

Bill No. CS for CS for SB 1488

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CHAMBER ACTION

Senate

House

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Senator Garcia moved the following amendment:

**Senate Amendment (with title amendment)**

On page 18, line 6, through  
page 40, line 10, delete those lines

and insert:

Section 7. Paragraphs (a), (c), (d), and (q) of  
subsection (6) of section 627.351, Florida Statutes, are  
amended to read:

627.351 Insurance risk apportionment plans.--

(6) CITIZENS PROPERTY INSURANCE CORPORATION.--

(a)1. The Legislature finds that actual and threatened  
catastrophic losses to property in this state from hurricanes  
have caused insurers to be unwilling or unable to provide  
property insurance coverage to the extent sought and needed.  
It is in the public interest and a public purpose to assist in  
assuring that property in the state is insured so as to  
facilitate the remediation, reconstruction, and replacement of  
damaged or destroyed property in order to reduce or avoid the  
negative effects otherwise resulting to the public health,

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1 safety, and welfare; to the economy of the state; and to the  
 2 revenues of the state and local governments needed to provide  
 3 for the public welfare. It is necessary, therefore, to provide  
 4 property insurance to applicants who are in good faith  
 5 entitled to procure insurance through the voluntary market but  
 6 are unable to do so. The Legislature intends by this  
 7 subsection that property insurance be provided and that it  
 8 continues, as long as necessary, through an entity organized  
 9 to achieve efficiencies and economies, while providing service  
 10 to policyholders, applicants, and agents that is no less than  
 11 the quality generally provided in the voluntary market, all  
 12 toward the achievement of the foregoing public purposes.  
 13 Because it is essential for the corporation to have the  
 14 maximum financial resources to pay claims following a  
 15 catastrophic hurricane, it is the intent of the Legislature  
 16 that the income of the corporation be exempt from federal  
 17 income taxation and that interest on the debt obligations  
 18 issued by the corporation be exempt from federal income  
 19 taxation.

20           2. The Residential Property and Casualty Joint  
 21 Underwriting Association originally created by this statute  
 22 shall be known, as of July 1, 2002, as the Citizens Property  
 23 Insurance Corporation. The corporation shall provide insurance  
 24 for residential and commercial property, for applicants who  
 25 are in good faith entitled, but are unable, to procure  
 26 insurance through the voluntary market. The corporation shall  
 27 operate pursuant to a plan of operation approved by order of  
 28 the office. The plan is subject to continuous review by the  
 29 office. The office may, by order, withdraw approval of all or  
 30 part of a plan if the office determines that conditions have  
 31 changed since approval was granted and that the purposes of

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1 the plan require changes in the plan. For the purposes of this  
 2 subsection, residential coverage includes both personal lines  
 3 residential coverage, which consists of the type of coverage  
 4 provided by homeowner's, mobile home owner's, dwelling,  
 5 tenant's, condominium unit owner's, and similar policies, and  
 6 commercial lines residential coverage, which consists of the  
 7 type of coverage provided by condominium association,  
 8 apartment building, and similar policies.

9       3. It is the intent of the Legislature that  
 10 policyholders, applicants, and agents of the corporation  
 11 receive service and treatment of the highest possible level  
 12 but never less than that generally provided in the voluntary  
 13 market. It also is intended that the corporation be held to  
 14 service standards no less than those applied to insurers in  
 15 the voluntary market by the office with respect to  
 16 responsiveness, timeliness, customer courtesy, and overall  
 17 dealings with policyholders, applicants, or agents of the  
 18 corporation.

19       (c) The plan of operation of the corporation:

20       1. Must provide for adoption of residential property  
 21 and casualty insurance policy forms and commercial residential  
 22 and nonresidential property insurance forms, which forms must  
 23 be approved by the office prior to use. The corporation shall  
 24 adopt the following policy forms:

25       a. Standard personal lines policy forms that are  
 26 comprehensive multiperil policies providing full coverage of a  
 27 residential property equivalent to the coverage provided in  
 28 the private insurance market under an HO-3, HO-4, or HO-6  
 29 policy.

30       b. Basic personal lines policy forms that are policies  
 31 similar to an HO-8 policy or a dwelling fire policy that

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1 provide coverage meeting the requirements of the secondary  
2 mortgage market, but which coverage is more limited than the  
3 coverage under a standard policy.

