

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Insurance offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause  
and insert in lieu thereof:

Section 1. Subsections (1) and (4) of section 624.4072, Florida Statutes, are amended to read:

624.4072 Minority-owned property and casualty insurers; limited exemption for taxation and assessments.--

(1) A minority business that is at least 51 percent owned by minority persons, as defined in s. 288.703(3), initially issued a certificate of authority in this state as an authorized insurer after May 1, 1998, to write property and casualty insurance shall be exempt, for a period not to exceed 10 5 years from the date of receiving its certificate of authority, from the following taxes and assessments:

(a) Taxes imposed under ss. 175.101, 185.08, and 624.509;

(b) Assessments by the Florida Residential Property and Casualty Joint Underwriting Association or by the Florida

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1 Windstorm Underwriting Association, as provided under s.  
2 627.351, except for emergency assessments collected from  
3 policyholders pursuant to s. 627.351(2)(b)2.d.(III) and  
4 (6)(b)3.d. Any such insurer shall be a member insurer of the  
5 Florida Windstorm Underwriting Association and the Florida  
6 Residential Property and Casualty Joint Underwriting  
7 Association. The premiums of such insurer shall be included in  
8 determining, for the Florida Windstorm Underwriting  
9 Association, the aggregate statewide direct written premium  
10 for property insurance and in determining, for the Florida  
11 Residential Property and Casualty Joint Underwriting  
12 Association, the aggregate statewide direct written premium  
13 for the subject lines of business for all member insurers.

14 (4) This section is repealed effective December 31,  
15 2010 ~~July 1, 2003~~, and the tax and assessment exemptions  
16 authorized by this section shall terminate on such date.

17 Section 2. Subsection (11) is added to section  
18 627.0629, Florida Statutes, to read:

19 627.0629 Residential property insurance; rate  
20 filings.--

21 (11) All rate filings under this section relating to  
22 coverage for windstorm losses shall reflect historical  
23 insurance data. When using a computer model in making a rate  
24 filing under this section, the insurer may use only a computer  
25 model which is based upon standards and guidelines developed  
26 or established by the Florida Commission on Hurricane Loss  
27 Projection Methodology under s. 627.0628. Consideration of  
28 historical insurance data and the use of computer models shall  
29 be consistent with applicable actuarial standards of practice.

30 Section 3. Paragraph (b) of subsection (2) of section  
31 627.351, Florida Statutes, is amended to read:

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1           627.351 Insurance risk apportionment plans.--

2           (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

3           (b) The department shall require all insurers holding  
4 a certificate of authority to transact property insurance on a  
5 direct basis in this state, other than joint underwriting  
6 associations and other entities formed pursuant to this  
7 section, to provide windstorm coverage to applicants from  
8 areas determined to be eligible pursuant to paragraph (c) who  
9 in good faith are entitled to, but are unable to procure, such  
10 coverage through ordinary means; or it shall adopt a  
11 reasonable plan or plans for the equitable apportionment or  
12 sharing among such insurers of windstorm coverage, which may  
13 include formation of an association for this purpose. As used  
14 in this subsection, the term "property insurance" means  
15 insurance on real or personal property, as defined in s.  
16 624.604, including insurance for fire, industrial fire, allied  
17 lines, farmowners multiperil, homeowners' multiperil,  
18 commercial multiperil, and mobile homes, and including  
19 liability coverages on all such insurance, but excluding  
20 inland marine as defined in s. 624.607(3) and excluding  
21 vehicle insurance as defined in s. 624.605(1)(a) other than  
22 insurance on mobile homes used as permanent dwellings. The  
23 department shall adopt rules that provide a formula for the  
24 recovery and repayment of any deferred assessments.

25           1. For the purpose of this section, properties  
26 eligible for such windstorm coverage are defined as dwellings,  
27 buildings, and other structures, including mobile homes which  
28 are used as dwellings and which are tied down in compliance  
29 with mobile home tie-down requirements prescribed by the  
30 Department of Highway Safety and Motor Vehicles pursuant to s.  
31 320.8325, and the contents of all such properties. An

