

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Ross offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 62-728 and insert:

5 Section 2. Present paragraphs (s) through (ee) of
6 subsection (6) of section 627.351, Florida Statutes, as amended
7 by section 21 of chapter 2007-1, Laws of Florida, are
8 redesignated as paragraphs (r) through (dd), and present
9 paragraphs (a), (b), (c), (m), and (r) of subsection (6) of that
10 section are amended, to read:

11 627.351 Insurance risk apportionment plans.--

12 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

13 (a)1. It is the public purpose of this subsection to
14 ensure the existence of an orderly market for property insurance
15 for citizens of this state and businesses in this state. The
16 Legislature finds that private insurers are unwilling or unable

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17 to provide affordable property insurance coverage in this state
18 to the extent sought and needed. The absence of affordable
19 property insurance threatens the public health, safety, and
20 welfare and likewise threatens the economic health of the state.
21 The state therefore has a compelling public interest and a
22 public purpose to assist in ensuring that property in the state
23 is insured and that property is insured at affordable rates so
24 as to facilitate the remediation, reconstruction, and
25 replacement of damaged or destroyed property in order to reduce
26 or avoid the negative effects otherwise resulting to the public
27 health, safety, and welfare, to the economy of the state, and to
28 the revenues of the state and local governments which are needed
29 to provide for the public welfare. It is necessary, therefore,
30 to provide affordable property insurance to applicants who are
31 in good faith entitled to procure insurance through the
32 voluntary market but are unable to do so. The Legislature
33 intends by this subsection that affordable property insurance be
34 provided and that such insurance continue to be provided, as
35 long as necessary, through Citizens Property Insurance
36 Corporation, a government entity that is an integral part of the
37 state and that is not a private insurance company. To that end,
38 Citizens Property Insurance Company shall strive to increase the
39 availability of affordable property insurance in this state,
40 while achieving efficiencies and economies and while providing
41 service to policyholders, applicants, and agents which is no
42 less than the quality generally provided in the voluntary
43 market, for the achievement of the foregoing public purposes.
44 Because it is essential for this government entity to have the
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45 maximum financial resources to pay claims following a
46 catastrophic hurricane, it is the intent of the Legislature that
47 Citizens Property Insurance Corporation continue to be an
48 integral part of the state and that the income of the
49 corporation be exempt from federal income taxation and that
50 interest on the debt obligations issued by the corporation be
51 exempt from federal income taxation. The Legislature finds that
52 ~~actual and threatened catastrophic losses to property in this~~
53 ~~state from hurricanes have caused insurers to be unwilling or~~
54 ~~unable to provide property insurance coverage to the extent~~
55 ~~sought and needed. It is in the public interest and a public~~
56 ~~purpose to assist in assuring that property in the state is~~
57 ~~insured so as to facilitate the remediation, reconstruction, and~~
58 ~~replacement of damaged or destroyed property in order to reduce~~
59 ~~or avoid the negative effects otherwise resulting to the public~~
60 ~~health, safety, and welfare; to the economy of the state; and to~~
61 ~~the revenues of the state and local governments needed to~~
62 ~~provide for the public welfare. It is necessary, therefore, to~~
63 ~~provide property insurance to applicants who are in good faith~~
64 ~~entitled to procure insurance through the voluntary market but~~
65 ~~are unable to do so. The Legislature intends by this subsection~~
66 ~~that property insurance be provided and that it continues, as~~
67 ~~long as necessary, through an entity organized to achieve~~
68 ~~efficiencies and economies, while providing service to~~
69 ~~policyholders, applicants, and agents that is no less than the~~
70 ~~quality generally provided in the voluntary market, all toward~~
71 ~~the achievement of the foregoing public purposes. Because it is~~
72 ~~essential for the corporation to have the maximum financial~~

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73 ~~resources to pay claims following a catastrophic hurricane, it~~
74 ~~is the intent of the Legislature that the income of the~~
75 ~~corporation be exempt from federal income taxation and that~~
76 ~~interest on the debt obligations issued by the corporation be~~
77 ~~exempt from federal income taxation.~~

78 2. The Residential Property and Casualty Joint
79 Underwriting Association originally created by this statute
80 shall be known, as of July 1, 2002, as the Citizens Property
81 Insurance Corporation. The corporation shall provide insurance
82 for residential and commercial property, for applicants who are
83 in good faith entitled, but are unable, to procure insurance
84 through the voluntary market. The corporation shall operate
85 pursuant to a plan of operation approved by order of the
86 Financial Services Commission. The plan is subject to continuous
87 review by the commission. The commission may, by order, withdraw
88 approval of all or part of a plan if the commission determines
89 that conditions have changed since approval was granted and that
90 the purposes of the plan require changes in the plan. The
91 corporation shall continue to operate pursuant to the plan of
92 operation approved by the Office of Insurance Regulation until
93 October 1, 2006. For the purposes of this subsection,
94 residential coverage includes both personal lines residential
95 coverage, which consists of the type of coverage provided by
96 homeowner's, mobile home owner's, dwelling, tenant's,
97 condominium unit owner's, and similar policies, and commercial
98 lines residential coverage, which consists of the type of
99 coverage provided by condominium association, apartment
100 building, and similar policies.

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- 101 3. For the purposes of this subsection, the term
102 "homestead property" means:
- 103 a. Property that has been granted a homestead exemption
104 under chapter 196;
 - 105 b. Property for which the owner has a current, written
106 lease with a renter for a term of at least 7 months and for
107 which the dwelling is insured by the corporation for \$200,000 or
108 less;
 - 109 c. An owner-occupied mobile home or manufactured home, as
110 defined in s. 320.01, which is permanently affixed to real
111 property, is owned by a Florida resident, and has been granted a
112 homestead exemption under chapter 196 or, if the owner does not
113 own the real property, the owner certifies that the mobile home
114 or manufactured home is his or her principal place of residence;
 - 115 d. Tenant's coverage;
 - 116 e. Commercial lines residential property; or
 - 117 f. Any county, district, or municipal hospital; a hospital
118 licensed by any not-for-profit corporation qualified under s.
119 501(c)(3) of the United States Internal Revenue Code; or a
120 continuing care retirement community that is certified under
121 chapter 651 and that receives an exemption from ad valorem taxes
122 under chapter 196.

123 4. For the purposes of this subsection, the term
124 "nonhomestead property" means property that is not homestead
125 property.

126 5. Effective July 1, 2008, a personal lines residential
127 structure that has a dwelling replacement cost of \$1 million or
128 more, or a single condominium unit that has a combined dwelling
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129 and content replacement cost of \$1 million or more is not
130 eligible for coverage by the corporation. Such dwellings insured
131 by the corporation on June 30, 2008, may continue to be covered
132 by the corporation until the end of the policy term. However,
133 such dwellings that are insured by the corporation and become
134 ineligible for coverage due to the provisions of this
135 subparagraph may reapply and obtain coverage in the high-risk
136 account and be considered "nonhomestead property" if the
137 property owner provides the corporation with a sworn affidavit
138 from one or more insurance agents, on a form provided by the
139 corporation, stating that the agents have made their best
140 efforts to obtain coverage and that the property has been
141 rejected for coverage by at least one authorized insurer and at
142 least three surplus lines insurers. If such conditions are met,
143 the dwelling may be insured by the corporation for up to 3
144 years, after which time the dwelling is ineligible for coverage.
145 The office shall approve the method used by the corporation for
146 valuing the dwelling replacement cost for the purposes of this
147 subparagraph. If a policyholder is insured by the corporation
148 prior to being determined to be ineligible pursuant to this
149 subparagraph and such policyholder files a lawsuit challenging
150 the determination, the policyholder may remain insured by the
151 corporation until the conclusion of the litigation.