4 c. Commercial lines residential policy forms that are  
5 generally similar to the basic perils of full coverage  
6 obtainable for commercial residential structures in the  
7 admitted voluntary market.

8 d. Personal lines and commercial lines residential  
9 property insurance forms that cover the peril of wind only.  
10 The forms are applicable only to residential properties  
11 located in areas eligible for coverage under the high-risk  
12 account referred to in sub-subparagraph (b)2.a.

13 e. Commercial lines nonresidential property insurance  
14 forms that cover the peril of wind only. The forms are  
15 applicable only to nonresidential properties located in areas  
16 eligible for coverage under the high-risk account referred to  
17 in sub-subparagraph (b)2.a.

18 2.a. Must provide that the corporation adopt a program  
19 in which the corporation and authorized insurers enter into  
20 quota share primary insurance agreements for hurricane  
21 coverage, as defined in s. 627.4025(2)(a), for eligible risks,  
22 and adopt property insurance forms for eligible risks which  
23 cover the peril of wind only. As used in this subsection, the  
24 term:

25 (I) "Quota share primary insurance" means an  
26 arrangement in which the primary hurricane coverage of an  
27 eligible risk is provided in specified percentages by the  
28 corporation and an authorized insurer. The corporation and  
29 authorized insurer are each solely responsible for a specified  
30 percentage of hurricane coverage of an eligible risk as set  
31 forth in a quota share primary insurance agreement between the

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1 corporation and an authorized insurer and the insurance  
2 contract. The responsibility of the corporation or authorized  
3 insurer to pay its specified percentage of hurricane losses of  
4 an eligible risk, as set forth in the quota share primary  
5 insurance agreement, may not be altered by the inability of  
6 the other party to the agreement to pay its specified  
7 percentage of hurricane losses. Eligible risks that are  
8 provided hurricane coverage through a quota share primary  
9 insurance arrangement must be provided policy forms that set  
10 forth the obligations of the corporation and authorized  
11 insurer under the arrangement, clearly specify the percentages  
12 of quota share primary insurance provided by the corporation  
13 and authorized insurer, and conspicuously and clearly state  
14 that neither the authorized insurer nor the corporation may be  
15 held responsible beyond its specified percentage of coverage  
16 of hurricane losses.

17 (II) "Eligible risks" means personal lines residential  
18 and commercial lines residential risks that meet the  
19 underwriting criteria of the corporation and are located in  
20 areas that were eligible for coverage by the Florida Windstorm  
21 Underwriting Association on January 1, 2002.

22 b. The corporation may enter into quota share primary  
23 insurance agreements with authorized insurers at corporation  
24 coverage levels of 90 percent and 50 percent.

25 c. If the corporation determines that additional  
26 coverage levels are necessary to maximize participation in  
27 quota share primary insurance agreements by authorized  
28 insurers, the corporation may establish additional coverage  
29 levels. However, the corporation's quota share primary  
30 insurance coverage level may not exceed 90 percent.

31 d. Any quota share primary insurance agreement entered

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1 into between an authorized insurer and the corporation must  
 2 provide for a uniform specified percentage of coverage of  
 3 hurricane losses, by county or territory as set forth by the  
 4 corporation board, for all eligible risks of the authorized  
 5 insurer covered under the quota share primary insurance  
 6 agreement.

7 e. Any quota share primary insurance agreement entered  
 8 into between an authorized insurer and the corporation is  
 9 subject to review and approval by the office. However, such  
 10 agreement shall be authorized only as to insurance contracts  
 11 entered into between an authorized insurer and an insured who  
 12 is already insured by the corporation for wind coverage.

13 f. For all eligible risks covered under quota share  
 14 primary insurance agreements, the exposure and coverage levels  
 15 for both the corporation and authorized insurers shall be  
 16 reported by the corporation to the Florida Hurricane  
 17 Catastrophe Fund. For all policies of eligible risks covered  
 18 under quota share primary insurance agreements, the  
 19 corporation and the authorized insurer shall maintain complete  
 20 and accurate records for the purpose of exposure and loss  
 21 reimbursement audits as required by Florida Hurricane  
 22 Catastrophe Fund rules. The corporation and the authorized  
 23 insurer shall each maintain duplicate copies of policy  
 24 declaration pages and supporting claims documents.

25 g. The corporation board shall establish in its plan  
 26 of operation standards for quota share agreements which ensure  
 27 that there is no discriminatory application among insurers as  
 28 to the terms of quota share agreements, pricing of quota share  
 29 agreements, incentive provisions if any, and consideration  
 30 paid for servicing policies or adjusting claims.