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1 applicant or policyholder is eligible for coverage only if an  
2 offer of coverage cannot be obtained by or for the applicant  
3 or policyholder from an admitted insurer at approved rates.  
4       2.a.(I) All insurers required to be members of such  
5 association shall participate in its writings, expenses, and  
6 losses. Surplus of the association shall be retained for the  
7 payment of claims and shall not be distributed to the member  
8 insurers. Such participation by member insurers shall be in  
9 the proportion that the net direct premiums of each member  
10 insurer written for property insurance in this state during  
11 the preceding calendar year bear to the aggregate net direct  
12 premiums for property insurance of all member insurers, as  
13 reduced by any credits for voluntary writings, in this state  
14 during the preceding calendar year. For the purposes of this  
15 subsection, the term "net direct premiums" means direct  
16 written premiums for property insurance, reduced by premium  
17 for liability coverage and for the following if included in  
18 allied lines: rain and hail on growing crops; livestock;  
19 association direct premiums booked; National Flood Insurance  
20 Program direct premiums; and similar deductions specifically  
21 authorized by the plan of operation and approved by the  
22 department. A member's participation shall begin on the first  
23 day of the calendar year following the year in which it is  
24 issued a certificate of authority to transact property  
25 insurance in the state and shall terminate 1 year after the  
26 end of the calendar year during which it no longer holds a  
27 certificate of authority to transact property insurance in the  
28 state. The commissioner, after review of annual statements,  
29 other reports, and any other statistics that the commissioner  
30 deems necessary, shall certify to the association the  
31 aggregate direct premiums written for property insurance in

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1 this state by all member insurers.

2           3. The plan shall also provide that any member with a  
3 surplus as to policyholders of ~~\$25~~\$20 million or less writing  
4 25 percent or more of its total countrywide property insurance  
5 premiums in this state may petition the department, within the  
6 first 90 days of each calendar year, to qualify as a limited  
7 apportionment company. The apportionment of such a member  
8 company in any calendar year for which it is qualified shall  
9 not exceed its gross participation, which shall not be  
10 affected by the formula for voluntary writings. In no event  
11 shall a limited apportionment company be required to  
12 participate in any apportionment of losses pursuant to  
13 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II)  
14 in the aggregate which exceeds \$50 million after payment of  
15 available plan funds in any calendar year. However, a limited  
16 apportionment company shall collect from its policyholders any  
17 emergency assessment imposed under sub-sub-subparagraph  
18 2.d.(III). The plan shall provide that, if the department  
19 determines that any regular assessment will result in an  
20 impairment of the surplus of a limited apportionment company,  
21 the department may direct that all or part of such assessment  
22 be deferred. However, there shall be no limitation or  
23 deferment of an emergency assessment to be collected from  
24 policyholders under sub-sub-subparagraph 2.d.(III).

25           (II) The plan of operation shall provide for a board  
26 of directors consisting of the Insurance Consumer Advocate  
27 appointed under s. 627.0613, 2 ~~±~~ consumer representatives  
28 ~~representative~~ appointed by the Insurance Commissioner, 1  
29 consumer representative appointed by the Governor, 1 consumer  
30 representative appointed by the Speaker of the House of  
31 Representatives, 1 consumer representative appointed by the

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1 President of the Senate, 1 representative of a financial  
2 institution engaging in residential mortgage lending within  
3 the association's eligible areas, 1 representative of realtors  
4 engaged in the sale of residential property within the  
5 association's eligible areas, 1 representative who has  
6 expertise in State Minimum Building Codes and coastal  
7 construction, 1 association policyholder, and 1 representative  
8 who is a licensed property and casualty insurance agent, and 4  
9 ~~12~~ additional members appointed as specified in the plan of  
10 operation. One of the 4 ~~12~~ additional members shall be  
11 elected by the domestic companies of this state on the basis  
12 of cumulative weighted voting based on the net direct premiums  
13 of domestic companies in this state and shall be residents of  
14 this state. Nothing in the 1997 amendments to this paragraph  
15 terminates the existing board or the terms of any members of  
16 the board.

17 (III) The plan of operation shall provide a formula  
18 whereby a company voluntarily providing windstorm coverage in  
19 affected areas will be relieved wholly or partially from  
20 apportionment of a regular assessment pursuant to  
21 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

22 (IV) A company which is a member of a group of  
23 companies under common management may elect to have its  
24 credits applied on a group basis, and any company or group may  
25 elect to have its credits applied to any other company or  
26 group.

