

Bill No. PCS for SB 1488 (960506)

Barcode 971858

CHAMBER ACTION

Senate

House

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

**Senate Amendment (with title amendment)**

15 On page 16, line 30, through  
16 page 17, line 3, delete those lines

18 and insert:

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

22 627.351 Insurance risk apportionment plans.--  
23 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

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1 VIII of chapter 626 are subject to assessment by the  
2 corporation and are referred to collectively as "assessable  
3 insureds." An authorized insurer's assessment liability shall  
4 begin on the first day of the calendar year following the year  
5 in which the insurer was issued a certificate of authority to  
6 transact insurance for subject lines of business in this state  
7 and shall terminate 1 year after the end of the first calendar  
8 year during which the insurer no longer holds a certificate of  
9 authority to transact insurance for subject lines of business  
10 in this state.

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

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

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

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1 coverage for the peril of wind on risks that are located in  
2 such areas; and

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

30 b. The three separate accounts must be maintained as  
31 long as financing obligations entered into by the Florida

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

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

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

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

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

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

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

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1 the prior calendar year, the entire deficit shall be recovered  
2 through regular assessments of assessable insurers under  
3 paragraph (g) and assessable insureds.

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

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

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1 required by s. 626.932 and shall be paid to the Florida  
2 Surplus Lines Service Office at the time the surplus lines  
3 agent pays the surplus lines tax to the Florida Surplus Lines  
4 Service Office. Upon receipt of regular assessments from  
5 surplus lines agents, the Florida Surplus Lines Service Office  
6 shall transfer the assessments directly to the corporation as  
7 determined by the corporation.

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

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

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

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

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

29 g. The Florida Surplus Lines Service Office shall  
30 determine annually the aggregate statewide written premium in  
31 subject lines of business procured by assessable insureds and



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

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

12 i. The other provisions of this paragraph  
13 notwithstanding, the maximum amount of deficits in all  
14 accounts combined, attributable to losses from a single  
15 calendar year, which may be recovered directly or indirectly  
16 through any form of regular or emergency assessment under this  
17 paragraph may not exceed \$8 billion for 2005, \$7 billion for  
18 2006, \$6 billion for 2007, and \$5 billion for 2008.

19  
20

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, line 9, after the semicolon,

24

25 insert:

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

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31