31 h. The quota share primary insurance agreement between

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1 the corporation and an authorized insurer must set forth the  
 2 specific terms under which coverage is provided, including,  
 3 but not limited to, the sale and servicing of policies issued  
 4 under the agreement by the insurance agent of the authorized  
 5 insurer producing the business, the reporting of information  
 6 concerning eligible risks, the payment of premium to the  
 7 corporation, and arrangements for the adjustment and payment  
 8 of hurricane claims incurred on eligible risks by the claims  
 9 adjuster and personnel of the authorized insurer. Entering  
 10 into a quota sharing insurance agreement between the  
 11 corporation and an authorized insurer shall be voluntary and  
 12 at the discretion of the authorized insurer.

13           3. May provide that the corporation may employ or  
 14 otherwise contract with individuals or other entities to  
 15 provide administrative or professional services that may be  
 16 appropriate to effectuate the plan. The corporation shall have  
 17 the power to borrow funds, by issuing bonds or by incurring  
 18 other indebtedness, and shall have other powers reasonably  
 19 necessary to effectuate the requirements of this subsection,  
 20 including without limitation, the power to issue bonds and  
 21 incur other indebtedness in order to refinance outstanding  
 22 bonds or other indebtedness. The corporation may, but is not  
 23 required to, seek judicial validation of its bonds or other  
 24 indebtedness under chapter 75. The corporation may issue bonds  
 25 or incur other indebtedness, or have bonds issued on its  
 26 behalf by a unit of local government pursuant to subparagraph  
 27 (g)2., in the absence of a hurricane or other weather-related  
 28 event, upon a determination by the corporation, subject to  
 29 approval by the office, that such action would enable it to  
 30 efficiently meet the financial obligations of the corporation  
 31 and that such financings are reasonably necessary to

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1 effectuate the requirements of this subsection. The  
 2 corporation is authorized to take all actions needed to  
 3 facilitate tax-free status for any such bonds or indebtedness,  
 4 including formation of trusts or other affiliated entities.  
 5 The corporation shall have the authority to pledge  
 6 assessments, projected recoveries from the Florida Hurricane  
 7 Catastrophe Fund, other reinsurance recoverables, market  
 8 equalization and other surcharges, and other funds available  
 9 to the corporation as security for bonds or other  
 10 indebtedness. 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.

16       4.a. Must require that the corporation operate subject  
 17 to the supervision and approval of a board of governors  
 18 consisting of 8 7 individuals who are residents of this state,  
 19 from different geographical areas of this state, ~~appointed by~~  
 20 ~~the Chief Financial Officer~~. The Governor, the Chief Financial  
 21 Officer, the President of the Senate, and the Speaker of the  
 22 House of Representatives shall each appoint two members of the  
 23 board, effective August 1, 2005. At least one of the two  
 24 members appointed by each appointing officer must have  
 25 demonstrated expertise in insurance. The Chief Financial  
 26 Officer shall designate one of the appointees as chair. All  
 27 board members serve at the pleasure of the appointing officer  
 28 ~~Chief Financial Officer~~. All board members, including the  
 29 chair, must be appointed to serve for 3-year terms beginning  
 30 annually on a date designated by the plan. Any board vacancy  
 31 shall be filled for the unexpired term by the appointing



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1 ~~officer~~ ~~Chief Financial Officer~~. The Chief Financial Officer  
2 shall appoint a technical advisory group to provide  
3 information and advice to the board of governors in connection  
4 with the board's duties under this subsection. The executive  
5 director and senior managers of the corporation shall be  
6 engaged by the board, as recommended by the Chief Financial  
7 Officer and serve at the pleasure of the board ~~Chief Financial~~  
8 ~~Officer~~. The executive director is responsible for employing  
9 other staff as the corporation may require, subject to review  
10 and concurrence by the board and ~~office of~~ the Chief Financial  
11 Officer.