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

30 (VI) The plan of operation may also provide for the  
31 award of credits, for a period not to exceed 3 years, from a

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1 regular assessment pursuant to sub-sub-subparagraph d.(I) or  
2 sub-sub-subparagraph d.(II) as an incentive for taking  
3 policies out of the Residential Property and Casualty Joint  
4 Underwriting Association. In order to qualify for the  
5 exemption under this sub-sub-subparagraph, the take-out plan  
6 must provide that at least 40 percent of the policies removed  
7 from the Residential Property and Casualty Joint Underwriting  
8 Association cover risks located in Dade, Broward, and Palm  
9 Beach Counties or at least 30 percent of the policies so  
10 removed cover risks located in Dade, Broward, and Palm Beach  
11 Counties and an additional 50 percent of the policies so  
12 removed cover risks located in other coastal counties, and  
13 must also provide that no more than 15 percent of the policies  
14 so removed may exclude windstorm coverage. With the approval  
15 of the department, the association may waive these geographic  
16 criteria for a take-out plan that removes at least the lesser  
17 of 100,000 Residential Property and Casualty Joint  
18 Underwriting Association policies or 15 percent of the total  
19 number of Residential Property and Casualty Joint Underwriting  
20 Association policies, provided the governing board of the  
21 Residential Property and Casualty Joint Underwriting  
22 Association certifies that the take-out plan will materially  
23 reduce the Residential Property and Casualty Joint  
24 Underwriting Association's 100-year probable maximum loss from  
25 hurricanes. With the approval of the department, the board  
26 may extend such credits for an additional year if the insurer  
27 guarantees an additional year of renewability for all policies  
28 removed from the Residential Property and Casualty Joint  
29 Underwriting Association, or for 2 additional years if the  
30 insurer guarantees 2 additional years of renewability for all  
31 policies removed from the Residential Property and Casualty

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1 Joint Underwriting Association.

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

5           c. The Legislature finds that the potential for  
6 unlimited deficit assessments under this subparagraph may  
7 induce insurers to attempt to reduce their writings in the  
8 voluntary market, and that such actions would worsen the  
9 availability problems that the association was created to  
10 remedy. It is the intent of the Legislature that insurers  
11 remain fully responsible for paying regular assessments and  
12 collecting emergency assessments for any deficits of the  
13 association; however, it is also the intent of the Legislature  
14 to provide a means by which assessment liabilities may be  
15 amortized over a period of years.

16           d.(I) When the deficit incurred in a particular  
17 calendar year is 10 percent or less of the aggregate statewide  
18 direct written premium for property insurance for the prior  
19 calendar year for all member insurers, the association shall  
20 levy an assessment on member insurers in an amount equal to  
21 the deficit.

22           (II) When the deficit incurred in a particular  
23 calendar year exceeds 10 percent of the aggregate statewide  
24 direct written premium for property insurance for the prior  
25 calendar year for all member insurers, the association shall  
26 levy an assessment on member insurers in an amount equal to  
27 the greater of 10 percent of the deficit or 10 percent of the  
28 aggregate statewide direct written premium for property  
29 insurance for the prior calendar year for member insurers. Any  
30 remaining deficit shall be recovered through emergency  
31 assessments under sub-sub-subparagraph (III).

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1           (III) Upon a determination by the board of directors  
2 that a deficit exceeds the amount that will be recovered  
3 through regular assessments on member insurers, pursuant to  
4 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the  
5 board shall levy, after verification by the department,  
6 emergency assessments to be collected by member insurers and  
7 by underwriting associations created pursuant to this section  
8 which write property insurance, upon issuance or renewal of  
9 property insurance policies other than National Flood  
10 Insurance policies in the year or years following levy of the  
11 regular assessments. The amount of the emergency assessment  
12 collected in a particular year shall be a uniform percentage  
13 of that year's direct written premium for property insurance  
14 for all member insurers and underwriting associations,  
15 excluding National Flood Insurance policy premiums, as  
16 annually determined by the board and verified by the  
17 department. The department shall verify the arithmetic  
18 calculations involved in the board's determination within 30  
19 days after receipt of the information on which the  
20 determination was based. Notwithstanding any other provision  
21 of law, each member insurer and each underwriting association  
22 created pursuant to this section shall collect emergency  
23 assessments from its policyholders without such obligation  
24 being affected by any credit, limitation, exemption, or  
25 deferment. The emergency assessments so collected shall be  
26 transferred directly to the association on a periodic basis as  
27 determined by the association. The aggregate amount of  
28 emergency assessments levied under this sub-sub-subparagraph  
29 in any calendar year may not exceed the greater of 10 percent  
30 of the amount needed to cover the original deficit, plus  
31 interest, fees, commissions, required reserves, and other

