

Amendment No.

CHAMBER ACTION

Senate

House

1 Representatives Ross and Gardiner offered the following:

2
3 **Substitute Amendment for Amendment (218561) (with directory**
4 **and title amendments)**

5 Remove lines 221-728 and insert:

6 ~~(b)1. All insurers authorized to write one or more subject~~
7 ~~lines of business in this state are subject to assessment by the~~
8 ~~corporation and, for the purposes of this subsection, are~~
9 ~~referred to collectively as "assessable insurers." Insurers~~
10 ~~writing one or more subject lines of business in this state~~
11 ~~pursuant to part VIII of chapter 626 are not assessable~~
12 ~~insurers, but insureds who procure one or more subject lines of~~
13 ~~business in this state pursuant to part VIII of chapter 626 are~~
14 ~~subject to assessment by the corporation and are referred to~~
15 ~~collectively as "assessable insureds." An authorized insurer's~~
16 ~~assessment liability shall begin on the first day of the~~

547291

4/25/2007 4:52:36 PM

Amendment No.

17 ~~calendar year following the year in which the insurer was issued~~
18 ~~a certificate of authority to transact insurance for subject~~
19 ~~lines of business in this state and shall terminate 1 year after~~
20 ~~the end of the first calendar year during which the insurer no~~
21 ~~longer holds a certificate of authority to transact insurance~~
22 ~~for subject lines of business in this state.~~

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

26 (I) A personal lines account for personal residential
27 policies issued by the corporation or issued by the Residential
28 Property and Casualty Joint Underwriting Association and renewed
29 by the corporation that provide comprehensive, multiperil
30 coverage on risks that are not located in areas eligible for
31 coverage in the Florida Windstorm Underwriting Association as
32 those areas were defined on January 1, 2002, and for such
33 policies that do not provide coverage for the peril of wind on
34 risks that are located in such areas;

35 (II) A commercial lines account for commercial residential
36 and commercial nonresidential policies issued by the corporation
37 or issued by the Residential Property and Casualty Joint
38 Underwriting Association and renewed by the corporation that
39 provide coverage for basic property perils on risks that are not
40 located in areas eligible for coverage in the Florida Windstorm
41 Underwriting Association as those areas were defined on January
42 1, 2002, and for such policies that do not provide coverage for
43 the peril of wind on risks that are located in such areas; and

547291
4/25/2007 4:52:36 PM

Amendment No.

44 (III) A high-risk account for personal residential
45 policies and commercial residential and commercial
46 nonresidential property policies issued by the corporation or
47 transferred to the corporation that provide coverage for the
48 peril of wind on risks that are located in areas eligible for
49 coverage in the Florida Windstorm Underwriting Association as
50 those areas were defined on January 1, 2002. Subject to the
51 approval of a business plan by the Financial Services Commission
52 and Legislative Budget Commission as provided in this sub-sub-
53 subparagraph, but no earlier than March 31, 2007, the
54 corporation may offer policies that provide multiperil coverage
55 and the corporation shall continue to offer policies that
56 provide coverage only for the peril of wind for risks located in
57 areas eligible for coverage in the high-risk account. In issuing
58 multiperil coverage, the corporation may use its approved policy
59 forms and rates for the personal lines account. An applicant or
60 insured who is eligible to purchase a multiperil policy from the
61 corporation may purchase a multiperil policy from an authorized
62 insurer without prejudice to the applicant's or insured's
63 eligibility to prospectively purchase a policy that provides
64 coverage only for the peril of wind from the corporation. An
65 applicant or insured who is eligible for a corporation policy
66 that provides coverage only for the peril of wind may elect to
67 purchase or retain such policy and also purchase or retain
68 coverage excluding wind from an authorized insurer without
69 prejudice to the applicant's or insured's eligibility to
70 prospectively purchase a policy that provides multiperil
71 coverage from the corporation. It is the goal of the Legislature
547291

4/25/2007 4:52:36 PM

Amendment No.

72 | that there would be an overall average savings of 10 percent or
73 | more for a policyholder who currently has a wind-only policy
74 | with the corporation, and an ex-wind policy with a voluntary
75 | insurer or the corporation, and who then obtains a multiperil
76 | policy from the corporation. It is the intent of the Legislature
77 | that the offer of multiperil coverage in the high-risk account
78 | be made and implemented in a manner that does not adversely
79 | affect the tax-exempt status of the corporation or
80 | creditworthiness of or security for currently outstanding
81 | financing obligations or credit facilities of the high-risk
82 | account, the personal lines account, or the commercial lines
83 | account. By March 1, 2007, the corporation shall prepare and
84 | submit for approval by the Financial Services Commission and
85 | Legislative Budget Commission a report detailing the
86 | corporation's business plan for issuing multiperil coverage in
87 | the high-risk account. The business plan shall be approved or
88 | disapproved within 30 days after receipt, as submitted or
89 | modified and resubmitted by the corporation. The business plan
90 | must include: the impact of such multiperil coverage on the
91 | corporation's financial resources, the impact of such multiperil
92 | coverage on the corporation's tax-exempt status, the manner in
93 | which the corporation plans to implement the processing of
94 | applications and policy forms for new and existing
95 | policyholders, the impact of such multiperil coverage on the
96 | corporation's ability to deliver customer service at the high
97 | level required by this subsection, the ability of the
98 | corporation to process claims, the ability of the corporation to
99 | quote and issue policies, the impact of such multiperil coverage
547291

4/25/2007 4:52:36 PM

Amendment No.

100 on the corporation's agents, the impact of such multiperil
101 coverage on the corporation's existing policyholders, and the
102 impact of such multiperil coverage on rates and premium. The
103 high-risk account must also include quota share primary
104 insurance under subparagraph (c)2. The area eligible for
105 coverage under the high-risk account also includes the area
106 within Port Canaveral, which is bordered on the south by the
107 City of Cape Canaveral, bordered on the west by the Banana
108 River, and bordered on the north by Federal Government property.

109 b. The three separate accounts must be maintained as long
110 as financing obligations entered into by the Florida Windstorm
111 Underwriting Association or Residential Property and Casualty
112 Joint Underwriting Association are outstanding, in accordance
113 with the terms of the corresponding financing documents. When
114 the financing obligations are no longer outstanding, in
115 accordance with the terms of the corresponding financing
116 documents, the corporation may use a single account for all
117 revenues, assets, liabilities, losses, and expenses of the
118 corporation. Consistent with the requirement of this
119 subparagraph and prudent investment policies that minimize the
120 cost of carrying debt, the board shall exercise its best efforts
121 to retire existing debt or to obtain approval of necessary
122 parties to amend the terms of existing debt, so as to structure
123 the most efficient plan to consolidate the three separate
124 accounts into a single account. By February 1, 2007, the board
125 shall submit a report to the Financial Services Commission, the
126 President of the Senate, and the Speaker of the House of
127 Representatives which includes an analysis of consolidating the

547291
4/25/2007 4:52:36 PM

Amendment No.