152 6. For properties constructed on or after January 1, 2009,
153 the corporation may not insure any property located within 2,500
154 feet landward of the coastal construction control line created
155 pursuant to s. 161.053 unless the property meets the

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156 requirements of the code-plus building standards developed by
157 the Florida Building Commission.

158 7. It is the intent of the Legislature that policyholders,
159 applicants, and agents of the corporation receive service and
160 treatment of the highest possible level but never less than that
161 generally provided in the voluntary market. It also is intended
162 that the corporation be held to service standards no less than
163 those applied to insurers in the voluntary market by the office
164 with respect to responsiveness, timeliness, customer courtesy,
165 and overall dealings with policyholders, applicants, or agents
166 of the corporation.

167 ~~(b)1. All insurers authorized to write one or more subject~~
168 ~~lines of business in this state are subject to assessment by the~~
169 ~~corporation and, for the purposes of this subsection, are~~
170 ~~referred to collectively as "assessable insurers." Insurers~~
171 ~~writing one or more subject lines of business in this state~~
172 ~~pursuant to part VIII of chapter 626 are not assessable~~
173 ~~insurers, but insureds who procure one or more subject lines of~~
174 ~~business in this state pursuant to part VIII of chapter 626 are~~
175 ~~subject to assessment by the corporation and are referred to~~
176 ~~collectively as "assessable insureds." An authorized insurer's~~
177 ~~assessment liability shall begin on the first day of the~~
178 ~~calendar year following the year in which the insurer was issued~~
179 ~~a certificate of authority to transact insurance for subject~~
180 ~~lines of business in this state and shall terminate 1 year after~~
181 ~~the end of the first calendar year during which the insurer no~~
182 ~~longer holds a certificate of authority to transact insurance~~
183 ~~for subject lines of business in this state.~~

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184 1.a. ~~2.a.~~ All revenues, assets, liabilities, losses, and
185 expenses of the corporation shall be divided into three separate
186 accounts as follows:

187 (I) A personal lines account for personal residential
188 policies issued by the corporation or issued by the Residential
189 Property and Casualty Joint Underwriting Association and renewed
190 by the corporation that provide comprehensive, multiperil
191 coverage on risks that are not located in areas eligible for
192 coverage in the Florida Windstorm Underwriting Association as
193 those areas were defined on January 1, 2002, and for such
194 policies that do not provide coverage for the peril of wind on
195 risks that are located in such areas;

196 (II) A commercial lines account for commercial residential
197 and commercial nonresidential policies issued by the corporation
198 or issued by the Residential Property and Casualty Joint
199 Underwriting Association and renewed by the corporation that
200 provide coverage for basic property perils on risks that are not
201 located in areas eligible for coverage in the Florida Windstorm
202 Underwriting Association as those areas were defined on January
203 1, 2002, and for such policies that do not provide coverage for
204 the peril of wind on risks that are located in such areas; and

205 (III) A high-risk account for personal residential
206 policies and commercial residential and commercial
207 nonresidential property policies issued by the corporation or
208 transferred to the corporation that provide coverage for the
209 peril of wind on risks that are located in areas eligible for
210 coverage in the Florida Windstorm Underwriting Association as
211 those areas were defined on January 1, 2002. Subject to the

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212 approval of a business plan by the Financial Services Commission
213 and Legislative Budget Commission as provided in this sub-sub-
214 subparagraph, but no earlier than March 31, 2007, the
215 corporation may offer policies that provide multiperil coverage
216 and the corporation shall continue to offer policies that
217 provide coverage only for the peril of wind for risks located in
218 areas eligible for coverage in the high-risk account. In issuing
219 multiperil coverage, the corporation may use its approved policy
220 forms and rates for the personal lines account. An applicant or
221 insured who is eligible to purchase a multiperil policy from the
222 corporation may purchase a multiperil policy from an authorized
223 insurer without prejudice to the applicant's or insured's
224 eligibility to prospectively purchase a policy that provides
225 coverage only for the peril of wind from the corporation. An
226 applicant or insured who is eligible for a corporation policy
227 that provides coverage only for the peril of wind may elect to
228 purchase or retain such policy and also purchase or retain
229 coverage excluding wind from an authorized insurer without
230 prejudice to the applicant's or insured's eligibility to
231 prospectively purchase a policy that provides multiperil
232 coverage from the corporation. It is the goal of the Legislature
233 that there would be an overall average savings of 10 percent or
234 more for a policyholder who currently has a wind-only policy
235 with the corporation, and an ex-wind policy with a voluntary
236 insurer or the corporation, and who then obtains a multiperil
237 policy from the corporation. It is the intent of the Legislature
238 that the offer of multiperil coverage in the high-risk account
239 be made and implemented in a manner that does not adversely

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240 affect the tax-exempt status of the corporation or
241 creditworthiness of or security for currently outstanding
242 financing obligations or credit facilities of the high-risk
243 account, the personal lines account, or the commercial lines
244 account. By March 1, 2007, the corporation shall prepare and
245 submit for approval by the Financial Services Commission and
246 Legislative Budget Commission a report detailing the
247 corporation's business plan for issuing multiperil coverage in
248 the high-risk account. The business plan shall be approved or
249 disapproved within 30 days after receipt, as submitted or
250 modified and resubmitted by the corporation. The business plan
251 must include: the impact of such multiperil coverage on the
252 corporation's financial resources, the impact of such multiperil
253 coverage on the corporation's tax-exempt status, the manner in
254 which the corporation plans to implement the processing of
255 applications and policy forms for new and existing
256 policyholders, the impact of such multiperil coverage on the
257 corporation's ability to deliver customer service at the high
258 level required by this subsection, the ability of the
259 corporation to process claims, the ability of the corporation to
260 quote and issue policies, the impact of such multiperil coverage
261 on the corporation's agents, the impact of such multiperil
262 coverage on the corporation's existing policyholders, and the
263 impact of such multiperil coverage on rates and premium. The
264 high-risk account must also include quota share primary
265 insurance under subparagraph (c)2. The area eligible for
266 coverage under the high-risk account also includes the area
267 within Port Canaveral, which is bordered on the south by the
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268 City of Cape Canaveral, bordered on the west by the Banana
269 River, and bordered on the north by Federal Government property.

270 b. The three separate accounts must be maintained as long
271 as financing obligations entered into by the Florida Windstorm
272 Underwriting Association or Residential Property and Casualty
273 Joint Underwriting Association are outstanding, in accordance
274 with the terms of the corresponding financing documents. When
275 the financing obligations are no longer outstanding, in
276 accordance with the terms of the corresponding financing
277 documents, the corporation may use a single account for all
278 revenues, assets, liabilities, losses, and expenses of the
279 corporation. Consistent with the requirement of this
280 subparagraph and prudent investment policies that minimize the
281 cost of carrying debt, the board shall exercise its best efforts
282 to retire existing debt or to obtain approval of necessary
283 parties to amend the terms of existing debt, so as to structure
284 the most efficient plan to consolidate the three separate
285 accounts into a single account. By February 1, 2007, the board
286 shall submit a report to the Financial Services Commission, the
287 President of the Senate, and the Speaker of the House of
288 Representatives which includes an analysis of consolidating the
289 accounts, the actions the board has taken to minimize the cost
290 of carrying debt, and its recommendations for executing the most
291 efficient plan.