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1 costs associated with financing of the original deficit, or 10  
2 percent of the aggregate statewide direct written premium for  
3 property insurance written by member insurers and underwriting  
4 associations for the prior year, plus interest, fees,  
5 commissions, required reserves, and other costs associated  
6 with financing the original deficit. The board may pledge the  
7 proceeds of the emergency assessments under this  
8 sub-sub-subparagraph as the source of revenue for bonds, to  
9 retire any other debt incurred as a result of the deficit or  
10 events giving rise to the deficit, or in any other way that  
11 the board determines will efficiently recover the deficit. The  
12 emergency assessments under this sub-sub-subparagraph shall  
13 continue as long as any bonds issued or other indebtedness  
14 incurred with respect to a deficit for which the assessment  
15 was imposed remain outstanding, unless adequate provision has  
16 been made for the payment of such bonds or other indebtedness  
17 pursuant to the document governing such bonds or other  
18 indebtedness. Emergency assessments collected under this  
19 sub-sub-subparagraph are not part of an insurer's rates, are  
20 not premium, and are not subject to premium tax, fees, or  
21 commissions; however, failure to pay the emergency assessment  
22 shall be treated as failure to pay premium.

23 (IV) Each member insurer's share of the total regular  
24 assessments under sub-sub-subparagraph (I) or  
25 sub-sub-subparagraph (II) shall be in the proportion that the  
26 insurer's net direct premium for property insurance in this  
27 state, for the year preceding the assessment bears to the  
28 aggregate statewide net direct premium for property insurance  
29 of all member insurers, as reduced by any credits for  
30 voluntary writings for that year.

31 (V) If regular deficit assessments are made under

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1 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by  
2 the Residential Property and Casualty Joint Underwriting  
3 Association under sub-subparagraph (6)(b)3.a. or  
4 sub-subparagraph (6)(b)3.b., the association shall levy upon  
5 the association's policyholders, as part of its next rate  
6 filing, or by a separate rate filing solely for this purpose,  
7 a market equalization surcharge in a percentage equal to the  
8 total amount of such regular assessments divided by the  
9 aggregate statewide direct written premium for property  
10 insurance for member insurers for the prior calendar year.  
11 Market equalization surcharges under this sub-sub-subparagraph  
12 are not considered premium and are not subject to commissions,  
13 fees, or premium taxes; however, failure to pay a market  
14 equalization surcharge shall be treated as failure to pay  
15 premium.

16 e. The governing body of any unit of local government,  
17 any residents of which are insured under the plan, may issue  
18 bonds as defined in s. 125.013 or s. 166.101 to fund an  
19 assistance program, in conjunction with the association, for  
20 the purpose of defraying deficits of the association. In order  
21 to avoid needless and indiscriminate proliferation,  
22 duplication, and fragmentation of such assistance programs,  
23 any unit of local government, any residents of which are  
24 insured by the association, may provide for the payment of  
25 losses, regardless of whether or not the losses occurred  
26 within or outside of the territorial jurisdiction of the local  
27 government. Revenue bonds may not be issued until validated  
28 pursuant to chapter 75, unless a state of emergency is  
29 declared by executive order or proclamation of the Governor  
30 pursuant to s. 252.36 making such findings as are necessary to  
31 determine that it is in the best interests of, and necessary

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1 for, the protection of the public health, safety, and general  
2 welfare of residents of this state and the protection and  
3 preservation of the economic stability of insurers operating  
4 in this state, and declaring it an essential public purpose to  
5 permit certain municipalities or counties to issue bonds as  
6 will provide relief to claimants and policyholders of the  
7 association and insurers responsible for apportionment of plan  
8 losses. Any such unit of local government may enter into such  
9 contracts with the association and with any other entity  
10 created pursuant to this subsection as are necessary to carry  
11 out this paragraph. Any bonds issued under this  
12 sub-subparagraph shall be payable from and secured by moneys  
13 received by the association from assessments under this  
14 subparagraph, and assigned and pledged to or on behalf of the  
15 unit of local government for the benefit of the holders of  
16 such bonds. The funds, credit, property, and taxing power of  
17 the state or of the unit of local government shall not be  
18 pledged for the payment of such bonds. If any of the bonds  
19 remain unsold 60 days after issuance, the department shall  
20 require all insurers subject to assessment to purchase the  
21 bonds, which shall be treated as admitted assets; each insurer  
22 shall be required to purchase that percentage of the unsold  
23 portion of the bond issue that equals the insurer's relative  
24 share of assessment liability under this subsection. An  
25 insurer shall not be required to purchase the bonds to the  
26 extent that the department determines that the purchase would  
27 endanger or impair the solvency of the insurer. The authority  
28 granted by this sub-subparagraph is additional to any bonding  
29 authority granted by subparagraph 6.