12 b. The board shall create a Market Accountability  
13 Advisory Committee to assist the corporation in developing  
14 awareness of its rates and its customer and agent service  
15 levels in relationship to the voluntary market insurers  
16 writing similar coverage. The members of the advisory  
17 committee shall consist of the following 11 persons, one of  
18 whom must be elected chair by the members of the committee:  
19 four representatives, one appointed by the Florida Association  
20 of Insurance Agents, one by the Florida Association of  
21 Insurance and Financial Advisors, one by the Professional  
22 Insurance Agents of Florida, and one by the Latin American  
23 Association of Insurance Agencies; three representatives  
24 appointed by the insurers with the three highest voluntary  
25 market share of residential property insurance business in the  
26 state; one representative from the Office of Insurance  
27 Regulation; one consumer appointed by the board who is insured  
28 by the corporation at the time of appointment to the  
29 committee; one representative appointed by the Florida  
30 Association of Realtors; and one representative appointed by  
31 the Florida Bankers Association. All members must serve for

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1 3-year terms and may serve for consecutive terms. The  
 2 committee shall report to the corporation at each board  
 3 meeting on insurance market issues which may include rates and  
 4 rate competition with the voluntary market; service, including  
 5 policy issuance, claims processing, and general responsiveness  
 6 to policyholders, applicants, and agents; and matters relating  
 7 to depopulation.

8           5. Must provide a procedure for determining the  
 9 eligibility of a risk for coverage, as follows:

10           a. Subject to the provisions of s. 627.3517, with  
 11 respect to personal lines residential risks, if the risk is  
 12 offered coverage from an authorized insurer at the insurer's  
 13 approved rate under either a standard policy including wind  
 14 coverage or, if consistent with the insurer's underwriting  
 15 rules as filed with the office, a basic policy including wind  
 16 coverage, the risk is not eligible for any policy issued by  
 17 the corporation. If the risk is not able to obtain any such  
 18 offer, the risk is eligible for either a standard policy  
 19 including wind coverage or a basic policy including wind  
 20 coverage issued by the corporation; however, if the risk could  
 21 not be insured under a standard policy including wind coverage  
 22 regardless of market conditions, the risk shall be eligible  
 23 for a basic policy including wind coverage unless rejected  
 24 under subparagraph 8. The corporation shall determine the type  
 25 of policy to be provided on the basis of objective standards  
 26 specified in the underwriting manual and based on generally  
 27 accepted underwriting practices.

28           (I) If the risk accepts an offer of coverage through  
 29 the market assistance plan or an offer of coverage through a  
 30 mechanism established by the corporation before a policy is  
 31 issued to the risk by the corporation or during the first 30

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1 days of coverage by the corporation, and the producing agent  
2 who submitted the application to the plan or to the  
3 corporation is not currently appointed by the insurer, the  
4 insurer shall:

5 (A) Pay to the producing agent of record of the  
6 policy, for the first year, an amount that is the greater of  
7 the insurer's usual and customary commission for the type of  
8 policy written or a fee equal to the usual and customary  
9 commission of the corporation; or

10 (B) Offer to allow the producing agent of record of  
11 the policy to continue servicing the policy for a period of  
12 not less than 1 year and offer to pay the agent the greater of  
13 the insurer's or the corporation's usual and customary  
14 commission for the type of policy written.

15  
16 If the producing agent is unwilling or unable to accept  
17 appointment, the new insurer shall pay the agent in accordance  
18 with sub-sub-sub-subparagraph (A).

19 (II) When the corporation enters into a contractual  
20 agreement for a take-out plan, the producing agent of record  
21 of the corporation policy is entitled to retain any unearned  
22 commission on the policy, and the insurer shall:

23 (A) Pay to the producing agent of record of the  
24 corporation policy, for the first year, an amount that is the  
25 greater of the insurer's usual and customary commission for  
26 the type of policy written or a fee equal to the usual and  
27 customary commission of the corporation; or

28 (B) Offer to allow the producing agent of record of  
29 the corporation policy to continue servicing the policy for a  
30 period of not less than 1 year and offer to pay the agent the  
31 greater of the insurer's or the corporation's usual and

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1 customary commission for the type of policy written.

2

3 If the producing agent is unwilling or unable to accept  
4 appointment, the new insurer shall pay the agent in accordance  
5 with sub-sub-sub-subparagraph (A).

6           b. With respect to commercial lines residential risks,  
7 if the risk is offered coverage under a policy including wind  
8 coverage from an authorized insurer at its approved rate, the  
9 risk is not eligible for any policy issued by the corporation.  
10 If the risk is not able to obtain any such offer, the risk is  
11 eligible for a policy including wind coverage issued by the  
12 corporation.