128 accounts, the actions the board has taken to minimize the cost
129 of carrying debt, and its recommendations for executing the most
130 efficient plan.

131 c. Creditors of the Residential Property and Casualty
132 Joint Underwriting Association shall have a claim against, and
133 recourse to, the accounts referred to in sub-sub-subparagraphs
134 a.(I) and (II) and shall have no claim against, or recourse to,
135 the account referred to in sub-sub-subparagraph a.(III).
136 Creditors of the Florida Windstorm Underwriting Association
137 shall have a claim against, and recourse to, the account
138 referred to in sub-sub-subparagraph a.(III) and shall have no
139 claim against, or recourse to, the accounts referred to in sub-
140 sub-subparagraphs a.(I) and (II).

141 d. Revenues, assets, liabilities, losses, and expenses not
142 attributable to particular accounts shall be prorated among the
143 accounts.

144 e. The Legislature finds that the revenues of the
145 corporation are revenues that are necessary to meet the
146 requirements set forth in documents authorizing the issuance of
147 bonds under this subsection.

148 f. No part of the income of the corporation may inure to
149 the benefit of any private person.

150 2. ~~3.~~ With respect to a deficit in an account:

151 a. ~~When the deficit incurred in a particular calendar year~~
152 ~~is not greater than 10 percent of the aggregate statewide direct~~
153 ~~written premium for the subject lines of business for the prior~~
154 ~~calendar year, the entire deficit shall be recovered through~~

Amendment No.

155 ~~regular assessments of assessable insurers under paragraph (p)~~
156 ~~and assessable insureds.~~

157 ~~b. When the deficit incurred in a particular calendar year~~
158 ~~exceeds 10 percent of the aggregate statewide direct written~~
159 ~~premium for the subject lines of business for the prior calendar~~
160 ~~year, the corporation shall levy regular assessments on~~
161 ~~assessable insurers under paragraph (p) and on assessable~~
162 ~~insureds in an amount equal to the greater of 10 percent of the~~
163 ~~deficit or 10 percent of the aggregate statewide direct written~~
164 ~~premium for the subject lines of business for the prior calendar~~
165 ~~year. Any remaining deficit shall be recovered through emergency~~
166 ~~assessments under sub-subparagraph d.~~

167 ~~c. Each assessable insurer's share of the amount being~~
168 ~~assessed under sub-subparagraph a. or sub-subparagraph b. shall~~
169 ~~be in the proportion that the assessable insurer's direct~~
170 ~~written premium for the subject lines of business for the year~~
171 ~~preceding the assessment bears to the aggregate statewide direct~~
172 ~~written premium for the subject lines of business for that year.~~
173 ~~The assessment percentage applicable to each assessable insured~~
174 ~~is the ratio of the amount being assessed under sub-subparagraph~~
175 ~~a. or sub-subparagraph b. to the aggregate statewide direct~~
176 ~~written premium for the subject lines of business for the prior~~
177 ~~year. Assessments levied by the corporation on assessable~~
178 ~~insurers under sub-subparagraphs a. and b. shall be paid as~~
179 ~~required by the corporation's plan of operation and paragraph~~
180 ~~(p). Notwithstanding any other provision of this subsection, the~~
181 ~~aggregate amount of a regular assessment for a deficit incurred~~
182 ~~in a particular calendar year shall be reduced by the estimated~~

547291

4/25/2007 4:52:36 PM

Amendment No.

183 ~~amount to be received by the corporation from the Citizens~~
184 ~~policyholder surcharge under subparagraph (c)11. and the amount~~
185 ~~collected or estimated to be collected from the assessment on~~
186 ~~Citizens policyholders pursuant to sub-subparagraph i.~~
187 ~~Assessments levied by the corporation on assessable insureds~~
188 ~~under sub-subparagraphs a. and b. shall be collected by the~~
189 ~~surplus lines agent at the time the surplus lines agent collects~~
190 ~~the surplus lines tax required by s. 626.932 and shall be paid~~
191 ~~to the Florida Surplus Lines Service Office at the time the~~
192 ~~surplus lines agent pays the surplus lines tax to the Florida~~
193 ~~Surplus Lines Service Office. Upon receipt of regular~~
194 ~~assessments from surplus lines agents, the Florida Surplus Lines~~
195 ~~Service Office shall transfer the assessments directly to the~~
196 ~~corporation as determined by the corporation.~~

197 ~~d. Upon a determination by the board of governors that a~~
198 ~~deficit in an account exceeds the amount that will be recovered~~
199 ~~through regular assessments under sub-subparagraph a. or sub-~~
200 ~~subparagraph b., the board shall levy, after verification by the~~
201 ~~office, emergency assessments, for as many years as necessary to~~
202 ~~cover the deficits, to be collected by assessable insurers and~~
203 ~~the corporation and collected from assessable insureds upon~~
204 ~~issuance or renewal of policies for subject lines of business,~~
205 ~~excluding National Flood Insurance policies. The amount of the~~
206 ~~emergency assessment collected in a particular year shall be a~~
207 ~~uniform percentage of that year's direct written premium for~~
208 ~~subject lines of business and all accounts of the corporation,~~
209 ~~excluding National Flood Insurance Program policy premiums, as~~
210 ~~annually determined by the board and verified by the office. The~~

547291

4/25/2007 4:52:36 PM

Amendment No.

211 ~~office shall verify the arithmetic calculations involved in the~~
212 ~~board's determination within 30 days after receipt of the~~
213 ~~information on which the determination was based.~~
214 ~~Notwithstanding any other provision of law, the corporation and~~
215 ~~each assessable insurer that writes subject lines of business~~
216 ~~shall collect emergency assessments from its policyholders~~
217 ~~without such obligation being affected by any credit,~~
218 ~~limitation, exemption, or deferment. Emergency assessments~~
219 ~~levied by the corporation on assessable insureds shall be~~
220 ~~collected by the surplus lines agent at the time the surplus~~
221 ~~lines agent collects the surplus lines tax required by s.~~
222 ~~626.932 and shall be paid to the Florida Surplus Lines Service~~
223 ~~Office at the time the surplus lines agent pays the surplus~~
224 ~~lines tax to the Florida Surplus Lines Service Office. The~~
225 ~~emergency assessments so collected shall be transferred directly~~
226 ~~to the corporation on a periodic basis as determined by the~~
227 ~~corporation and shall be held by the corporation solely in the~~
228 ~~applicable account. The aggregate amount of emergency~~
229 ~~assessments levied for an account under this sub subparagraph in~~
230 ~~any calendar year may not exceed the greater of 10 percent of~~
231 ~~the amount needed to cover the original deficit, plus interest,~~
232 ~~fees, commissions, required reserves, and other costs associated~~
233 ~~with financing of the original deficit, or 10 percent of the~~
234 ~~aggregate statewide direct written premium for subject lines of~~
235 ~~business and for all accounts of the corporation for the prior~~
236 ~~year, plus interest, fees, commissions, required reserves, and~~
237 ~~other costs associated with financing the original deficit.~~

547291

4/25/2007 4:52:36 PM

Amendment No.