30 3. The plan shall also provide that any member with a  
31 surplus as to policyholders of ~~\$25~~\$20 million or less writing

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1 25 percent or more of its total countrywide property insurance  
2 premiums in this state may petition the department, within the  
3 first 90 days of each calendar year, to qualify as a limited  
4 apportionment company. The apportionment of such a member  
5 company in any calendar year for which it is qualified shall  
6 not exceed its gross participation, which shall not be  
7 affected by the formula for voluntary writings. In no event  
8 shall a limited apportionment company be required to  
9 participate in any apportionment of losses pursuant to  
10 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II)  
11 in the aggregate which exceeds \$50 million after payment of  
12 available plan funds in any calendar year. However, a limited  
13 apportionment company shall collect from its policyholders any  
14 emergency assessment imposed under sub-sub-subparagraph  
15 2.d.(III). The plan shall provide that, if the department  
16 determines that any regular assessment will result in an  
17 impairment of the surplus of a limited apportionment company,  
18 the department may direct that all or part of such assessment  
19 be deferred. However, there shall be no limitation or  
20 deferment of an emergency assessment to be collected from  
21 policyholders under sub-sub-subparagraph 2.d.(III).

22 4. The plan shall provide for the deferment, in whole  
23 or in part, of a regular assessment of a member insurer under  
24 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II),  
25 but not for an emergency assessment collected from  
26 policyholders under sub-sub-subparagraph 2.d.(III), if, in the  
27 opinion of the commissioner, payment of such regular  
28 assessment would endanger or impair the solvency of the member  
29 insurer. In the event a regular assessment against a member  
30 insurer is deferred in whole or in part, the amount by which  
31 such assessment is deferred may be assessed against the other

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1 member insurers in a manner consistent with the basis for  
2 assessments set forth in sub-sub-subparagraph 2.d.(I) or  
3 sub-sub-subparagraph 2.d.(II).

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

8           b. The association may require arbitration of a rate  
9 filing under s. 627.062(6). It is the intent of the  
10 Legislature that the rates for coverage provided by the  
11 association be actuarially sound and not competitive with  
12 approved rates charged in the admitted voluntary market such  
13 that the association functions as a residual market mechanism  
14 to provide insurance only when the insurance cannot be  
15 procured in the voluntary market. The plan of operation shall  
16 provide a mechanism to assure that, beginning no later than  
17 January 1, 1999, the rates charged by the association for each  
18 line of business are reflective of approved rates in the  
19 voluntary market for hurricane coverage for each line of  
20 business in the various areas eligible for association  
21 coverage.

22           c. The association shall provide for windstorm  
23 coverage on residential properties in limits up to \$10 million  
24 for commercial lines residential risks and up to \$1 million  
25 for personal lines residential risks. If coverage with the  
26 association is sought for a residential risk valued in excess  
27 of these limits, coverage shall be available to the risk up to  
28 the replacement cost or actual cash value of the property, at  
29 the option of the insured, if coverage for the risk cannot be  
30 located in the authorized market. The association must accept  
31 a commercial lines residential risk with limits above \$10

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1 million or a personal lines residential risk with limits above  
2 \$1 million if coverage is not available in the authorized  
3 market. The association may write coverage above the limits  
4 specified in this subparagraph with or without facultative or  
5 other reinsurance coverage, as the association determines  
6 appropriate.

7 d. The plan of operation must provide objective  
8 criteria and procedures, approved by the department, to be  
9 uniformly applied for all applicants in determining whether an  
10 individual risk is so hazardous as to be uninsurable. In  
11 making this determination and in establishing the criteria and  
12 procedures, the following shall be considered:

13 (I) Whether the likelihood of a loss for the  
14 individual risk is substantially higher than for other risks  
15 of the same class; and

16 (II) Whether the uncertainty associated with the  
17 individual risk is such that an appropriate premium cannot be  
18 determined.