13           (I) If the risk accepts an offer of coverage through  
14 the market assistance plan or an offer of coverage through a  
15 mechanism established by the corporation before a policy is  
16 issued to the risk by the corporation or during the first 30  
17 days of coverage by the corporation, and the producing agent  
18 who submitted the application to the plan or the corporation  
19 is not currently appointed by the insurer, the insurer shall:

20           (A) Pay to the producing agent of record of the  
21 policy, for the first year, an amount that is the greater of  
22 the insurer's usual and customary commission for the type of  
23 policy written or a fee equal to the usual and customary  
24 commission of the corporation; or

25           (B) Offer to allow the producing agent of record of  
26 the policy to continue servicing the policy for a period of  
27 not less than 1 year and offer to pay the agent the greater of  
28 the insurer's or the corporation's usual and customary  
29 commission for the type of policy written.

30

31 If the producing agent is unwilling or unable to accept

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1 appointment, the new insurer shall pay the agent in accordance  
2 with sub-sub-sub-subparagraph (A).

3 (II) When the corporation enters into a contractual  
4 agreement for a take-out plan, the producing agent of record  
5 of the corporation policy is entitled to retain any unearned  
6 commission on the policy, and the insurer shall:

7 (A) Pay to the producing agent of record of the  
8 corporation policy, for the first year, an amount that is the  
9 greater of the insurer's usual and customary commission for  
10 the type of policy written or a fee equal to the usual and  
11 customary commission of the corporation; or

12 (B) Offer to allow the producing agent of record of  
13 the corporation policy to continue servicing the policy for a  
14 period of not less than 1 year and offer to pay the agent the  
15 greater of the insurer's or the corporation's usual and  
16 customary commission for the type of policy written.

17  
18 If the producing agent is unwilling or unable to accept  
19 appointment, the new insurer shall pay the agent in accordance  
20 with sub-sub-sub-subparagraph (A).

21 6. Must include rules for classifications of risks and  
22 rates therefor.

23 7. Must provide that if premium and investment income  
24 for an account attributable to a particular calendar year are  
25 in excess of projected losses and expenses for the account  
26 attributable to that year, such excess shall be held in  
27 surplus in the account. Such surplus shall be available to  
28 defray deficits in that account as to future years and shall  
29 be used for that purpose prior to assessing assessable  
30 insurers and assessable insureds as to any calendar year.

31 8. Must provide objective criteria and procedures to

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1 be uniformly applied for all applicants in determining whether  
2 an individual risk is so hazardous as to be uninsurable. In  
3 making this determination and in establishing the criteria and  
4 procedures, the following shall be considered:

5 a. Whether the likelihood of a loss for the individual  
6 risk is substantially higher than for other risks of the same  
7 class; and

8 b. Whether the uncertainty associated with the  
9 individual risk is such that an appropriate premium cannot be  
10 determined.

11  
12 The acceptance or rejection of a risk by the corporation shall  
13 be construed as the private placement of insurance, and the  
14 provisions of chapter 120 shall not apply.

15 9. Must provide that the corporation shall make its  
16 best efforts to procure catastrophe reinsurance at reasonable  
17 rates, to cover its projected 100-year probable maximum loss  
18 as determined by the board of governors.

19 10. Must provide that in the event of regular deficit  
20 assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
21 (b)3.b., in the personal lines account, the commercial lines  
22 residential account, or the high-risk account, the corporation  
23 shall levy upon corporation policyholders in its next rate  
24 filing, or by a separate rate filing solely for this purpose,  
25 a market equalization surcharge arising from a regular  
26 assessment in such account in a percentage equal to the total  
27 amount of such regular assessments divided by the aggregate  
28 statewide direct written premium for subject lines of business  
29 for the prior calendar year. Market equalization surcharges  
30 under this subparagraph are not considered premium and are not  
31 subject to commissions, fees, or premium taxes; however,

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

3           11. The policies issued by the corporation must  
4 provide that, if the corporation or the market assistance plan  
5 obtains an offer from an authorized insurer to cover the risk  
6 at its approved rates, the risk is no longer eligible for  
7 renewal through the corporation.

8           12. Corporation policies and applications must include  
9 a notice that the corporation policy could, under this  
10 section, be replaced with a policy issued by an authorized  
11 insurer that does not provide coverage identical to the  
12 coverage provided by the corporation. The notice shall also  
13 specify that acceptance of corporation coverage creates a  
14 conclusive presumption that the applicant or policyholder is  
15 aware of this potential.