238 e. The corporation may pledge the proceeds of assessments,
239 projected recoveries from the Florida Hurricane Catastrophe
240 Fund, other insurance and reinsurance recoverables, policyholder
241 surcharges and other surcharges, and other funds available to
242 the corporation as the source of revenue for and to secure bonds
243 issued under paragraph (p), bonds or other indebtedness issued
244 under subparagraph (c)3., or lines of credit or other financing
245 mechanisms issued or created under this subsection, or to retire
246 any other debt incurred as a result of deficits or events giving
247 rise to deficits, or in any other way that the board determines
248 will efficiently recover such deficits. The purpose of the lines
249 of credit or other financing mechanisms is to provide additional
250 resources to assist the corporation in covering claims and
251 expenses attributable to a catastrophe. As used in this
252 subsection, the term "assessments" includes ~~regular~~ assessments
253 ~~under sub-subparagraph a., sub-subparagraph b., or subparagraph~~
254 ~~(p)1. and emergency assessments under sub-subparagraph d.~~
255 ~~Emergency assessments collected under sub-subparagraph d. are~~
256 ~~not part of an insurer's rates, are not premium, and are not~~
257 ~~subject to premium tax, fees, or commissions; however, failure~~
258 ~~to pay the emergency assessment shall be treated as failure to~~
259 ~~pay premium. The emergency assessments under sub-subparagraph d.~~
260 ~~shall continue as long as any bonds issued or other indebtedness~~
261 ~~incurred with respect to a deficit for which the assessment was~~
262 ~~imposed remain outstanding, unless adequate provision has been~~
263 ~~made for the payment of such bonds or other indebtedness~~
264 ~~pursuant to the documents governing such bonds or other~~
265 ~~indebtedness.~~

547291

4/25/2007 4:52:36 PM

Amendment No.

266 ~~f. As used in this subsection, the term "subject lines of~~
267 ~~business" means insurance written by assessable insurers or~~
268 ~~procured by assessable insureds for all property and casualty~~
269 ~~lines of business in this state, but not including workers'~~
270 ~~compensation or medical malpractice. As used in the sub-~~
271 ~~subparagraph, the term "property and casualty lines of business"~~
272 ~~includes all lines of business identified on Form 2, Exhibit of~~
273 ~~Premiums and Losses, in the annual statement required of~~
274 ~~authorized insurers by s. 624.424 and any rule adopted under~~
275 ~~this section, except for those lines identified as accident and~~
276 ~~health insurance and except for policies written under the~~
277 ~~National Flood Insurance program or the Federal Crop Insurance~~
278 ~~Program. For purposes of this sub-subparagraph, the term~~
279 ~~"workers' compensation" includes both workers' compensation~~
280 ~~insurance and excess workers' compensation insurance.~~

281 ~~g. The Florida Surplus Lines Service Office shall~~
282 ~~determine annually the aggregate statewide written premium in~~
283 ~~subject lines of business procured by assessable insureds and~~
284 ~~shall report that information to the corporation in a form and~~
285 ~~at a time the corporation specifies to ensure that the~~
286 ~~corporation can meet the requirements of this subsection and the~~
287 ~~corporation's financing obligations.~~

288 ~~h. The Florida Surplus Lines Service Office shall verify~~
289 ~~the proper application by surplus lines agents of assessment~~
290 ~~percentages for regular assessments and emergency assessments~~
291 ~~levied under this subparagraph on assessable insureds and shall~~
292 ~~assist the corporation in ensuring the accurate, timely~~

Amendment No.

293 ~~collection and payment of assessments by surplus lines agents as~~
294 ~~required by the corporation.~~

295 b. i. If a deficit is incurred in any account in 2008 or
296 thereafter, the board of governors shall levy an immediate
297 assessment against the premium of each nonhomestead property
298 policyholder in all accounts of the corporation, as a uniform
299 percentage of the premium of the policy of up to 10 percent of
300 such premium, which funds shall be used to offset the deficit.
301 If this assessment is insufficient to eliminate the deficit, the
302 board of governors shall levy an additional assessment against
303 all policyholders of the corporation, which shall be collected
304 at the time of issuance or renewal of a policy, as a uniform
305 percentage of the premium for the policy ~~of up to 10 percent of~~
306 ~~such premium~~, which funds shall be used to further offset the
307 deficit.

308 c. j. The board of governors shall maintain separate
309 accounting records that consolidate data for nonhomestead
310 properties, including, but not limited to, number of policies,
311 insured values, premiums written, and losses. The board of
312 governors shall annually report to the office and the
313 Legislature a summary of such data.

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

315 1. Must provide for adoption of residential property and
316 casualty insurance policy forms and commercial residential and
317 nonresidential property insurance forms, which forms must be
318 approved by the office prior to use. The corporation shall adopt
319 the following policy forms:

Amendment No.

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

324 b. Basic personal lines policy forms that are policies
325 similar to an HO-8 policy or a dwelling fire policy that provide
326 coverage meeting the requirements of the secondary mortgage
327 market, but which coverage is more limited than the coverage
328 under a standard policy.

329 c. Commercial lines residential and nonresidential policy
330 forms that are generally similar to the basic perils of full
331 coverage obtainable for commercial residential structures and
332 commercial nonresidential structures in the admitted voluntary
333 market.

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

339 e. Commercial lines nonresidential property insurance
340 forms that cover the peril of wind only. The forms are
341 applicable only to nonresidential properties located in areas
342 eligible for coverage under the high-risk account referred to in
343 sub-subparagraph (b)2.a.

344 f. The corporation may adopt variations of the policy
345 forms listed in sub-subparagraphs a.-e. that contain more
346 restrictive coverage.

547291
4/25/2007 4:52:36 PM

Amendment No.

