

Bill No. PCS for SB 1488 (060960)

Barcode 383960

	CHAMBER ACTION	
<u>Senate</u>		<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

.  
.  
.  
.  
.  
.

---

The Committee on Banking and Insurance (Alexander) recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 18, lines 14-18, delete those lines

and insert:

Section 7. Effective August 1, 2005, paragraphs (b), (c), (d), and (g) of subsection (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.--

(6) CITIZENS PROPERTY INSURANCE CORPORATION.--

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers, but insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the

Bill No. PCS for SB 1488 (060960)

Barcode 383960

1 corporation and are referred to collectively as "assessable  
 2 insureds." An authorized insurer's assessment liability shall  
 3 begin on the first day of the calendar year following the year  
 4 in which the insurer was issued a certificate of authority to  
 5 transact insurance for subject lines of business in this state  
 6 and shall terminate 1 year after the end of the first calendar  
 7 year during which the insurer no longer holds a certificate of  
 8 authority to transact insurance for subject lines of business  
 9 in this state.

10           2.a. All revenues, assets, liabilities, losses, and  
 11 expenses of the corporation shall be divided into three  
 12 separate accounts as follows:

13           (I) A personal lines account for personal residential  
 14 policies issued by the corporation or issued by the  
 15 Residential Property and Casualty Joint Underwriting  
 16 Association and renewed by the corporation that provide  
 17 comprehensive, multiperil coverage on risks that are not  
 18 located in areas eligible for coverage in the Florida  
 19 Windstorm Underwriting Association as those areas were defined  
 20 on January 1, 2002, and for such policies that do not provide  
 21 coverage for the peril of wind on risks that are located in  
 22 such areas;

23           (II) A commercial lines account for commercial  
 24 residential policies issued by the corporation or issued by  
 25 the Residential Property and Casualty Joint Underwriting  
 26 Association and renewed by the corporation that provide  
 27 coverage for basic property perils on risks that are not  
 28 located in areas eligible for coverage in the Florida  
 29 Windstorm Underwriting Association as those areas were defined  
 30 on January 1, 2002, and for such policies that do not provide  
 31 coverage for the peril of wind on risks that are located in

Bill No. PCS for SB 1488 (060960)

Barcode 383960

1 such areas; and

2 (III) A high-risk account for personal residential  
3 policies and commercial residential and commercial  
4 nonresidential property policies issued by the corporation or  
5 transferred to the corporation that provide coverage for the  
6 peril of wind on risks that are located in areas eligible for  
7 coverage in the Florida Windstorm Underwriting Association as  
8 those areas were defined on January 1, 2002. The high-risk  
9 account must also include quota share primary insurance under  
10 subparagraph (c)2. The area eligible for coverage under the  
11 high-risk account also includes the area within Port  
12 Canaveral, which is bordered on the south by the City of Cape  
13 Canaveral, bordered on the west by the Banana River, and  
14 bordered on the north by Federal Government property. The  
15 office may remove territory from the area eligible for  
16 wind-only and quota share coverage if, after a public hearing,  
17 the office finds that authorized insurers in the voluntary  
18 market are willing and able to write sufficient amounts of  
19 personal and commercial residential coverage for all perils in  
20 the territory, including coverage for the peril of wind, such  
21 that risks covered by wind-only policies in the removed  
22 territory could be issued a policy by the corporation in  
23 either the personal lines or commercial lines account without  
24 a significant increase in the corporation's probable maximum  
25 loss in such account. Removal of territory from the area  
26 eligible for wind-only or quota share coverage does not alter  
27 the assignment of wind coverage written in such areas to the  
28 high-risk account.

29 b. The three separate accounts must be maintained as  
30 long as financing obligations entered into by the Florida  
31 Windstorm Underwriting Association or Residential Property and

Bill No. PCS for SB 1488 (060960)

Barcode 383960

1 Casualty Joint Underwriting Association are outstanding, in  
 2 accordance with the terms of the corresponding financing  
 3 documents. When the financing obligations are no longer  
 4 outstanding, in accordance with the terms of the corresponding  
 5 financing documents, the corporation may use a single account  
 6 for all revenues, assets, liabilities, losses, and expenses of  
 7 the corporation.

8       c. Creditors of the Residential Property and Casualty  
 9 Joint Underwriting Association shall have a claim against, and  
 10 recourse to, the accounts referred to in sub-sub-subparagraphs  
 11 a.(I) and (II) and shall have no claim against, or recourse  
 12 to, the account referred to in sub-sub-subparagraph a.(III).  
 13 Creditors of the Florida Windstorm Underwriting Association  
 14 shall have a claim against, and recourse to, the account  
 15 referred to in sub-sub-subparagraph a.(III) and shall have no  
 16 claim against, or recourse to, the accounts referred to in  
 17 sub-sub-subparagraphs a.(I) and (II).