292 c. Creditors of the Residential Property and Casualty
293 Joint Underwriting Association shall have a claim against, and
294 recourse to, the accounts referred to in sub-sub-subparagraphs
295 a.(I) and (II) and shall have no claim against, or recourse to,
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296 the account referred to in sub-sub-subparagraph a.(III).
297 Creditors of the Florida Windstorm Underwriting Association
298 shall have a claim against, and recourse to, the account
299 referred to in sub-sub-subparagraph a.(III) and shall have no
300 claim against, or recourse to, the accounts referred to in sub-
301 sub-subparagraphs a.(I) and (II).

302 d. Revenues, assets, liabilities, losses, and expenses not
303 attributable to particular accounts shall be prorated among the
304 accounts.

305 e. The Legislature finds that the revenues of the
306 corporation are revenues that are necessary to meet the
307 requirements set forth in documents authorizing the issuance of
308 bonds under this subsection.

309 f. No part of the income of the corporation may inure to
310 the benefit of any private person.

311 2. ~~3.~~ With respect to a deficit in an account:

312 a. ~~When the deficit incurred in a particular calendar year~~
313 ~~is not greater than 10 percent of the aggregate statewide direct~~
314 ~~written premium for the subject lines of business for the prior~~
315 ~~calendar year, the entire deficit shall be recovered through~~
316 ~~regular assessments of assessable insurers under paragraph (p)~~
317 ~~and assessable insureds.~~

318 b. ~~When the deficit incurred in a particular calendar year~~
319 ~~exceeds 10 percent of the aggregate statewide direct written~~
320 ~~premium for the subject lines of business for the prior calendar~~
321 ~~year, the corporation shall levy regular assessments on~~
322 ~~assessable insurers under paragraph (p) and on assessable~~
323 ~~insureds in an amount equal to the greater of 10 percent of the~~
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324 ~~deficit or 10 percent of the aggregate statewide direct written~~
325 ~~premium for the subject lines of business for the prior calendar~~
326 ~~year. Any remaining deficit shall be recovered through emergency~~
327 ~~assessments under sub-subparagraph d.~~

328 ~~e. Each assessable insurer's share of the amount being~~
329 ~~assessed under sub-subparagraph a. or sub-subparagraph b. shall~~
330 ~~be in the proportion that the assessable insurer's direct~~
331 ~~written premium for the subject lines of business for the year~~
332 ~~preceding the assessment bears to the aggregate statewide direct~~
333 ~~written premium for the subject lines of business for that year.~~
334 ~~The assessment percentage applicable to each assessable insured~~
335 ~~is the ratio of the amount being assessed under sub-subparagraph~~
336 ~~a. or sub-subparagraph b. to the aggregate statewide direct~~
337 ~~written premium for the subject lines of business for the prior~~
338 ~~year. Assessments levied by the corporation on assessable~~
339 ~~insurers under sub-subparagraphs a. and b. shall be paid as~~
340 ~~required by the corporation's plan of operation and paragraph~~
341 ~~(p). Notwithstanding any other provision of this subsection, the~~
342 ~~aggregate amount of a regular assessment for a deficit incurred~~
343 ~~in a particular calendar year shall be reduced by the estimated~~
344 ~~amount to be received by the corporation from the Citizens~~
345 ~~policyholder surcharge under subparagraph (c)11. and the amount~~
346 ~~collected or estimated to be collected from the assessment on~~
347 ~~Citizens policyholders pursuant to sub-subparagraph i.~~
348 ~~Assessments levied by the corporation on assessable insureds~~
349 ~~under sub-subparagraphs a. and b. shall be collected by the~~
350 ~~surplus lines agent at the time the surplus lines agent collects~~
351 ~~the surplus lines tax required by s. 626.932 and shall be paid~~
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352 ~~to the Florida Surplus Lines Service Office at the time the~~
353 ~~surplus lines agent pays the surplus lines tax to the Florida~~
354 ~~Surplus Lines Service Office. Upon receipt of regular~~
355 ~~assessments from surplus lines agents, the Florida Surplus Lines~~
356 ~~Service Office shall transfer the assessments directly to the~~
357 ~~corporation as determined by the corporation.~~

358 ~~d. Upon a determination by the board of governors that a~~
359 ~~deficit in an account exceeds the amount that will be recovered~~
360 ~~through regular assessments under sub-subparagraph a. or sub-~~
361 ~~subparagraph b., the board shall levy, after verification by the~~
362 ~~office, emergency assessments, for as many years as necessary to~~
363 ~~cover the deficits, to be collected by assessable insurers and~~
364 ~~the corporation and collected from assessable insureds upon~~
365 ~~issuance or renewal of policies for subject lines of business,~~
366 ~~excluding National Flood Insurance policies. The amount of the~~
367 ~~emergency assessment collected in a particular year shall be a~~
368 ~~uniform percentage of that year's direct written premium for~~
369 ~~subject lines of business and all accounts of the corporation,~~
370 ~~excluding National Flood Insurance Program policy premiums, as~~
371 ~~annually determined by the board and verified by the office. The~~
372 ~~office shall verify the arithmetic calculations involved in the~~
373 ~~board's determination within 30 days after receipt of the~~
374 ~~information on which the determination was based.~~

375 ~~Notwithstanding any other provision of law, the corporation and~~
376 ~~each assessable insurer that writes subject lines of business~~
377 ~~shall collect emergency assessments from its policyholders~~
378 ~~without such obligation being affected by any credit,~~
379 ~~limitation, exemption, or deferment. Emergency assessments~~

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380 ~~levied by the corporation on assessable insureds shall be~~
381 ~~collected by the surplus lines agent at the time the surplus~~
382 ~~lines agent collects the surplus lines tax required by s.~~
383 ~~626.932 and shall be paid to the Florida Surplus Lines Service~~
384 ~~Office at the time the surplus lines agent pays the surplus~~
385 ~~lines tax to the Florida Surplus Lines Service Office. The~~
386 ~~emergency assessments so collected shall be transferred directly~~
387 ~~to the corporation on a periodic basis as determined by the~~
388 ~~corporation and shall be held by the corporation solely in the~~
389 ~~applicable account. The aggregate amount of emergency~~
390 ~~assessments levied for an account under this sub subparagraph in~~
391 ~~any calendar year may not exceed the greater of 10 percent of~~
392 ~~the amount needed to cover the original deficit, plus interest,~~
393 ~~fees, commissions, required reserves, and other costs associated~~
394 ~~with financing of the original deficit, or 10 percent of the~~
395 ~~aggregate statewide direct written premium for subject lines of~~
396 ~~business and for all accounts of the corporation for the prior~~
397 ~~year, plus interest, fees, commissions, required reserves, and~~
398 ~~other costs associated with financing the original deficit.~~