347 2.a. Must provide that the corporation adopt a program in
348 which the corporation and authorized insurers enter into quota
349 share primary insurance agreements for hurricane coverage, as
350 defined in s. 627.4025(2)(a), for eligible risks, and adopt
351 property insurance forms for eligible risks which cover the
352 peril of wind only. As used in this subsection, the term:

353 (I) "Quota share primary insurance" means an arrangement
354 in which the primary hurricane coverage of an eligible risk is
355 provided in specified percentages by the corporation and an
356 authorized insurer. The corporation and authorized insurer are
357 each solely responsible for a specified percentage of hurricane
358 coverage of an eligible risk as set forth in a quota share
359 primary insurance agreement between the corporation and an
360 authorized insurer and the insurance contract. The
361 responsibility of the corporation or authorized insurer to pay
362 its specified percentage of hurricane losses of an eligible
363 risk, as set forth in the quota share primary insurance
364 agreement, may not be altered by the inability of the other
365 party to the agreement to pay its specified percentage of
366 hurricane losses. Eligible risks that are provided hurricane
367 coverage through a quota share primary insurance arrangement
368 must be provided policy forms that set forth the obligations of
369 the corporation and authorized insurer under the arrangement,
370 clearly specify the percentages of quota share primary insurance
371 provided by the corporation and authorized insurer, and
372 conspicuously and clearly state that neither the authorized
373 insurer nor the corporation may be held responsible beyond its
374 specified percentage of coverage of hurricane losses.

547291

4/25/2007 4:52:36 PM

Amendment No.

375 (II) "Eligible risks" means personal lines residential and
376 commercial lines residential risks that meet the underwriting
377 criteria of the corporation and are located in areas that were
378 eligible for coverage by the Florida Windstorm Underwriting
379 Association on January 1, 2002.

380 b. The corporation may enter into quota share primary
381 insurance agreements with authorized insurers at corporation
382 coverage levels of 90 percent and 50 percent.

383 c. If the corporation determines that additional coverage
384 levels are necessary to maximize participation in quota share
385 primary insurance agreements by authorized insurers, the
386 corporation may establish additional coverage levels. However,
387 the corporation's quota share primary insurance coverage level
388 may not exceed 90 percent.

389 d. Any quota share primary insurance agreement entered
390 into between an authorized insurer and the corporation must
391 provide for a uniform specified percentage of coverage of
392 hurricane losses, by county or territory as set forth by the
393 corporation board, for all eligible risks of the authorized
394 insurer covered under the quota share primary insurance
395 agreement.

396 e. Any quota share primary insurance agreement entered
397 into between an authorized insurer and the corporation is
398 subject to review and approval by the office. However, such
399 agreement shall be authorized only as to insurance contracts
400 entered into between an authorized insurer and an insured who is
401 already insured by the corporation for wind coverage.

547291
4/25/2007 4:52:36 PM

Amendment No.

402 f. For all eligible risks covered under quota share
403 primary insurance agreements, the exposure and coverage levels
404 for both the corporation and authorized insurers shall be
405 reported by the corporation to the Florida Hurricane Catastrophe
406 Fund. For all policies of eligible risks covered under quota
407 share primary insurance agreements, the corporation and the
408 authorized insurer shall maintain complete and accurate records
409 for the purpose of exposure and loss reimbursement audits as
410 required by Florida Hurricane Catastrophe Fund rules. The
411 corporation and the authorized insurer shall each maintain
412 duplicate copies of policy declaration pages and supporting
413 claims documents.

414 g. The corporation board shall establish in its plan of
415 operation standards for quota share agreements which ensure that
416 there is no discriminatory application among insurers as to the
417 terms of quota share agreements, pricing of quota share
418 agreements, incentive provisions if any, and consideration paid
419 for servicing policies or adjusting claims.

420 h. The quota share primary insurance agreement between the
421 corporation and an authorized insurer must set forth the
422 specific terms under which coverage is provided, including, but
423 not limited to, the sale and servicing of policies issued under
424 the agreement by the insurance agent of the authorized insurer
425 producing the business, the reporting of information concerning
426 eligible risks, the payment of premium to the corporation, and
427 arrangements for the adjustment and payment of hurricane claims
428 incurred on eligible risks by the claims adjuster and personnel
429 of the authorized insurer. Entering into a quota sharing

547291

4/25/2007 4:52:36 PM

Amendment No.

430 insurance agreement between the corporation and an authorized
431 insurer shall be voluntary and at the discretion of the
432 authorized insurer.

433 3. May provide that the corporation may employ or
434 otherwise contract with individuals or other entities to provide
435 administrative or professional services that may be appropriate
436 to effectuate the plan. The corporation shall have the power to
437 borrow funds, by issuing bonds or by incurring other
438 indebtedness, and shall have other powers reasonably necessary
439 to effectuate the requirements of this subsection, including,
440 without limitation, the power to issue bonds and incur other
441 indebtedness in order to refinance outstanding bonds or other
442 indebtedness. The corporation may, but is not required to, seek
443 judicial validation of its bonds or other indebtedness under
444 chapter 75. The corporation may issue bonds or incur other
445 indebtedness, or have bonds issued on its behalf by a unit of
446 local government pursuant to subparagraph (g)2., in the absence
447 of a hurricane or other weather-related event, upon a
448 determination by the corporation, subject to approval by the
449 office, that such action would enable it to efficiently meet the
450 financial obligations of the corporation and that such
451 financings are reasonably necessary to effectuate the
452 requirements of this subsection. The corporation is authorized
453 to take all actions needed to facilitate tax-free status for any
454 such bonds or indebtedness, including formation of trusts or
455 other affiliated entities. The corporation shall have the
456 authority to pledge assessments, projected recoveries from the
457 Florida Hurricane Catastrophe Fund, other reinsurance

547291

4/25/2007 4:52:36 PM

Amendment No.

458 recoverables, market equalization and other surcharges, and
459 other funds available to the corporation as security for bonds
460 or other indebtedness. In recognition of s. 10, Art. I of the
461 State Constitution, prohibiting the impairment of obligations of
462 contracts, it is the intent of the Legislature that no action be
463 taken whose purpose is to impair any bond indenture or financing
464 agreement or any revenue source committed by contract to such
465 bond or other indebtedness.

466 4.a. Must require that the corporation operate subject to
467 the supervision and approval of a board of governors consisting
468 of nine ~~eight~~ individuals ~~who are residents of this state, from~~
469 ~~different geographical areas of this state.~~ The Governor shall
470 appoint three members of the board. The Chief Financial
471 Officer, the President of the Senate, and the Speaker of the
472 House of Representatives shall each appoint two members of the
473 board. All board members shall possess demonstrated expertise or
474 knowledge in insurance, bond financing, business management or
475 corporate board membership. ~~At least one of the two members~~
476 ~~appointed by each appointing officer must have demonstrated~~
477 ~~expertise in insurance. The Chief Financial Officer shall~~
478 ~~designate one of the appointees as chair.~~ All board members
479 serve at the pleasure of the appointing officer. All members of
480 the board of governors are subject to removal at will by the
481 officers who appointed them. All board members, including the
482 chair, must be appointed to serve for 3-year terms beginning
483 annually on a date designated by the plan. Any board vacancy
484 shall be filled for the unexpired term by the appointing
485 officer. The Governor shall designate one of the nine board

547291

4/25/2007 4:52:36 PM

Amendment No.