19

20 The acceptance or rejection of a risk by the association  
21 pursuant to such criteria and procedures must be construed as  
22 the private placement of insurance, and the provisions of  
23 chapter 120 do not apply.

24 e. When the association enters into a contractual  
25 agreement for a take-out plan, the producing agent of record  
26 of the association policy is entitled to retain any unearned  
27 commission on such policy, and the take-out insurer shall:

28 (I) Pay to the producing agent of record of the  
29 association policy an amount equal to the insurer's usual and  
30 customary commission for the type of policy written if the  
31 term of the association policy was in excess of 6 months, or

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1 one-half of such usual and customary commission if the term of  
2 the association policy was 6 months or less; or

3 (II) Offer to allow the producing agent of record of  
4 the association policy to continue servicing the policy for a  
5 period of not less than 1 year and offer to pay the agent the  
6 insurer's usual and customary commission for the type of  
7 policy written.

8  
9 The take-out insurer need not take any further action if the  
10 offer is rejected. This sub-subparagraph does not apply to any  
11 reciprocal interinsurance exchange, nonprofit federation, or  
12 any subsidiary or affiliate of such organization. This  
13 sub-subparagraph does not apply if the agent is also the agent  
14 of record on the new coverage. The requirement of this  
15 sub-subparagraph that the producing agent of record is  
16 entitled to retain the unearned commission on an association  
17 policy does not apply to a policy for which coverage has been  
18 provided in the association for 30 days or less.

19 f. The policies issued by the association must provide  
20 that if the association obtains an offer from an authorized  
21 insurer to cover the risk at its approved rates under either a  
22 standard policy including wind coverage or, if consistent with  
23 the insurer's underwriting rules as filed with the department,  
24 a basic policy including wind coverage, the risk is no longer  
25 eligible for coverage through the association. Upon  
26 termination of eligibility, the association shall provide  
27 written notice to the policyholder and agent of record stating  
28 that the association policy must be canceled as of 60 days  
29 after the date of the notice because of the offer of coverage  
30 from an authorized insurer. Other provisions of the insurance  
31 code relating to cancellation and notice of cancellation do

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1 not apply to actions under this sub-subparagraph.

2 ~~g.f.~~ Association policies and applications must  
3 include a notice that the association policy could, under this  
4 section, be replaced with a policy issued by an authorized  
5 insurer that does not provide coverage identical to the  
6 coverage provided by the association. The notice shall also  
7 specify that acceptance of association coverage creates a  
8 conclusive presumption that the applicant or policyholder is  
9 aware of this potential.

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

20 b. Any entity created under this subsection, or any  
21 entity formed for the purposes of this subsection, may sue and  
22 be sued, may borrow money; issue bonds, notes, or debt  
23 instruments; pledge or sell assessments, market equalization  
24 surcharges and other surcharges, rights, premiums, contractual  
25 rights, projected recoveries from the Florida Hurricane  
26 Catastrophe Fund, other reinsurance recoverables, and other  
27 assets as security for such bonds, notes, or debt instruments;  
28 enter into any contracts or agreements necessary or proper to  
29 accomplish such borrowings; and take other actions necessary  
30 to carry out the purposes of this subsection. The association  
31 may issue bonds or incur other indebtedness, or have bonds

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1 issued on its behalf by a unit of local government pursuant to  
2 subparagraph (g)2., in the absence of a hurricane or other  
3 weather-related event, upon a determination by the association  
4 subject to approval by the department that such action would  
5 enable it to efficiently meet the financial obligations of the  
6 association and that such financings are reasonably necessary  
7 to effectuate the requirements of this subsection. Any such  
8 entity may accumulate reserves and retain surpluses as of the  
9 end of any association year to provide for the payment of  
10 losses incurred by the association during that year or any  
11 future year. The association shall incorporate and continue  
12 the plan of operation and articles of agreement in effect on  
13 the effective date of chapter 76-96, Laws of Florida, to the  
14 extent that it is not inconsistent with chapter 76-96, and as  
15 subsequently modified consistent with chapter 76-96. The board  
16 of directors and officers currently serving shall continue to  
17 serve until their successors are duly qualified as provided  
18 under the plan. The assets and obligations of the plan in  
19 effect immediately prior to the effective date of chapter  
20 76-96 shall be construed to be the assets and obligations of  
21 the successor plan created herein.