18       d. Revenues, assets, liabilities, losses, and expenses  
 19 not attributable to particular accounts shall be prorated  
 20 among the accounts.

21       e. The Legislature finds that the revenues of the  
 22 corporation are revenues that are necessary to meet the  
 23 requirements set forth in documents authorizing the issuance  
 24 of bonds under this subsection.

25       f. No part of the income of the corporation may inure  
 26 to the benefit of any private person.

27       3. With respect to a deficit in an account:

28       a. When the deficit incurred in a particular calendar  
 29 year is not greater than 10 percent of the aggregate statewide  
 30 direct written premium for the subject lines of business for  
 31 the prior calendar year, the entire deficit shall be recovered

Bill No. PCS for SB 1488 (060960)

Barcode 383960

1 through regular assessments of assessable insurers under  
2 paragraph (g) and assessable insureds.

3           b. When the deficit incurred in a particular calendar  
4 year exceeds 10 percent of the aggregate statewide direct  
5 written premium for the subject lines of business for the  
6 prior calendar year, the corporation shall levy regular  
7 assessments on assessable insurers under paragraph (g) and on  
8 assessable insureds in an amount equal to the greater of 10  
9 percent of the deficit or 10 percent of the aggregate  
10 statewide direct written premium for the subject lines of  
11 business for the prior calendar year. Any remaining deficit  
12 shall be recovered through emergency assessments under  
13 sub-subparagraph d.

14           c. Each assessable insurer's share of the amount being  
15 assessed under sub-subparagraph a. or sub-subparagraph b.  
16 shall be in the proportion that the assessable insurer's  
17 direct written premium for the subject lines of business for  
18 the year preceding the assessment bears to the aggregate  
19 statewide direct written premium for the subject lines of  
20 business for that year. The assessment percentage applicable  
21 to each assessable insured is the ratio of the amount being  
22 assessed under sub-subparagraph a. or sub-subparagraph b. to  
23 the aggregate statewide direct written premium for the subject  
24 lines of business for the prior year. Assessments levied by  
25 the corporation on assessable insurers under sub-subparagraphs  
26 a. and b. shall be paid as required by the corporation's plan  
27 of operation and paragraph (g). Assessments levied by the  
28 corporation on assessable insureds under sub-subparagraphs a.  
29 and b. shall be collected by the surplus lines agent at the  
30 time the surplus lines agent collects the surplus lines tax  
31 required by s. 626.932 and shall be paid to the Florida

Bill No. PCS for SB 1488 (060960)

Barcode 383960

1 Surplus Lines Service Office at the time the surplus lines  
 2 agent pays the surplus lines tax to the Florida Surplus Lines  
 3 Service Office. Upon receipt of regular assessments from  
 4 surplus lines agents, the Florida Surplus Lines Service Office  
 5 shall transfer the assessments directly to the corporation as  
 6 determined by the corporation.

7           d. Upon a determination by the board of governors that  
 8 a deficit in an account exceeds the amount that will be  
 9 recovered through regular assessments under sub-subparagraph  
 10 a. or sub-subparagraph b., the board shall levy, after  
 11 verification by the office, emergency assessments, for as many  
 12 years as necessary to cover the deficits, to be collected by  
 13 assessable insurers and the corporation and collected from  
 14 assessable insureds upon issuance or renewal of policies for  
 15 subject lines of business, excluding National Flood Insurance  
 16 policies. The amount of the emergency assessment collected in  
 17 a particular year shall be a uniform percentage of that year's  
 18 direct written premium for subject lines of business and all  
 19 accounts of the corporation, excluding National Flood  
 20 Insurance Program policy premiums, as annually determined by  
 21 the board and verified by the office. The office shall verify  
 22 the arithmetic calculations involved in the board's  
 23 determination within 30 days after receipt of the information  
 24 on which the determination was based. Notwithstanding any  
 25 other provision of law, the corporation and each assessable  
 26 insurer that writes subject lines of business shall collect  
 27 emergency assessments from its policyholders without such  
 28 obligation being affected by any credit, limitation,  
 29 exemption, or deferment. Emergency assessments levied by the  
 30 corporation on assessable insureds shall be collected by the  
 31 surplus lines agent at the time the surplus lines agent

Bill No. PCS for SB 1488 (060960)