486 members as chair. ~~The Chief Financial Officer shall appoint a~~
487 ~~technical advisory group to provide information and advice to~~
488 ~~the board of governors in connection with the board's duties~~
489 ~~under this subsection.~~ The executive director of the corporation
490 must have substantial insurance and managerial expertise and
491 ~~senior managers of the corporation~~ shall be engaged by the board
492 and serve at the pleasure of the board. Any executive director
493 appointed on or after July 1, 2006, is subject to confirmation
494 by the Senate. The executive director is responsible for
495 employing other staff as the corporation may require, subject to
496 review and concurrence by the board.

497 b. The board shall create a Market Accountability Advisory
498 Committee to assist the corporation in developing awareness of
499 its rates and its customer and agent service levels in
500 relationship to the voluntary market insurers writing similar
501 coverage. The members of the advisory committee shall consist of
502 the following 11 persons, one of whom must be elected chair by
503 the members of the committee: four representatives, one
504 appointed by the Florida Association of Insurance Agents, one by
505 the Florida Association of Insurance and Financial Advisors, one
506 by the Professional Insurance Agents of Florida, and one by the
507 Latin American Association of Insurance Agencies; three
508 representatives appointed by the insurers with the three highest
509 voluntary market share of residential property insurance
510 business in the state; one representative from the Office of
511 Insurance Regulation; one consumer appointed by the board who is
512 insured by the corporation at the time of appointment to the
513 committee; one representative appointed by the Florida

547291

4/25/2007 4:52:36 PM

Amendment No.

514 Association of Realtors; and one representative appointed by the
515 Florida Bankers Association. All members must serve for 3-year
516 terms and may serve for consecutive terms. The committee shall
517 report to the corporation at each board meeting on insurance
518 market issues which may include rates and rate competition with
519 the voluntary market; service, including policy issuance, claims
520 processing, and general responsiveness to policyholders,
521 applicants, and agents; and matters relating to depopulation.

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

524 a. Subject to the provisions of s. 627.3517, with respect
525 to personal lines residential risks, if the risk is offered
526 coverage from an authorized insurer at the insurer's approved
527 rate under either a standard policy including wind coverage or,
528 if consistent with the insurer's underwriting rules as filed
529 with the office, a basic policy including wind coverage, for a
530 new application to the corporation for coverage, the risk is not
531 eligible for any policy issued by the corporation unless the
532 premium for coverage from the authorized insurer is more than 25
533 percent greater than the premium for comparable coverage from
534 the corporation. If the risk is not able to obtain any such
535 offer, the risk is eligible for either a standard policy
536 including wind coverage or a basic policy including wind
537 coverage issued by the corporation; however, if the risk could
538 not be insured under a standard policy including wind coverage
539 regardless of market conditions, the risk shall be eligible for
540 a basic policy including wind coverage unless rejected under
541 subparagraph 8. However, with regard to a policyholder of the
547291

4/25/2007 4:52:36 PM

Amendment No.

542 corporation, the policyholder remains eligible for coverage from
543 the corporation regardless of any offer of coverage from an
544 authorized insurer or surplus lines insurer. The corporation
545 shall determine the type of policy to be provided on the basis
546 of objective standards specified in the underwriting manual and
547 based on generally accepted underwriting practices.

548 (I) If the risk accepts an offer of coverage through the
549 market assistance plan or an offer of coverage through a
550 mechanism established by the corporation before a policy is
551 issued to the risk by the corporation or during the first 30
552 days of coverage by the corporation, and the producing agent who
553 submitted the application to the plan or to the corporation is
554 not currently appointed by the insurer, the insurer shall:

555 (A) Pay to the producing agent of record of the policy,
556 for the first year, an amount that is the greater of the
557 insurer's usual and customary commission for the type of policy
558 written or a fee equal to the usual and customary commission of
559 the corporation; or

560 (B) Offer to allow the producing agent of record of the
561 policy to continue servicing the policy for a period of not less
562 than 1 year and offer to pay the agent the greater of the
563 insurer's or the corporation's usual and customary commission
564 for the type of policy written.

565
566 If the producing agent is unwilling or unable to accept
567 appointment, the new insurer shall pay the agent in accordance
568 with sub-sub-sub-subparagraph (A).

547291
4/25/2007 4:52:36 PM

Amendment No.

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

573 (A) Pay to the producing agent of record of the
574 corporation policy, for the first year, an amount that is the
575 greater of the insurer's usual and customary commission for the
576 type of policy written or a fee equal to the usual and customary
577 commission of the corporation; or

578 (B) Offer to allow the producing agent of record of the
579 corporation policy to continue servicing the policy for a period
580 of not less than 1 year and offer to pay the agent the greater
581 of the insurer's or the corporation's usual and customary
582 commission for the type of policy written.

583
584 If the producing agent is unwilling or unable to accept
585 appointment, the new insurer shall pay the agent in accordance
586 with sub-sub-sub-subparagraph (A).

587 b. With respect to commercial lines residential risks, for
588 a new application to the corporation for coverage, if the risk
589 is offered coverage under a policy including wind coverage from
590 an authorized insurer at its approved rate, the risk is not
591 eligible for any policy issued by the corporation unless the
592 premium for coverage from the authorized insurer is more than 25
593 percent greater than the premium for comparable coverage from
594 the corporation. If the risk is not able to obtain any such
595 offer, the risk is eligible for a policy including wind coverage
596 issued by the corporation. However, with regard to a

547291

4/25/2007 4:52:36 PM

Amendment No.

597 | policyholder of the corporation, the policyholder remains
598 | eligible for coverage from the corporation regardless of any
599 | offer of coverage from an authorized insurer or surplus lines
600 | insurer.

601 | (I) If the risk accepts an offer of coverage through the
602 | market assistance plan or an offer of coverage through a
603 | mechanism established by the corporation before a policy is
604 | issued to the risk by the corporation or during the first 30
605 | days of coverage by the corporation, and the producing agent who
606 | submitted the application to the plan or the corporation is not
607 | currently appointed by the insurer, the insurer shall:

608 | (A) Pay to the producing agent of record of the policy,
609 | for the first year, an amount that is the greater of the
610 | insurer's usual and customary commission for the type of policy
611 | written or a fee equal to the usual and customary commission of
612 | the corporation; or

613 | (B) Offer to allow the producing agent of record of the
614 | policy to continue servicing the policy for a period of not less
615 | than 1 year and offer to pay the agent the greater of the
616 | insurer's or the corporation's usual and customary commission
617 | for the type of policy written.