399 e. The corporation may pledge the proceeds of assessments,
400 projected recoveries from the Florida Hurricane Catastrophe
401 Fund, other insurance and reinsurance recoverables, policyholder
402 surcharges and other surcharges, and other funds available to
403 the corporation as the source of revenue for and to secure bonds
404 issued under paragraph (p), bonds or other indebtedness issued
405 under subparagraph (c)3., or lines of credit or other financing
406 mechanisms issued or created under this subsection, or to retire
407 any other debt incurred as a result of deficits or events giving
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408 rise to deficits, or in any other way that the board determines
409 will efficiently recover such deficits. The purpose of the lines
410 of credit or other financing mechanisms is to provide additional
411 resources to assist the corporation in covering claims and
412 expenses attributable to a catastrophe. As used in this
413 subsection, the term "assessments" includes ~~regular~~ assessments
414 under ~~sub-subparagraph a.,~~ sub-subparagraph b., ~~or subparagraph~~
415 ~~(p)1. and emergency assessments under sub-subparagraph d.~~
416 ~~Emergency assessments collected under sub-subparagraph d. are~~
417 ~~not part of an insurer's rates, are not premium, and are not~~
418 ~~subject to premium tax, fees, or commissions; however, failure~~
419 ~~to pay the emergency assessment shall be treated as failure to~~
420 ~~pay premium. The emergency assessments under sub-subparagraph d.~~
421 ~~shall continue as long as any bonds issued or other indebtedness~~
422 ~~incurred with respect to a deficit for which the assessment was~~
423 ~~imposed remain outstanding, unless adequate provision has been~~
424 ~~made for the payment of such bonds or other indebtedness~~
425 ~~pursuant to the documents governing such bonds or other~~
426 ~~indebtedness.~~

427 ~~f. As used in this subsection, the term "subject lines of~~
428 ~~business" means insurance written by assessable insurers or~~
429 ~~procured by assessable insureds for all property and casualty~~
430 ~~lines of business in this state, but not including workers'~~
431 ~~compensation or medical malpractice. As used in the sub-~~
432 ~~subparagraph, the term "property and casualty lines of business"~~
433 ~~includes all lines of business identified on Form 2, Exhibit of~~
434 ~~Premiums and Losses, in the annual statement required of~~
435 ~~authorized insurers by s. 624.424 and any rule adopted under~~
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436 ~~this section, except for those lines identified as accident and~~
437 ~~health insurance and except for policies written under the~~
438 ~~National Flood Insurance program or the Federal Crop Insurance~~
439 ~~Program. For purposes of this sub-subparagraph, the term~~
440 ~~"workers' compensation" includes both workers' compensation~~
441 ~~insurance and excess workers' compensation insurance.~~

442 ~~g. The Florida Surplus Lines Service Office shall~~
443 ~~determine annually the aggregate statewide written premium in~~
444 ~~subject lines of business procured by assessable insureds and~~
445 ~~shall report that information to the corporation in a form and~~
446 ~~at a time the corporation specifies to ensure that the~~
447 ~~corporation can meet the requirements of this subsection and the~~
448 ~~corporation's financing obligations.~~

449 ~~h. The Florida Surplus Lines Service Office shall verify~~
450 ~~the proper application by surplus lines agents of assessment~~
451 ~~percentages for regular assessments and emergency assessments~~
452 ~~levied under this subparagraph on assessable insureds and shall~~
453 ~~assist the corporation in ensuring the accurate, timely~~
454 ~~collection and payment of assessments by surplus lines agents as~~
455 ~~required by the corporation.~~

456 ~~b. i.~~ If a deficit is incurred in any account in 2008 or
457 thereafter, the board of governors shall levy an immediate
458 assessment against the premium of each nonhomestead property
459 policyholder in all accounts of the corporation, as a uniform
460 percentage of the premium of the policy of up to 10 percent of
461 such premium, which funds shall be used to offset the deficit.
462 If this assessment is insufficient to eliminate the deficit, the
463 board of governors shall levy an additional assessment against

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464 all policyholders of the corporation, which shall be collected
465 at the time of issuance or renewal of a policy, as a uniform
466 percentage of the premium for the policy ~~of up to 10 percent of~~
467 ~~such premium~~, which funds shall be used to further offset the
468 deficit.

469 c. j. The board of governors shall maintain separate
470 accounting records that consolidate data for nonhomestead
471 properties, including, but not limited to, number of policies,
472 insured values, premiums written, and losses. The board of
473 governors shall annually report to the office and the
474 Legislature a summary of such data.

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

476 1. Must provide for adoption of residential property and
477 casualty insurance policy forms and commercial residential and
478 nonresidential property insurance forms, which forms must be
479 approved by the office prior to use. The corporation shall adopt
480 the following policy forms:

481 a. Standard personal lines policy forms that are
482 comprehensive multiperil policies providing full coverage of a
483 residential property equivalent to the coverage provided in the
484 private insurance market under an HO-3, HO-4, or HO-6 policy.

485 b. Basic personal lines policy forms that are policies
486 similar to an HO-8 policy or a dwelling fire policy that provide
487 coverage meeting the requirements of the secondary mortgage
488 market, but which coverage is more limited than the coverage
489 under a standard policy.

490 c. Commercial lines residential and nonresidential policy
491 forms that are generally similar to the basic perils of full
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492 coverage obtainable for commercial residential structures and
493 commercial nonresidential structures in the admitted voluntary
494 market.

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

500 e. Commercial lines nonresidential property insurance
501 forms that cover the peril of wind only. The forms are
502 applicable only to nonresidential properties located in areas
503 eligible for coverage under the high-risk account referred to in
504 sub-subparagraph (b)2.a.

505 f. The corporation may adopt variations of the policy
506 forms listed in sub-subparagraphs a.-e. that contain more
507 restrictive coverage.

508 2.a. Must provide that the corporation adopt a program in
509 which the corporation and authorized insurers enter into quota
510 share primary insurance agreements for hurricane coverage, as
511 defined in s. 627.4025(2)(a), for eligible risks, and adopt
512 property insurance forms for eligible risks which cover the
513 peril of wind only. As used in this subsection, the term:

514 (I) "Quota share primary insurance" means an arrangement
515 in which the primary hurricane coverage of an eligible risk is
516 provided in specified percentages by the corporation and an
517 authorized insurer. The corporation and authorized insurer are
518 each solely responsible for a specified percentage of hurricane
519 coverage of an eligible risk as set forth in a quota share

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520 primary insurance agreement between the corporation and an
521 authorized insurer and the insurance contract. The
522 responsibility of the corporation or authorized insurer to pay
523 its specified percentage of hurricane losses of an eligible
524 risk, as set forth in the quota share primary insurance
525 agreement, may not be altered by the inability of the other
526 party to the agreement to pay its specified percentage of
527 hurricane losses. Eligible risks that are provided hurricane
528 coverage through a quota share primary insurance arrangement
529 must be provided policy forms that set forth the obligations of
530 the corporation and authorized insurer under the arrangement,
531 clearly specify the percentages of quota share primary insurance
532 provided by the corporation and authorized insurer, and
533 conspicuously and clearly state that neither the authorized
534 insurer nor the corporation may be held responsible beyond its
535 specified percentage of coverage of hurricane losses.

536 (II) "Eligible risks" means personal lines residential and
537 commercial lines residential risks that meet the underwriting
538 criteria of the corporation and are located in areas that were
539 eligible for coverage by the Florida Windstorm Underwriting
540 Association on January 1, 2002.

541 b. The corporation may enter into quota share primary
542 insurance agreements with authorized insurers at corporation
543 coverage levels of 90 percent and 50 percent.

544 c. If the corporation determines that additional coverage
545 levels are necessary to maximize participation in quota share
546 primary insurance agreements by authorized insurers, the
547 corporation may establish additional coverage levels. However,
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548 the corporation's quota share primary insurance coverage level
549 may not exceed 90 percent.

550 d. Any quota share primary insurance agreement entered
551 into between an authorized insurer and the corporation must
552 provide for a uniform specified percentage of coverage of
553 hurricane losses, by county or territory as set forth by the
554 corporation board, for all eligible risks of the authorized
555 insurer covered under the quota share primary insurance
556 agreement.