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

30 7. On such coverage, an agent's remuneration shall be  
31 that amount of money payable to the agent by the terms of his

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1 or her contract with the company with which the business is  
2 placed. However, no commission will be paid on that portion of  
3 the premium which is in excess of the standard premium of that  
4 company.

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

21           9. Notwithstanding any other provision of law:

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

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1 applicable laws.

2           b. No such proceeding shall relieve the association of  
3 its obligation, or otherwise affect its ability to perform its  
4 obligation, to continue to collect, or levy and collect,  
5 assessments, market equalization or other surcharges,  
6 projected recoveries from the Florida Hurricane Catastrophe  
7 Fund, reinsurance recoverables, or any other rights, revenues,  
8 or other assets of the association pledged.

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

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

30           e. Any such pledge or sale of assessments, revenues,  
31 contract rights or other rights or assets of the association

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

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

26 Section 4. Effective June 1, 2001, paragraph (c) is  
27 added to subsection (1) of section 627.7013, Florida Statutes,  
28 and paragraph (e) of subsection (2) of that section is amended  
29 to read:

30 627.7013 Orderly markets for personal lines  
31 residential property insurance.--

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1 (1) FINDINGS AND PURPOSE.--

2 (c) The Legislature finds, as of January 1, 2001,  
3 that:

4 1. The conditions described in paragraphs (a) and (b)  
5 remain applicable to the property insurance market in this  
6 state in 2001 and are likely to remain applicable for several  
7 years thereafter.

8 2. The general instability of the market is reflected  
9 by the following facts:

10 a. The Florida Windstorm Underwriting Association has  
11 more than 400,000 policies in force and the Florida  
12 Residential Property and Casualty Joint Underwriting  
13 Association has more than 60,000 policies in force.

14 b. A further extension of the operation of this  
15 section until June 1, 2004, will provide an opportunity for  
16 the market to stabilize and for continuation of residual  
17 market depopulation efforts.

18 (2) MORATORIUM COMPLETION.--

19 (e) This subsection is repealed ~~on~~ June 1, 2004 ~~2001~~.

20 Section 5. Effective June 1, 2001, present paragraph  
21 (c) of subsection (1) of section 627.7014, Florida Statutes,  
22 is redesignated as paragraph (d), a new paragraph (c) is added  
23 to that subsection, and paragraph (d) of subsection (2) of  
24 that section is amended to read:

25 627.7014 Orderly markets for condominium association  
26 residential property insurance.--

27 (1) FINDINGS AND PURPOSE.--

28 (c) The Legislature finds, as of January 1, 2001,  
29 that:

30 1. The conditions described in paragraph (a) remain  
31 applicable to the commercial residential property insurance

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1 market in this state in 2001 and are likely to remain  
2 applicable for several years thereafter.

3 2. The general instability of the market is reflected  
4 by the fact that the Florida Windstorm Underwriting  
5 Association has approximately 9,000 commercial residential  
6 policies in force as of December 31, 2000.

7 3. An extension of the operation of this section until  
8 June 1, 2004, will provide an opportunity for the market to  
9 stabilize and for continuation of residual market depopulation  
10 efforts.

11 (2) MORATORIUM.--

12 (d) This subsection is repealed on June 1, 2004 ~~2001~~.

13 Section 6. This act shall take effect upon becoming a  
14 law.

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

18 And the title is amended as follows:

19 On page 1,  
20 remove from the title of the bill: The entire title  
21  
22 and insert in lieu thereof:

23 A bill to be entitled  
24 An act relating to property insurance; amending  
25 s. 624.4072, F.S.; increasing a period of  
26 exemption from certain taxes and assessments  
27 for certain minority businesses; extending a  
28 future repeal; amending s. 627.0629, F.S.;  
29 specifying criteria for certain rate filings;  
30 providing requirements; amending s. 627.351,  
31 F.S.; revising surplus requirements for limited

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apportionment companies; revising the membership of the board of directors of the Florida Windstorm Underwriting Association; providing for payment of agent commission; amending s. 627.7013, F.S.; extending a moratorium applicable to certain markets; amending s. 627.7014, extending the moratorium applicable to certain markets; providing an effective date.