618 |
619 | If the producing agent is unwilling or unable to accept
620 | appointment, the new insurer shall pay the agent in accordance
621 | with sub-sub-sub-subparagraph (A).

622 | (II) When the corporation enters into a contractual
623 | agreement for a take-out plan, the producing agent of record of

547291
4/25/2007 4:52:36 PM

Amendment No.

624 the corporation policy is entitled to retain any unearned
625 commission on the policy, and the insurer shall:

626 (A) Pay to the producing agent of record of the
627 corporation policy, for the first year, an amount that is the
628 greater of the insurer's usual and customary commission for the
629 type of policy written or a fee equal to the usual and customary
630 commission of the corporation; or

631 (B) Offer to allow the producing agent of record of the
632 corporation policy to continue servicing the policy for a period
633 of not less than 1 year and offer to pay the agent the greater
634 of the insurer's or the corporation's usual and customary
635 commission for the type of policy written.

636
637 If the producing agent is unwilling or unable to accept
638 appointment, the new insurer shall pay the agent in accordance
639 with sub-sub-sub-subparagraph (A).

640 6. Must provide by July 1, 2007, that an application for
641 coverage for a new policy is subject to a waiting period of 10
642 days before coverage is effective, during which time the
643 corporation shall make such application available for review by
644 general lines agents and authorized property and casualty
645 insurers. The board shall approve an exception that allows for
646 coverage to be effective before the end of the 10-day waiting
647 period, for coverage issued in conjunction with a real estate
648 closing. The board may approve such other exceptions as the
649 board determines are necessary to prevent lapses in coverage.

650 7. Must include rules for classifications of risks and
651 rates therefor.

547291

4/25/2007 4:52:36 PM

Amendment No.

652 8. Must provide that if premium and investment income for
653 an account attributable to a particular calendar year are in
654 excess of projected losses and expenses for the account
655 attributable to that year, such excess shall be held in surplus
656 in the account. Such surplus shall be available to defray
657 deficits in that account as to future years and shall be used
658 for that purpose prior to assessing ~~assessable insurers and~~
659 assessable insureds as to any calendar year.

660 9. Must provide objective criteria and procedures to be
661 uniformly applied for all applicants in determining whether an
662 individual risk is so hazardous as to be uninsurable. In making
663 this determination and in establishing the criteria and
664 procedures, the following shall be considered:

665 a. Whether the likelihood of a loss for the individual
666 risk is substantially higher than for other risks of the same
667 class; and

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

670

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

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

678 ~~11. Must provide that in the event of regular deficit~~
679 ~~assessments under sub-subparagraph (b)3.a. or sub-subparagraph~~
547291

4/25/2007 4:52:36 PM

Amendment No.

680 ~~(b)3.b., in the personal lines account, the commercial lines~~
681 ~~residential account, or the high-risk account, the corporation~~
682 ~~shall levy upon corporation policyholders in its next rate~~
683 ~~filing, or by a separate rate filing solely for this purpose, a~~
684 ~~Citizens policyholder surcharge arising from a regular~~
685 ~~assessment in such account in a percentage equal to the total~~
686 ~~amount of such regular assessments divided by the aggregate~~
687 ~~statewide direct written premium for subject lines of business~~
688 ~~for the prior calendar year. For purposes of calculating the~~
689 ~~Citizens policyholder surcharge to be levied under this~~
690 ~~subparagraph, the total amount of the regular assessment to~~
691 ~~which this surcharge is related shall be determined as set forth~~
692 ~~in subparagraph (b)3., without deducting the estimated Citizens~~
693 ~~policyholder surcharge. Citizens policyholder surcharges under~~
694 ~~this subparagraph are not considered premium and are not subject~~
695 ~~to commissions, fees, or premium taxes; however, failure to pay~~
696 ~~a market equalization surcharge shall be treated as failure to~~
697 ~~pay premium.~~

698 11. ~~12.~~ The policies issued by the corporation must
699 provide that, if the corporation or the market assistance plan
700 obtains an offer from an authorized insurer to cover the risk at
701 its approved rates, the risk is no longer eligible for renewal
702 through the corporation, except as otherwise provided in this
703 subsection.

704 12. ~~13.~~ Corporation policies and applications must include
705 a notice that the corporation policy could, under this section,
706 be replaced with a policy issued by an authorized insurer that
707 does not provide coverage identical to the coverage provided by

547291
4/25/2007 4:52:36 PM

Amendment No.

708 the corporation. The notice shall also specify that acceptance
709 of corporation coverage creates a conclusive presumption that
710 the applicant or policyholder is aware of this potential.

711 13. ~~14.~~ May establish, subject to approval by the office,
712 different eligibility requirements and operational procedures
713 for any line or type of coverage for any specified county or
714 area if the board determines that such changes to the
715 eligibility requirements and operational procedures are
716 justified due to the voluntary market being sufficiently stable
717 and competitive in such area or for such line or type of
718 coverage and that consumers who, in good faith, are unable to
719 obtain insurance through the voluntary market through ordinary
720 methods would continue to have access to coverage from the
721 corporation. When coverage is sought in connection with a real
722 property transfer, such requirements and procedures shall not
723 provide for an effective date of coverage later than the date of
724 the closing of the transfer as established by the transferor,
725 the transferee, and, if applicable, the lender.

726 ~~15. Must provide that, with respect to the high risk~~
727 ~~account, any assessable insurer with a surplus as to~~
728 ~~policyholders of \$25 million or less writing 25 percent or more~~
729 ~~of its total countrywide property insurance premiums in this~~
730 ~~state may petition the office, within the first 90 days of each~~
731 ~~calendar year, to qualify as a limited apportionment company. A~~
732 ~~regular assessment levied by the corporation on a limited~~
733 ~~apportionment company for a deficit incurred by the corporation~~
734 ~~for the high risk account in 2006 or thereafter may be paid to~~
735 ~~the corporation on a monthly basis as the assessments are~~

547291

4/25/2007 4:52:36 PM

Amendment No.

736 ~~collected by the limited apportionment company from its insureds~~
737 ~~pursuant to s. 627.3512, but the regular assessment must be paid~~
738 ~~in full within 12 months after being levied by the corporation.~~
739 ~~A limited apportionment company shall collect from its~~
740 ~~policyholders any emergency assessment imposed under sub-~~
741 ~~subparagraph (b)3.d. The plan shall provide that, if the office~~
742 ~~determines that any regular assessment will result in an~~
743 ~~impairment of the surplus of a limited apportionment company,~~
744 ~~the office may direct that all or part of such assessment be~~
745 ~~deferred as provided in subparagraph (g)4. However, there shall~~
746 ~~be no limitation or deferment of an emergency assessment to be~~
747 ~~collected from policyholders under sub-subparagraph (b)3.d.~~

748 14. ~~16.~~ Must provide that the corporation appoint as its
749 licensed agents only those agents who also hold an appointment
750 as defined in s. 626.015(3) with an insurer who at the time of
751 the agent's initial appointment by the corporation is authorized
752 to write and is actually writing personal lines residential
753 property coverage, commercial residential property coverage, or
754 commercial nonresidential property coverage within the state.