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

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1           14. Must provide that, with respect to the high-risk  
 2 account, any assessable insurer with a surplus as to  
 3 policyholders of \$25 million or less writing 25 percent or  
 4 more of its total countrywide property insurance premiums in  
 5 this state may petition the office, within the first 90 days  
 6 of each calendar year, to qualify as a limited apportionment  
 7 company. In no event shall a limited apportionment company be  
 8 required to participate in the portion of any assessment,  
 9 within the high-risk account, pursuant to sub-subparagraph  
 10 (b)3.a. or sub-subparagraph (b)3.b. in the aggregate which  
 11 exceeds \$50 million after payment of available high-risk  
 12 account funds in any calendar year. However, a limited  
 13 apportionment company shall collect from its policyholders any  
 14 emergency assessment imposed under sub-subparagraph (b)3.d.  
 15 The plan shall provide that, if the office determines that any  
 16 regular assessment will result in an impairment of the surplus  
 17 of a limited apportionment company, the office may direct that  
 18 all or part of such assessment be deferred as provided in  
 19 subparagraph (g)4. However, there shall be no limitation or  
 20 deferment of an emergency assessment to be collected from  
 21 policyholders under sub-subparagraph (b)3.d.

22           15. Must provide that the corporation appoint as its  
 23 licensed agents only those agents who also hold an appointment  
 24 as defined in s. 626.015(3) with an insurer who at the time of  
 25 the agent's initial appointment by the corporation is  
 26 authorized to write and is actually writing personal lines  
 27 residential property coverage, commercial residential property  
 28 coverage, or commercial nonresidential property coverage  
 29 within the state.

30           (d)1. It is the intent of the Legislature that the  
 31 rates for coverage provided by the corporation be actuarially



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1 sound and not competitive with approved rates charged in the  
2 admitted voluntary market, so that the corporation functions  
3 as a residual market mechanism to provide insurance only when  
4 the insurance cannot be procured in the voluntary market.  
5 Rates shall include an appropriate catastrophe loading factor  
6 that reflects the actual catastrophic exposure of the  
7 corporation.

8         2. For each county, the average rates of the  
9 corporation for each line of business for personal lines  
10 residential policies excluding rates for wind-only policies  
11 shall be no lower than the average rates charged by the  
12 insurer that had the highest average rate in that county among  
13 the 20 insurers with the greatest total direct written premium  
14 in the state for that line of business in the preceding year,  
15 except that with respect to mobile home coverages, the average  
16 rates of the corporation shall be no lower than the average  
17 rates charged by the insurer that had the highest average rate  
18 in that county among the 5 insurers with the greatest total  
19 written premium for mobile home owner's policies in the state  
20 in the preceding year.

21         3. Rates for personal lines residential wind-only  
22 policies must be actuarially sound and not competitive with  
23 approved rates charged by authorized insurers. ~~However, for~~  
24 ~~personal lines residential wind-only policies issued or~~  
25 ~~renewed between July 1, 2002, and June 30, 2003, the maximum~~  
26 ~~premium increase must be no greater than 10 percent of the~~  
27 ~~Florida Windstorm Underwriting Association premium for that~~  
28 ~~policy in effect on June 30, 2002, as adjusted for coverage~~  
29 ~~changes and seasonal occupancy surcharges. For personal lines~~  
30 ~~residential wind only policies issued or renewed between July~~  
31 ~~1, 2003, and June 30, 2004, the corporation shall use its~~

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1 ~~existing filed and approved wind-only rating and~~  
 2 ~~classification plans, provided, however, that the maximum~~  
 3 ~~premium increase must be no greater than 20 percent of the~~  
 4 ~~premium for that policy in effect on June 30, 2003, as~~  
 5 ~~adjusted for coverage changes and seasonal occupancy~~  
 6 ~~surcharges.~~ Corporation rate manuals shall include a rate  
 7 surcharge for seasonal occupancy. To ensure that personal  
 8 lines residential wind-only rates ~~effective on or after July~~  
 9 ~~1, 2004,~~ are not competitive with approved rates charged by  
 10 authorized insurers, the corporation, in conjunction with the  
 11 office, shall develop a wind-only ratemaking methodology,  
 12 which methodology shall be contained in each ~~a~~ rate filing  
 13 made by the corporation with the office ~~by January 1, 2004.~~ If  
 14 the office ~~thereafter~~ determines that the wind-only rates or  
 15 rating factors filed by the corporation fail to comply with  
 16 the wind-only ratemaking methodology provided for in this  
 17 subsection, it shall so notify the corporation and require the  
 18 corporation to amend its rates or rating factors to come into  
 19 compliance within 90 days of notice from the office. ~~The~~  
 20 ~~office shall report to the Speaker of the House of~~  
 21 ~~Representatives and the President of the Senate on the~~  
 22 ~~provisions of the wind-only ratemaking methodology by January~~  
 23 ~~31, 2004.~~