557 e. Any quota share primary insurance agreement entered
558 into between an authorized insurer and the corporation is
559 subject to review and approval by the office. However, such
560 agreement shall be authorized only as to insurance contracts
561 entered into between an authorized insurer and an insured who is
562 already insured by the corporation for wind coverage.

563 f. For all eligible risks covered under quota share
564 primary insurance agreements, the exposure and coverage levels
565 for both the corporation and authorized insurers shall be
566 reported by the corporation to the Florida Hurricane Catastrophe
567 Fund. For all policies of eligible risks covered under quota
568 share primary insurance agreements, the corporation and the
569 authorized insurer shall maintain complete and accurate records
570 for the purpose of exposure and loss reimbursement audits as
571 required by Florida Hurricane Catastrophe Fund rules. The
572 corporation and the authorized insurer shall each maintain
573 duplicate copies of policy declaration pages and supporting
574 claims documents.

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575 g. The corporation board shall establish in its plan of
576 operation standards for quota share agreements which ensure that
577 there is no discriminatory application among insurers as to the
578 terms of quota share agreements, pricing of quota share
579 agreements, incentive provisions if any, and consideration paid
580 for servicing policies or adjusting claims.

581 h. The quota share primary insurance agreement between the
582 corporation and an authorized insurer must set forth the
583 specific terms under which coverage is provided, including, but
584 not limited to, the sale and servicing of policies issued under
585 the agreement by the insurance agent of the authorized insurer
586 producing the business, the reporting of information concerning
587 eligible risks, the payment of premium to the corporation, and
588 arrangements for the adjustment and payment of hurricane claims
589 incurred on eligible risks by the claims adjuster and personnel
590 of the authorized insurer. Entering into a quota sharing
591 insurance agreement between the corporation and an authorized
592 insurer shall be voluntary and at the discretion of the
593 authorized insurer.

594 3. May provide that the corporation may employ or
595 otherwise contract with individuals or other entities to provide
596 administrative or professional services that may be appropriate
597 to effectuate the plan. The corporation shall have the power to
598 borrow funds, by issuing bonds or by incurring other
599 indebtedness, and shall have other powers reasonably necessary
600 to effectuate the requirements of this subsection, including,
601 without limitation, the power to issue bonds and incur other
602 indebtedness in order to refinance outstanding bonds or other

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603 indebtedness. The corporation may, but is not required to, seek
604 judicial validation of its bonds or other indebtedness under
605 chapter 75. The corporation may issue bonds or incur other
606 indebtedness, or have bonds issued on its behalf by a unit of
607 local government pursuant to subparagraph (g)2., in the absence
608 of a hurricane or other weather-related event, upon a
609 determination by the corporation, subject to approval by the
610 office, that such action would enable it to efficiently meet the
611 financial obligations of the corporation and that such
612 financings are reasonably necessary to effectuate the
613 requirements of this subsection. The corporation is authorized
614 to take all actions needed to facilitate tax-free status for any
615 such bonds or indebtedness, including formation of trusts or
616 other affiliated entities. The corporation shall have the
617 authority to pledge assessments, projected recoveries from the
618 Florida Hurricane Catastrophe Fund, other reinsurance
619 recoverables, market equalization and other surcharges, and
620 other funds available to the corporation as security for bonds
621 or other indebtedness. In recognition of s. 10, Art. I of the
622 State Constitution, prohibiting the impairment of obligations of
623 contracts, it is the intent of the Legislature that no action be
624 taken whose purpose is to impair any bond indenture or financing
625 agreement or any revenue source committed by contract to such
626 bond or other indebtedness.

627 4.a. Must require that the corporation operate subject to
628 the supervision and approval of a board of governors consisting
629 of nine ~~eight~~ individuals ~~who are residents of this state, from~~
630 ~~different geographical areas of this state.~~ The Governor shall

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631 appoint three members of the board. The Chief Financial
632 Officer, the President of the Senate, and the Speaker of the
633 House of Representatives shall each appoint two members of the
634 board. All board members shall possess demonstrated expertise or
635 knowledge in insurance, bond financing, business management or
636 corporate board membership. ~~At least one of the two members~~
637 ~~appointed by each appointing officer must have demonstrated~~
638 ~~expertise in insurance. The Chief Financial Officer shall~~
639 ~~designate one of the appointees as chair.~~ All board members
640 serve at the pleasure of the appointing officer. All members of
641 the board of governors are subject to removal at will by the
642 officers who appointed them. All board members, including the
643 chair, must be appointed to serve for 3-year terms beginning
644 annually on a date designated by the plan. Any board vacancy
645 shall be filled for the unexpired term by the appointing
646 officer. The Governor shall designate one of the nine board
647 members as chair. ~~The Chief Financial Officer shall appoint a~~
648 ~~technical advisory group to provide information and advice to~~
649 ~~the board of governors in connection with the board's duties~~
650 ~~under this subsection.~~ The executive director of the corporation
651 must have substantial insurance and managerial expertise and
652 ~~senior managers of the corporation~~ shall be engaged by the board
653 and serve at the pleasure of the board. Any executive director
654 appointed on or after July 1, 2006, is subject to confirmation
655 by the Senate. The executive director is responsible for
656 employing other staff as the corporation may require, subject to
657 review and concurrence by the board.

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658 b. The board shall create a Market Accountability Advisory
659 Committee to assist the corporation in developing awareness of
660 its rates and its customer and agent service levels in
661 relationship to the voluntary market insurers writing similar
662 coverage. The members of the advisory committee shall consist of
663 the following 11 persons, one of whom must be elected chair by
664 the members of the committee: four representatives, one
665 appointed by the Florida Association of Insurance Agents, one by
666 the Florida Association of Insurance and Financial Advisors, one
667 by the Professional Insurance Agents of Florida, and one by the
668 Latin American Association of Insurance Agencies; three
669 representatives appointed by the insurers with the three highest
670 voluntary market share of residential property insurance
671 business in the state; one representative from the Office of
672 Insurance Regulation; one consumer appointed by the board who is
673 insured by the corporation at the time of appointment to the
674 committee; one representative appointed by the Florida
675 Association of Realtors; and one representative appointed by the
676 Florida Bankers Association. All members must serve for 3-year
677 terms and may serve for consecutive terms. The committee shall
678 report to the corporation at each board meeting on insurance
679 market issues which may include rates and rate competition with
680 the voluntary market; service, including policy issuance, claims
681 processing, and general responsiveness to policyholders,
682 applicants, and agents; and matters relating to depopulation.

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

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685 a. Subject to the provisions of s. 627.3517, with respect
686 to personal lines residential risks, if the risk is offered
687 coverage from an authorized insurer at the insurer's approved
688 rate under either a standard policy including wind coverage or,
689 if consistent with the insurer's underwriting rules as filed
690 with the office, a basic policy including wind coverage, for a
691 new application to the corporation for coverage, the risk is not
692 eligible for any policy issued by the corporation unless the
693 premium for coverage from the authorized insurer is more than 25
694 percent greater than the premium for comparable coverage from
695 the corporation. If the risk is not able to obtain any such
696 offer, the risk is eligible for either a standard policy
697 including wind coverage or a basic policy including wind
698 coverage issued by the corporation; however, if the risk could
699 not be insured under a standard policy including wind coverage
700 regardless of market conditions, the risk shall be eligible for
701 a basic policy including wind coverage unless rejected under
702 subparagraph 8. However, with regard to a policyholder of the
703 corporation, the policyholder remains eligible for coverage from
704 the corporation regardless of any offer of coverage from an
705 authorized insurer or surplus lines insurer. The corporation
706 shall determine the type of policy to be provided on the basis
707 of objective standards specified in the underwriting manual and
708 based on generally accepted underwriting practices.