755 15. ~~17.~~ Must provide, by July 1, 2007, a premium payment
756 plan option to its policyholders which allows for quarterly and
757 semiannual payment of premiums.

758 16. ~~18.~~ Must provide, effective June 1, 2007, that the
759 corporation contract with each insurer providing the non-wind
760 coverage for risks insured by the corporation in the high-risk
761 account, requiring that the insurer provide claims adjusting
762 services for the wind coverage provided by the corporation for
763 such risks. An insurer is required to enter into this contract

547291

4/25/2007 4:52:36 PM

Amendment No.

764 as a condition of providing non-wind coverage for a risk that is
765 insured by the corporation in the high-risk account unless the
766 board finds, after a hearing, that the insurer is not capable of
767 providing adjusting services at an acceptable level of quality
768 to corporation policyholders. The terms and conditions of such
769 contracts must be substantially the same as the contracts that
770 the corporation executed with insurers under the "adjust-your-
771 own" program in 2006, except as may be mutually agreed to by the
772 parties and except for such changes that the board determines
773 are necessary to ensure that claims are adjusted appropriately.
774 The corporation shall provide a process for neutral arbitration
775 of any dispute between the corporation and the insurer regarding
776 the terms of the contract. The corporation shall review and
777 monitor the performance of insurers under these contracts.

778 17. ~~19.~~ Must limit coverage on mobile homes or
779 manufactured homes built prior to 1994 to actual cash value of
780 the dwelling rather than replacement costs of the dwelling.

781 18. ~~20.~~ May provide such limits of coverage as the board
782 determines, consistent with the requirements of this subsection.

783 19. ~~21.~~ May require commercial property to meet specified
784 hurricane mitigation construction features as a condition of
785 eligibility for coverage.

786 (m)1. Rates for coverage provided by the corporation shall
787 be actuarially sound and subject to the requirements of s.
788 627.062, except as otherwise provided in this paragraph. The
789 corporation shall file its recommended rates with the office at
790 least annually. The corporation shall provide any additional
791 information regarding the rates which the office requires. The

547291

4/25/2007 4:52:36 PM

Amendment No.

792 office shall consider the recommendations of the board and issue
793 a final order establishing the rates for the corporation within
794 45 days after the recommended rates are filed. The corporation
795 may not pursue an administrative challenge or judicial review of
796 the final order of the office.

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

801 3. After the public hurricane loss-projection model under
802 s. 627.06281 has been found to be accurate and reliable by the
803 Florida Commission on Hurricane Loss Projection Methodology,
804 that model shall serve as the minimum benchmark for determining
805 the windstorm portion of the corporation's rates. This
806 subparagraph does not require or allow the corporation to adopt
807 rates lower than the rates otherwise required or allowed by this
808 paragraph.

809 4. The rate filings for the corporation which were
810 approved by the office and which took effect January 1, 2007,
811 are rescinded, except for those rates that were lowered. As soon
812 as possible, the corporation shall begin using the lower rates
813 that were in effect on December 31, 2006, and shall provide
814 refunds to policyholders who have paid higher rates as a result
815 of that rate filing. The rates in effect on December 31, 2006,
816 shall remain in effect until January 1, 2008, ~~for the 2007~~
817 ~~calendar year~~ except for any rate change that results in a lower
818 rate. The next rate change that may increase rates shall take
819 effect January 1, 2008, pursuant to a new rate filing

547291

4/25/2007 4:52:36 PM

Amendment No.

820 recommended by the corporation and established by the office,
821 subject to the requirements of this paragraph.

822 (p)1. The corporation shall certify to the office its
823 needs for annual assessments as to a particular calendar year,
824 and for any interim assessments that it deems to be necessary to
825 sustain operations as to a particular year pending the receipt
826 of annual assessments. Upon verification, the office shall
827 approve such certification, and the corporation shall levy such
828 annual or interim assessments. Such assessments shall be
829 prorated as provided in paragraph (b). The corporation shall
830 take all reasonable and prudent steps necessary to collect the
831 amount of assessment due from each assessable insured insurer,
832 including, if prudent, filing suit to collect such assessment.
833 ~~If the corporation is unable to collect an assessment from any~~
834 ~~assessable insurer, the uncollected assessments shall be levied~~
835 ~~as an additional assessment against the assessable insurers and~~
836 ~~any assessable insurer required to pay an additional assessment~~
837 ~~as a result of such failure to pay shall have a cause of action~~
838 ~~against such nonpaying assessable insurer. Assessments shall be~~
839 ~~included as an appropriate factor in the making of rates. The~~
840 ~~failure of a surplus lines agent to collect and remit any~~
841 ~~regular or emergency assessment levied by the corporation is~~
842 ~~considered to be a violation of s. 626.936 and subjects the~~
843 ~~surplus lines agent to the penalties provided in that section.~~

844 2. The governing body of any unit of local government, any
845 residents of which are insured by the corporation, may issue
846 bonds as defined in s. 125.013 or s. 166.101 from time to time
847 to fund an assistance program, in conjunction with the

547291

4/25/2007 4:52:36 PM

Amendment No.

848 corporation, for the purpose of defraying deficits of the
849 corporation. In order to avoid needless and indiscriminate
850 proliferation, duplication, and fragmentation of such assistance
851 programs, any unit of local government, any residents of which
852 are insured by the corporation, may provide for the payment of
853 losses, regardless of whether or not the losses occurred within
854 or outside of the territorial jurisdiction of the local
855 government. Revenue bonds under this subparagraph may not be
856 issued until validated pursuant to chapter 75, unless a state of
857 emergency is declared by executive order or proclamation of the
858 Governor pursuant to s. 252.36 making such findings as are
859 necessary to determine that it is in the best interests of, and
860 necessary for, the protection of the public health, safety, and
861 general welfare of residents of this state and declaring it an
862 essential public purpose to permit certain municipalities or
863 counties to issue such bonds as will permit relief to claimants
864 and policyholders of the corporation. Any such unit of local
865 government may enter into such contracts with the corporation
866 and with any other entity created pursuant to this subsection as
867 are necessary to carry out this paragraph. Any bonds issued
868 under this subparagraph shall be payable from and secured by
869 moneys received by the corporation from ~~emergency~~ assessments
870 under sub-subparagraph (b)3.b.d., and assigned and pledged to or
871 on behalf of the unit of local government for the benefit of the
872 holders of such bonds. The funds, credit, property, and taxing
873 power of the state or of the unit of local government shall not
874 be pledged for the payment of such bonds. ~~If any of the bonds~~
875 ~~remain unsold 60 days after issuance, the office shall require~~

547291

4/25/2007 4:52:36 PM

Amendment No.