24 4. The provisions of subparagraph 2. do not apply to  
 25 coverage provided by the corporation in any county for which  
 26 the office determines that a reasonable degree of competition  
 27 does not exist for personal lines residential policies. The  
 28 provisions of subparagraph 3. do not apply to coverage  
 29 provided by the corporation in any county for which the office  
 30 determines that a reasonable degree of competition does not  
 31 exist for personal lines residential policies in the area of

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1 that county which is eligible for wind-only coverage. In such  
 2 counties, the rates for personal lines residential coverage  
 3 shall be actuarially sound and not excessive, inadequate, or  
 4 unfairly discriminatory and are subject to the other  
 5 provisions of the paragraph and s. 627.062. The commission  
 6 shall adopt rules establishing the criteria for determining  
 7 whether a reasonable degree of competition exists for personal  
 8 lines residential policies. Beginning October 1, 2005, and  
 9 each 6 months thereafter, the office shall determine and  
 10 identify those counties for which a reasonable degree of  
 11 competition does not exist for purposes of subparagraphs 2.  
 12 and 3., respectively.

13 5. Notwithstanding subparagraphs 2., 3., and 4., for  
 14 personal lines residential policies and personal lines  
 15 residential wind-only policies issued or renewed between July  
 16 1, 2005, and June 30, 2006, the maximum premium increase must  
 17 be not greater than 5 percent of the premium for that policy  
 18 in effect on June 30, 2005, as adjusted for coverage changes  
 19 and seasonal-occupancy surcharges.

20 6.4. Rates for commercial lines coverage shall not be  
 21 subject to the requirements of subparagraph 2., but shall be  
 22 subject to all other requirements of this paragraph and s.  
 23 627.062.

24 7.5. Nothing in this paragraph shall require or allow  
 25 the corporation to adopt a rate that is inadequate under s.  
 26 627.062.

27 8.6. The corporation shall certify to the office at  
 28 least twice annually that its personal lines rates comply with  
 29 the requirements of this paragraph ~~subparagraphs 1. and 2.~~ If  
 30 any adjustment in the rates or rating factors of the  
 31 corporation is necessary to ensure such compliance, the

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1 corporation shall make and implement such adjustments and file  
2 its revised rates and rating factors with the office. If the  
3 office thereafter determines that the revised rates and rating  
4 factors fail to comply with the provisions of this paragraph  
5 ~~subparagraphs 1. and 2.~~, it shall notify the corporation and  
6 require the corporation to amend its rates or rating factors  
7 in conjunction with its next rate filing. The office must  
8 notify the corporation by electronic means of any rate filing  
9 it approves for any insurer among the insurers referred to in  
10 subparagraph 2.

11 ~~9.7.~~ In addition to the rates otherwise determined  
12 pursuant to this paragraph, the corporation shall impose and  
13 collect an amount equal to the premium tax provided for in s.  
14 624.509 to augment the financial resources of the corporation.

15 ~~10.8.a.~~ To assist the corporation in developing  
16 additional ratemaking methods to assure compliance with this  
17 paragraph ~~subparagraphs 1. and 4.~~, the corporation shall  
18 appoint a rate methodology panel consisting of one person  
19 recommended by the Florida Association of Insurance Agents,  
20 one person recommended by the Professional Insurance Agents of  
21 Florida, one person recommended by the Florida Association of  
22 Insurance and Financial Advisors, one person recommended by  
23 the insurer with the highest voluntary market share of  
24 residential property insurance business in the state, one  
25 person recommended by the insurer with the second-highest  
26 voluntary market share of residential property insurance  
27 business in the state, one person recommended by an insurer  
28 writing commercial residential property insurance in this  
29 state, one person recommended by the Office of Insurance  
30 Regulation, and one board member designated by the board  
31 chairman, who shall serve as chairman of the panel.