709 (I) If the risk accepts an offer of coverage through the
710 market assistance plan or an offer of coverage through a
711 mechanism established by the corporation before a policy is
712 issued to the risk by the corporation or during the first 30
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713 days of coverage by the corporation, and the producing agent who
714 submitted the application to the plan or to the corporation is
715 not currently appointed by the insurer, the insurer shall:

716 (A) Pay to the producing agent of record of the policy,
717 for the first year, an amount that is the greater of the
718 insurer's usual and customary commission for the type of policy
719 written or a fee equal to the usual and customary commission of
720 the corporation; or

721 (B) Offer to allow the producing agent of record of the
722 policy to continue servicing the policy for a period of not less
723 than 1 year and offer to pay the agent the greater of the
724 insurer's or the corporation's usual and customary commission
725 for the type of policy written.

726

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

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

734 (A) Pay to the producing agent of record of the
735 corporation policy, for the first year, an amount that is the
736 greater of the insurer's usual and customary commission for the
737 type of policy written or a fee equal to the usual and customary
738 commission of the corporation; or

739 (B) Offer to allow the producing agent of record of the
740 corporation policy to continue servicing the policy for a period
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741 of not less than 1 year and offer to pay the agent the greater
742 of the insurer's or the corporation's usual and customary
743 commission for the type of policy written.

744

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

748 b. With respect to commercial lines residential risks, for
749 a new application to the corporation for coverage, if the risk
750 is offered coverage under a policy including wind coverage from
751 an authorized insurer at its approved rate, the risk is not
752 eligible for any policy issued by the corporation unless the
753 premium for coverage from the authorized insurer is more than 25
754 percent greater than the premium for comparable coverage from
755 the corporation. If the risk is not able to obtain any such
756 offer, the risk is eligible for a policy including wind coverage
757 issued by the corporation. However, with regard to a
758 policyholder of the corporation, the policyholder remains
759 eligible for coverage from the corporation regardless of any
760 offer of coverage from an authorized insurer or surplus lines
761 insurer.

762 (I) If the risk accepts an offer of coverage through the
763 market assistance plan or an offer of coverage through a
764 mechanism established by the corporation before a policy is
765 issued to the risk by the corporation or during the first 30
766 days of coverage by the corporation, and the producing agent who
767 submitted the application to the plan or the corporation is not
768 currently appointed by the insurer, the insurer shall:

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769 (A) Pay to the producing agent of record of the policy,
770 for the first year, an amount that is the greater of the
771 insurer's usual and customary commission for the type of policy
772 written or a fee equal to the usual and customary commission of
773 the corporation; or

774 (B) Offer to allow the producing agent of record of the
775 policy to continue servicing the policy for a period of not less
776 than 1 year and offer to pay the agent the greater of the
777 insurer's or the corporation's usual and customary commission
778 for the type of policy written.

779

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

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

787 (A) Pay to the producing agent of record of the
788 corporation policy, for the first year, an amount that is the
789 greater of the insurer's usual and customary commission for the
790 type of policy written or a fee equal to the usual and customary
791 commission of the corporation; or

792 (B) Offer to allow the producing agent of record of the
793 corporation policy to continue servicing the policy for a period
794 of not less than 1 year and offer to pay the agent the greater
795 of the insurer's or the corporation's usual and customary
796 commission for the type of policy written.

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

801 6. Must provide by July 1, 2007, that an application for
802 coverage for a new policy is subject to a waiting period of 10
803 days before coverage is effective, during which time the
804 corporation shall make such application available for review by
805 general lines agents and authorized property and casualty
806 insurers. The board shall approve an exception that allows for
807 coverage to be effective before the end of the 10-day waiting
808 period, for coverage issued in conjunction with a real estate
809 closing. The board may approve such other exceptions as the
810 board determines are necessary to prevent lapses in coverage.

811 7. Must include rules for classifications of risks and
812 rates therefor.

813 8. Must provide that if premium and investment income for
814 an account attributable to a particular calendar year are in
815 excess of projected losses and expenses for the account
816 attributable to that year, such excess shall be held in surplus
817 in the account. Such surplus shall be available to defray
818 deficits in that account as to future years and shall be used
819 for that purpose prior to assessing assessable insurers and
820 assessable insureds as to any calendar year.

821 9. Must provide objective criteria and procedures to be
822 uniformly applied for all applicants in determining whether an
823 individual risk is so hazardous as to be uninsurable. In making

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824 this determination and in establishing the criteria and
825 procedures, the following shall be considered:

826 a. Whether the likelihood of a loss for the individual
827 risk is substantially higher than for other risks of the same
828 class; and

829 b. Whether the uncertainty associated with the individual
830 risk is such that an appropriate premium cannot be determined.

831

832 The acceptance or rejection of a risk by the corporation shall
833 be construed as the private placement of insurance, and the
834 provisions of chapter 120 shall not apply.

835 10. Must provide that the corporation shall make its best
836 efforts to procure catastrophe reinsurance at reasonable rates,
837 to cover its projected 100-year probable maximum loss as
838 determined by the board of governors.

839 11. Must provide that in the event of regular deficit
840 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
841 (b)3.b., in the personal lines account, the commercial lines
842 residential account, or the high-risk account, the corporation
843 shall levy upon corporation policyholders in its next rate
844 filing, or by a separate rate filing solely for this purpose, a
845 Citizens policyholder surcharge arising from a regular
846 assessment in such account in a percentage equal to the total
847 amount of such regular assessments divided by the aggregate
848 statewide direct written premium for subject lines of business
849 for the prior calendar year. For purposes of calculating the
850 Citizens policyholder surcharge to be levied under this
851 subparagraph, the total amount of the regular assessment to
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852 which this surcharge is related shall be determined as set forth
853 in subparagraph (b)3., without deducting the estimated Citizens
854 policyholder surcharge. Citizens policyholder surcharges under
855 this subparagraph are not considered premium and are not subject
856 to commissions, fees, or premium taxes; however, failure to pay
857 a market equalization surcharge shall be treated as failure to
858 pay premium.

859 12. The policies issued by the corporation must provide
860 that, if the corporation or the market assistance plan obtains
861 an offer from an authorized insurer to cover the risk at its
862 approved rates, the risk is no longer eligible for renewal
863 through the corporation, except as otherwise provided in this
864 subsection.

865 13. Corporation policies and applications must include a
866 notice that the corporation policy could, under this section, be
867 replaced with a policy issued by an authorized insurer that does
868 not provide coverage identical to the coverage provided by the
869 corporation. The notice shall also specify that acceptance of
870 corporation coverage creates a conclusive presumption that the
871 applicant or policyholder is aware of this potential.

872 14. May establish, subject to approval by the office,
873 different eligibility requirements and operational procedures
874 for any line or type of coverage for any specified county or
875 area if the board determines that such changes to the
876 eligibility requirements and operational procedures are
877 justified due to the voluntary market being sufficiently stable
878 and competitive in such area or for such line or type of
879 coverage and that consumers who, in good faith, are unable to

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880 obtain insurance through the voluntary market through ordinary
881 methods would continue to have access to coverage from the
882 corporation. When coverage is sought in connection with a real
883 property transfer, such requirements and procedures shall not
884 provide for an effective date of coverage later than the date of
885 the closing of the transfer as established by the transferor,
886 the transferee, and, if applicable, the lender.

