ____ Barcode 353294

1 sale contained in the applicable financing documents, whether
2 or not any such person or entity has notice of such pledge or
3 sale and without the need for any physical delivery,
4 recordation, filing, or other action.

5 f. There shall be no liability on the part of, and no
6 cause of action of any nature shall arise against, any member
7 insurer or its agents or employees, agents or employees of the
8 association, members of the board of directors of the
9 association, or the department or its representatives, for any
10 action taken by them in the performance of their duties or
11 responsibilities under this subsection. Such immunity does not
12 apply to actions for breach of any contract or agreement
13 pertaining to insurance, or any willful tort.

14
15 (Redesignate subsequent sections.)

16
17

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

19 And the title is amended as follows:

20 On page 1, line 10, after the semicolon,

21

22 insert:

23 amending s. 627.351, F.S.; increasing the
24 qualifying statutory surplus amount for the
25 Florida Windstorm Underwriting Association
26 Limited Apportionment Status;

27
28
29
30
31