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1           ~~b. By January 1, 2004, the rate methodology panel~~  
2 ~~shall provide a report to the corporation of its findings and~~  
3 ~~recommendations for the use of additional ratemaking methods~~  
4 ~~and procedures, including the use of a rate equalization~~  
5 ~~surcharge in an amount sufficient to assure that the total~~  
6 ~~cost of coverage for policyholders or applicants to the~~  
7 ~~corporation is sufficient to comply with subparagraph 1.~~

8           ~~c. Within 30 days after such report, the corporation~~  
9 ~~shall present to the President of the Senate, the Speaker of~~  
10 ~~the House of Representatives, the minority party leaders of~~  
11 ~~each house of the Legislature, and the chairs of the standing~~  
12 ~~committees of each house of the Legislature having~~  
13 ~~jurisdiction of insurance issues, a plan for implementing the~~  
14 ~~additional ratemaking methods and an outline of any~~  
15 ~~legislation needed to facilitate use of the new methods.~~

16           ~~d. The plan must include a provision that producer~~  
17 ~~commissions paid by the corporation shall not be calculated in~~  
18 ~~such a manner as to include any rate equalization surcharge.~~  
19 ~~However, without regard to the plan to be developed or its~~  
20 ~~implementation, producer commissions paid by the corporation~~  
21 ~~for each account, other than the quota share primary program,~~  
22 ~~shall remain fixed as to percentage, effective rate,~~  
23 ~~calculation, and payment method until January 1, 2004.~~

24           11.9. ~~By January 1, 2004, The corporation shall~~  
25 ~~develop a notice to policyholders or applicants that the rates~~  
26 ~~of Citizens Property Insurance Corporation are intended to be~~  
27 ~~higher than the rates of any admitted carrier except when the~~  
28 ~~provisions of subparagraph 4. apply and providing other~~  
29 ~~information the corporation deems necessary to assist~~  
30 ~~consumers in finding other voluntary admitted insurers willing~~  
31 ~~to insure their property.~~

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1           (q) The corporation shall ~~not~~ require the securing of  
2 flood insurance as a condition of coverage if the property  
3 risk of the insured or applicant is located in a Special Flood  
4 Hazard Area as defined by the Federal Emergency Management  
5 Agency for the National Flood Insurance Program. ~~executes a~~  
6 ~~form approved by the office affirming that~~ Flood insurance is  
7 not provided by the corporation and ~~that if flood insurance is~~  
8 ~~not secured by the applicant or insured in addition to~~  
9 ~~coverage by the corporation,~~ the risk will not be covered for  
10 flood damage. A corporation policyholder that does ~~electing~~  
11 ~~not to~~ secure flood insurance and makes a claim ~~executing a~~  
12 ~~form as provided herein making a claim~~ for water damage  
13 against the corporation shall have the burden of proving the  
14 damage was not caused by flooding. Notwithstanding other  
15 provisions of this subsection, the corporation may deny  
16 coverage or refuse to issue or renew a policy to an applicant  
17 or insured who refuses to purchase flood insurance as required  
18 by this subsection ~~to execute the form described herein.~~

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

22 And the title is amended as follows:

23           On page 2, lines 9 through 28, delete those lines

24

25 and insert:

26           amending s. 627.351, F.S.; revising the  
27           appointments to the board and the approval of  
28           officers and employees of the corporation;  
29           providing additional legislative intent  
30           relating to the Citizens Property Insurance  
31           Corporation; authorizing the corporation to

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1 issue bonds and incur indebtedness for certain  
2 purposes; requiring creation of a Market  
3 Accountability Advisory Committee to assist the  
4 corporation for certain purposes; providing for  
5 appointment of committee members; providing for  
6 terms; requiring reports to the corporation;  
7 revising requirements for the plan of operation  
8 of the corporation; deleting limitations on  
9 certain personal lines residential wind-only  
10 policies; deleting an obsolete reporting  
11 requirement; specifying nonapplication of  
12 certain policy requirements in counties lacking  
13 reasonable degrees of competition for certain  
14 policies under certain circumstances;  
15 specifying that rates may not be increased by  
16 more than a specified percentage; requiring the  
17 commission to adopt rules; deleting an obsolete  
18 rate methodology panel reporting requirement  
19 provision; requiring the corporation to require  
20 the securing of flood insurance as a condition  
21 of coverage under certain circumstances;  
22 providing requirements and limitations;  
23 amending s.

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