887 15. Must provide that, with respect to the high-risk
888 account, any assessable insurer with a surplus as to
889 policyholders of \$25 million or less writing 25 percent or more
890 of its total countrywide property insurance premiums in this
891 state may petition the office, within the first 90 days of each
892 calendar year, to qualify as a limited apportionment company. A
893 regular assessment levied by the corporation on a limited
894 apportionment company for a deficit incurred by the corporation
895 for the high-risk account in 2006 or thereafter may be paid to
896 the corporation on a monthly basis as the assessments are
897 collected by the limited apportionment company from its insureds
898 pursuant to s. 627.3512, but the regular assessment must be paid
899 in full within 12 months after being levied by the corporation.
900 A limited apportionment company shall collect from its
901 policyholders any emergency assessment imposed under sub-
902 subparagraph (b)3.d. The plan shall provide that, if the office
903 determines that any regular assessment will result in an
904 impairment of the surplus of a limited apportionment company,
905 the office may direct that all or part of such assessment be
906 deferred as provided in subparagraph (g)4. However, there shall

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907 | be no limitation or deferment of an emergency assessment to be
908 | collected from policyholders under sub-subparagraph (b)3.d.

909 | 16. Must provide that the corporation appoint as its
910 | licensed agents only those agents who also hold an appointment
911 | as defined in s. 626.015(3) with an insurer who at the time of
912 | the agent's initial appointment by the corporation is authorized
913 | to write and is actually writing personal lines residential
914 | property coverage, commercial residential property coverage, or
915 | commercial nonresidential property coverage within the state.

916 | 17. Must provide, by July 1, 2007, a premium payment plan
917 | option to its policyholders which allows for quarterly and
918 | semiannual payment of premiums.

919 | 18. Must provide, effective June 1, 2007, that the
920 | corporation contract with each insurer providing the non-wind
921 | coverage for risks insured by the corporation in the high-risk
922 | account, requiring that the insurer provide claims adjusting
923 | services for the wind coverage provided by the corporation for
924 | such risks. An insurer is required to enter into this contract
925 | as a condition of providing non-wind coverage for a risk that is
926 | insured by the corporation in the high-risk account unless the
927 | board finds, after a hearing, that the insurer is not capable of
928 | providing adjusting services at an acceptable level of quality
929 | to corporation policyholders. The terms and conditions of such
930 | contracts must be substantially the same as the contracts that
931 | the corporation executed with insurers under the "adjust-your-
932 | own" program in 2006, except as may be mutually agreed to by the
933 | parties and except for such changes that the board determines
934 | are necessary to ensure that claims are adjusted appropriately.

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935 The corporation shall provide a process for neutral arbitration
936 of any dispute between the corporation and the insurer regarding
937 the terms of the contract. The corporation shall review and
938 monitor the performance of insurers under these contracts.

939 19. Must limit coverage on mobile homes or manufactured
940 homes built prior to 1994 to actual cash value of the dwelling
941 rather than replacement costs of the dwelling.

942 20. May provide such limits of coverage as the board
943 determines, consistent with the requirements of this subsection.

944 21. May require commercial property to meet specified
945 hurricane mitigation construction features as a condition of
946 eligibility for coverage.

947 (m)1. Rates for coverage provided by the corporation shall
948 be actuarially sound and subject to the requirements of s.
949 627.062, except as otherwise provided in this paragraph. The
950 corporation shall file its recommended rates with the office at
951 least annually. The corporation shall provide any additional
952 information regarding the rates which the office requires. The
953 office shall consider the recommendations of the board and issue
954 a final order establishing the rates for the corporation within
955 45 days after the recommended rates are filed. The corporation
956 may not pursue an administrative challenge or judicial review of
957 the final order of the office.

958 2. In addition to the rates otherwise determined pursuant
959 to this paragraph, the corporation shall impose and collect an
960 amount equal to the premium tax provided for in s. 624.509 to
961 augment the financial resources of the corporation.

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962 3. After the public hurricane loss-projection model under
963 s. 627.06281 has been found to be accurate and reliable by the
964 Florida Commission on Hurricane Loss Projection Methodology,
965 that model shall serve as the minimum benchmark for determining
966 the windstorm portion of the corporation's rates. This
967 subparagraph does not require or allow the corporation to adopt
968 rates lower than the rates otherwise required or allowed by this
969 paragraph.

970 4. The rate filings for the corporation which were
971 approved by the office and which took effect January 1, 2007,
972 are rescinded, except for those rates that were lowered. As soon
973 as possible, the corporation shall begin using the lower rates
974 that were in effect on December 31, 2006, and shall provide
975 refunds to policyholders who have paid higher rates as a result
976 of that rate filing. The rates in effect on December 31, 2006,
977 shall remain in effect until January 1, 2008, ~~for the 2007~~
978 ~~calendar year~~ except for any rate change that results in a lower
979 rate. The next rate change that may increase rates shall take
980 effect January 1, 2008, pursuant to a new rate filing
981 recommended by the corporation and established by the office,
982 subject to the requirements of this paragraph.

983 (p)~~1~~. The corporation shall certify to the office its
984 needs for annual assessments as to a particular calendar year,
985 and for any interim assessments that it deems to be necessary to
986 sustain operations as to a particular year pending the receipt
987 of annual assessments. Upon verification, the office shall
988 approve such certification, and the corporation shall levy such
989 annual or interim assessments. Such assessments shall be

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990 prorated as provided in paragraph (b). The corporation shall
991 take all reasonable and prudent steps necessary to collect the
992 amount of assessment due from each assessable insured insurer,
993 including, if prudent, filing suit to collect such assessment.
994 ~~If the corporation is unable to collect an assessment from any~~
995 ~~assessable insurer, the uncollected assessments shall be levied~~
996 ~~as an additional assessment against the assessable insurers and~~
997 ~~any assessable insurer required to pay an additional assessment~~
998 ~~as a result of such failure to pay shall have a cause of action~~
999 ~~against such nonpaying assessable insurer. Assessments shall be~~
1000 ~~included as an appropriate factor in the making of rates. The~~
1001 ~~failure of a surplus lines agent to collect and remit any~~
1002 ~~regular or emergency assessment levied by the corporation is~~
1003 ~~considered to be a violation of s. 626.936 and subjects the~~
1004 ~~surplus lines agent to the penalties provided in that section.~~

1005 2. The governing body of any unit of local government, any
1006 residents of which are insured by the corporation, may issue
1007 bonds as defined in s. 125.013 or s. 166.101 from time to time
1008 to fund an assistance program, in conjunction with the
1009 corporation, for the purpose of defraying deficits of the
1010 corporation. In order to avoid needless and indiscriminate
1011 proliferation, duplication, and fragmentation of such assistance
1012 programs, any unit of local government, any residents of which
1013 are insured by the corporation, may provide for the payment of
1014 losses, regardless of whether or not the losses occurred within
1015 or outside of the territorial jurisdiction of the local
1016 government. Revenue bonds under this subparagraph may not be
1017 issued until validated pursuant to chapter 75, unless a state of
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1018 emergency is declared by executive order or proclamation of the
1019 Governor pursuant to s. 252.36 making such findings as are
1020 necessary to determine that it is in the best interests of, and
1021 necessary for, the protection of the public health, safety, and
1022 general welfare of residents of this state and declaring it an
1023 essential public purpose to permit certain municipalities or
1024 counties to issue such bonds as will permit relief to claimants
1025 and policyholders of the corporation. Any such unit of local
1026 government may enter into such contracts with the corporation
1027 and with any other entity created pursuant to this subsection as
1028 are necessary to carry out this paragraph. Any bonds issued
1029 under this subparagraph shall be payable from and secured by
1030 moneys received by the corporation from emergency assessments
1031 under sub-subparagraph (b)3.b.d., and assigned and pledged to or
1032 on behalf of the unit of local government for the benefit of the
1033 holders of such bonds. The funds, credit, property, and taxing
1034 power of the state or of the unit of local government shall not
1035 be pledged for the payment of such bonds. ~~If any of the bonds~~
1036 ~~remain unsold 60 days after issuance, the office shall require~~
1037 ~~all insurers subject to assessment to purchase the bonds, which~~
1038 ~~shall be treated as admitted assets; each insurer shall be~~
1039 ~~required to purchase that percentage of the unsold portion of~~
1040 ~~the bond issue that equals the insurer's relative share of~~
1041 ~~assessment liability under this subsection. An insurer shall not~~
1042 ~~be required to purchase the bonds to the extent that the office~~
1043 ~~determines that the purchase would endanger or impair the~~
1044 ~~solveny of the insurer.~~