Barcode 383960

1 collects the surplus lines tax required by s. 626.932 and  
 2 shall be paid to the Florida Surplus Lines Service Office at  
 3 the time the surplus lines agent pays the surplus lines tax to  
 4 the Florida Surplus Lines Service Office. The emergency  
 5 assessments so collected shall be transferred directly to the  
 6 corporation on a periodic basis as determined by the  
 7 corporation and shall be held by the corporation solely in the  
 8 applicable account. The aggregate amount of emergency  
 9 assessments levied for an account under this sub-subparagraph  
 10 in any calendar year may not exceed the greater of 10 percent  
 11 of the amount needed to cover the original deficit, plus  
 12 interest, fees, commissions, required reserves, and other  
 13 costs associated with financing of the original deficit, or 10  
 14 percent of the aggregate statewide direct written premium for  
 15 subject lines of business and for all accounts of the  
 16 corporation for the prior year, plus interest, fees,  
 17 commissions, required reserves, and other costs associated  
 18 with financing the original deficit.

19 e. The corporation may pledge the proceeds of  
 20 assessments, projected recoveries from the Florida Hurricane  
 21 Catastrophe Fund, other insurance and reinsurance  
 22 recoverables, market equalization surcharges and other  
 23 surcharges, and other funds available to the corporation as  
 24 the source of revenue for and to secure bonds issued under  
 25 paragraph (g), bonds or other indebtedness issued under  
 26 subparagraph (c)3., or lines of credit or other financing  
 27 mechanisms issued or created under this subsection, or to  
 28 retire any other debt incurred as a result of deficits or  
 29 events giving rise to deficits, or in any other way that the  
 30 board determines will efficiently recover such deficits. The  
 31 purpose of the lines of credit or other financing mechanisms

Bill No. PCS for SB 1488 (060960)

Barcode 383960

1 is to provide additional resources to assist the corporation  
 2 in covering claims and expenses attributable to a catastrophe.  
 3 As used in this subsection, the term "assessments" includes  
 4 regular assessments under sub-subparagraph a.,  
 5 sub-subparagraph b., or subparagraph (g)1. and emergency  
 6 assessments under sub-subparagraph d. Emergency assessments  
 7 collected under sub-subparagraph d. are not part of an  
 8 insurer's rates, are not premium, and are not subject to  
 9 premium tax, fees, or commissions; however, failure to pay the  
 10 emergency assessment shall be treated as failure to pay  
 11 premium. The emergency assessments under sub-subparagraph d.  
 12 shall continue as long as any bonds issued or other  
 13 indebtedness incurred with respect to a deficit for which the  
 14 assessment was imposed remain outstanding, unless adequate  
 15 provision has been made for the payment of such bonds or other  
 16 indebtedness pursuant to the documents governing such bonds or  
 17 other indebtedness.

18 f. As used in this subsection, the term "subject lines  
 19 of business" means insurance written by assessable insurers or  
 20 procured by assessable insureds on real or personal property,  
 21 as defined in s. 624.604, including insurance for fire,  
 22 industrial fire, allied lines, farmowners multiperil,  
 23 homeowners multiperil, commercial multiperil, and mobile  
 24 homes, and including liability coverage on all such insurance,  
 25 but excluding inland marine as defined in s. 624.607(3) and  
 26 excluding vehicle insurance as defined in s. 624.605(1) other  
 27 than insurance on mobile homes used as permanent dwellings.

28 g. The Florida Surplus Lines Service Office shall  
 29 determine annually the aggregate statewide written premium in  
 30 subject lines of business procured by assessable insureds and  
 31 shall report that information to the corporation in a form and



Bill No. PCS for SB 1488 (060960)

Barcode 383960

1 at a time the corporation specifies to ensure that the  
2 corporation can meet the requirements of this subsection and  
3 the corporation's financing obligations.

4 h. The Florida Surplus Lines Service Office shall  
5 verify the proper application by surplus lines agents of  
6 assessment percentages for regular assessments and emergency  
7 assessments levied under this subparagraph on assessable  
8 insureds and shall assist the corporation in ensuring the  
9 accurate, timely collection and payment of assessments by  
10 surplus lines agents as required by the corporation.

11 i. The other provisions of this paragraph  
12 notwithstanding, the maximum amount of deficits in all  
13 accounts combined, attributable to losses from a single  
14 calendar year, which may be recovered directly or indirectly  
15 through any form of regular or emergency assessment under this  
16 paragraph may not exceed \$8 billion for 2005, \$7 billion for  
17 2006, \$6 billion for 2007, and \$5 billion for 2008.

18  
19

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

21 And the title is amended as follows:

22 On page 2, line 9, after the semicolon,

23

24 insert:

25 providing a cap on deficits of the Citizens  
26 Property Insurance Corporation deficits which  
27 may be recovered through assessments;

28  
29  
30  
31