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1045 2. ~~3.~~a. The corporation shall adopt one or more programs
1046 subject to approval by the office for the reduction of both new
1047 and renewal writings in the corporation. Beginning January 1,
1048 2008, any program the corporation adopts for the payment of
1049 bonuses to an insurer for each risk the insurer removes from the
1050 corporation shall comply with s. 627.3511(2) and may not exceed
1051 the amount referenced in s. 627.3511(2) for each risk removed.
1052 ~~The corporation may consider any prudent and not unfairly~~
1053 ~~discriminatory approach to reducing corporation writings, and~~
1054 ~~may adopt a credit against assessment liability or other~~
1055 ~~liability that provides an incentive for insurers to take risks~~
1056 ~~out of the corporation and to keep risks out of the corporation~~
1057 ~~by maintaining or increasing voluntary writings in counties or~~
1058 ~~areas in which corporation risks are highly concentrated and a~~
1059 ~~program to provide a formula under which an insurer voluntarily~~
1060 ~~taking risks out of the corporation by maintaining or increasing~~
1061 ~~voluntary writings will be relieved wholly or partially from~~
1062 ~~assessments under sub-subparagraphs (b)3.a. and b. However, any~~
1063 "take-out bonus" or payment to an insurer must be conditioned on
1064 the property being insured for at least 5 years by the insurer,
1065 unless canceled or nonrenewed by the policyholder. If the policy
1066 is canceled or nonrenewed by the policyholder before the end of
1067 the 5-year period, the amount of the take-out bonus must be
1068 prorated for the time period the policy was insured. When the
1069 corporation enters into a contractual agreement for a take-out
1070 plan, the producing agent of record of the corporation policy is
1071 entitled to retain any unearned commission on such policy, and
1072 the insurer shall either:

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1073 (I) Pay to the producing agent of record of the policy,
1074 for the first year, an amount which is the greater of the
1075 insurer's usual and customary commission for the type of policy
1076 written or a policy fee equal to the usual and customary
1077 commission of the corporation; or

1078 (II) Offer to allow the producing agent of record of the
1079 policy to continue servicing the policy for a period of not less
1080 than 1 year and offer to pay the agent the insurer's usual and
1081 customary commission for the type of policy written. If the
1082 producing agent is unwilling or unable to accept appointment by
1083 the new insurer, the new insurer shall pay the agent in
1084 accordance with sub-sub-subparagraph (I).

1085 ~~b. Any credit or exemption from regular assessments~~
1086 ~~adopted under this subparagraph shall last no longer than the 3~~
1087 ~~years following the cancellation or expiration of the policy by~~
1088 ~~the corporation. With the approval of the office, the board may~~
1089 ~~extend such credits for an additional year if the insurer~~
1090 ~~guarantees an additional year of renewability for all policies~~
1091 ~~removed from the corporation, or for 2 additional years if the~~
1092 ~~insurer guarantees 2 additional years of renewability for all~~
1093 ~~policies so removed.~~

1094 ~~e. There shall be no credit, limitation, exemption, or~~
1095 ~~deferment from emergency assessments to be collected from~~
1096 ~~policyholders pursuant to sub-subparagraph (b)3.d.~~

1097 ~~4. The plan shall provide for the deferment, in whole or~~
1098 ~~in part, of the assessment of an assessable insurer, other than~~
1099 ~~an emergency assessment collected from policyholders pursuant to~~
1100 ~~sub-subparagraph (b)3.d., if the office finds that payment of~~
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1101 ~~the assessment would endanger or impair the solvency of the~~
1102 ~~insurer. In the event an assessment against an assessable~~
1103 ~~insurer is deferred in whole or in part, the amount by which~~
1104 ~~such assessment is deferred may be assessed against the other~~
1105 ~~assessable insurers in a manner consistent with the basis for~~
1106 ~~assessments set forth in paragraph (b).~~

1107 3. ~~5.~~ Effective July 1, 2007, in order to evaluate the
1108 costs and benefits of approved take-out plans, if the
1109 corporation pays a bonus or other payment to an insurer for an
1110 approved take-out plan, it shall maintain a record of the
1111 address or such other identifying information on the property or
1112 risk removed in order to track if and when the property or risk
1113 is later insured by the corporation.

1114 4. ~~6.~~ Any policy taken out, assumed, or removed from the
1115 corporation is, as of the effective date of the take-out,
1116 assumption, or removal, direct insurance issued by the insurer
1117 and not by the corporation, even if the corporation continues to
1118 service the policies. This subparagraph applies to policies of
1119 the corporation and not policies taken out, assumed, or removed
1120 from any other entity.

1121 ~~(r) There shall be no liability on the part of, and no~~
1122 ~~cause of action of any nature shall arise against, any~~
1123 ~~assessable insurer or its agents or employees, the corporation~~
1124 ~~or its agents or employees, members of the board of governors or~~
1125 ~~their respective designees at a board meeting, corporation~~
1126 ~~committee members, or the office or its representatives, for any~~
1127 ~~action taken by them in the performance of their duties or~~

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1128 ~~responsibilities under this subsection. Such immunity does not~~
1129 ~~apply to:~~

1130 ~~1. Any of the foregoing persons or entities for any~~
1131 ~~willful tort;~~

1132 ~~2. The corporation or its producing agents for breach of~~
1133 ~~any contract or agreement pertaining to insurance coverage;~~

1134 ~~3. The corporation with respect to issuance or payment of~~
1135 ~~debt; or~~

1136 ~~4. Any assessable insurer with respect to any action to~~
1137 ~~enforce an assessable insurer's obligations to the corporation~~
1138 ~~under this subsection.~~

1139

1140 ===== T I T L E A M E N D M E N T =====

1141 Remove lines 18-22 and insert:

1142 and threatens the economic health of the state; revising
1143 membership of the corporation's board of governors; deleting
1144 provisions relating to assessable insurers; deleting provisions
1145 relating to who constitutes an assessable insurer; deleting
1146 provisions relating to deficit in an account; revising the
1147 definition of the term "assessments"; deleting provisions
1148 relating to subject lines of business; revising powers of the
1149 corporation to levy certain assessments; deleting provisions
1150 relating to unsold bonds; revising powers of the corporation;
1151 deleting provisions relating to credits and exemptions from
1152 assessments; revising provisions for determining eligibility for
1153 coverage under the corporation; reinstating certain rate filings
1154 by the corporation; deleting provisions relating to the
1155 uncollected assessments; deleting provisions relieving

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HOUSE AMENDMENT

Bill No. CS/CS/HB 1267

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1156 assessable insurers of liability under certain circumstances;
1157 prohibiting issuance of new