876 ~~all insurers subject to assessment to purchase the bonds, which~~
877 ~~shall be treated as admitted assets; each insurer shall be~~
878 ~~required to purchase that percentage of the unsold portion of~~
879 ~~the bond issue that equals the insurer's relative share of~~
880 ~~assessment liability under this subsection. An insurer shall not~~
881 ~~be required to purchase the bonds to the extent that the office~~
882 ~~determines that the purchase would endanger or impair the~~
883 ~~solvency of the insurer.~~

884 3.a. The corporation shall adopt one or more programs
885 subject to approval by the office for the reduction of both new
886 and renewal writings in the corporation. Beginning January 1,
887 2008, any program the corporation adopts for the payment of
888 bonuses to an insurer for each risk the insurer removes from the
889 corporation shall comply with s. 627.3511(2) and may not exceed
890 the amount referenced in s. 627.3511(2) for each risk removed.
891 ~~The corporation may consider any prudent and not unfairly~~
892 ~~discriminatory approach to reducing corporation writings, and~~
893 ~~may adopt a credit against assessment liability or other~~
894 ~~liability that provides an incentive for insurers to take risks~~
895 ~~out of the corporation and to keep risks out of the corporation~~
896 ~~by maintaining or increasing voluntary writings in counties or~~
897 ~~areas in which corporation risks are highly concentrated and a~~
898 ~~program to provide a formula under which an insurer voluntarily~~
899 ~~taking risks out of the corporation by maintaining or increasing~~
900 ~~voluntary writings will be relieved wholly or partially from~~
901 ~~assessments under sub-subparagraphs (b)3.a. and b. However, any~~
902 "take-out bonus" or payment to an insurer must be conditioned on
903 the property being insured for at least 5 years by the insurer,

547291

4/25/2007 4:52:36 PM

Amendment No.

904 unless canceled or nonrenewed by the policyholder. If the policy
905 is canceled or nonrenewed by the policyholder before the end of
906 the 5-year period, the amount of the take-out bonus must be
907 prorated for the time period the policy was insured. When the
908 corporation enters into a contractual agreement for a take-out
909 plan, the producing agent of record of the corporation policy is
910 entitled to retain any unearned commission on such policy, and
911 the insurer shall either:

912 (I) Pay to the producing agent of record of the policy,
913 for the first year, an amount which is the greater of the
914 insurer's usual and customary commission for the type of policy
915 written or a policy fee equal to the usual and customary
916 commission of the corporation; or

917 (II) Offer to allow the producing agent of record of the
918 policy to continue servicing the policy for a period of not less
919 than 1 year and offer to pay the agent the insurer's usual and
920 customary commission for the type of policy written. If the
921 producing agent is unwilling or unable to accept appointment by
922 the new insurer, the new insurer shall pay the agent in
923 accordance with sub-sub-subparagraph (I).

924 ~~b. Any credit or exemption from regular assessments~~
925 ~~adopted under this subparagraph shall last no longer than the 3~~
926 ~~years following the cancellation or expiration of the policy by~~
927 ~~the corporation. With the approval of the office, the board may~~
928 ~~extend such credits for an additional year if the insurer~~
929 ~~guarantees an additional year of renewability for all policies~~
930 ~~removed from the corporation, or for 2 additional years if the~~

547291
4/25/2007 4:52:36 PM

Amendment No.

931 ~~insurer guarantees 2 additional years of renewability for all~~
932 ~~policies so removed.~~

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

936 ~~4. The plan shall provide for the deferment, in whole or~~
937 ~~in part, of the assessment of an assessable insurer, other than~~
938 ~~an emergency assessment collected from policyholders pursuant to~~
939 ~~sub-subparagraph (b)3.d., if the office finds that payment of~~
940 ~~the assessment would endanger or impair the solvency of the~~
941 ~~insurer. In the event an assessment against an assessable~~
942 ~~insurer is deferred in whole or in part, the amount by which~~
943 ~~such assessment is deferred may be assessed against the other~~
944 ~~assessable insurers in a manner consistent with the basis for~~
945 ~~assessments set forth in paragraph (b).~~

946 ~~4. 5.~~ Effective July 1, 2007, in order to evaluate the
947 costs and benefits of approved take-out plans, if the
948 corporation pays a bonus or other payment to an insurer for an
949 approved take-out plan, it shall maintain a record of the
950 address or such other identifying information on the property or
951 risk removed in order to track if and when the property or risk
952 is later insured by the corporation.

953 ~~5. 6.~~ Any policy taken out, assumed, or removed from the
954 corporation is, as of the effective date of the take-out,
955 assumption, or removal, direct insurance issued by the insurer
956 and not by the corporation, even if the corporation continues to
957 service the policies. This subparagraph applies to policies of

547291
4/25/2007 4:52:36 PM

Amendment No.

958 the corporation and not policies taken out, assumed, or removed
959 from any other entity.

960 ~~(r) There shall be no liability on the part of, and no~~
961 ~~cause of action of any nature shall arise against, any~~
962 ~~assessable insurer or its agents or employees, the corporation~~
963 ~~or its agents or employees, members of the board of governors or~~
964 ~~their respective designees at a board meeting, corporation~~
965 ~~committee members, or the office or its representatives, for any~~
966 ~~action taken by them in the performance of their duties or~~
967 ~~responsibilities under this subsection. Such immunity does not~~
968 ~~apply to:~~

969 ~~1. Any of the foregoing persons or entities for any~~
970 ~~willful tort;~~

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

973 ~~3. The corporation with respect to issuance or payment of~~
974 ~~debt; or~~

975 ~~4. Any assessable insurer with respect to any action to~~
976 ~~enforce an assessable insurer's obligations to the corporation~~
977 ~~under this subsection.~~

978

979 ===== D I R E C T O R Y A M E N D M E N T =====

980 Remove lines 62-64 and insert:

981 Section 2. Present paragraphs (s) through (ee) of
982 subsection (6) of section 627.351, Florida Statutes, as amended
983 by section 21 of chapter 2007-1, Laws of Florida, are
984 redesignated as paragraphs (r) through (dd), and present

547291

4/25/2007 4:52:36 PM

Amendment No.

985 paragraphs (a), (b), (c), (m), (p), and (r) of subsection (6) of
986 that section are amended, to read:

987

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

989 Remove lines 18-22 and insert:

990 and threatens the economic health of the state; revising
991 membership of the corporation's board of governors; deleting
992 provisions relating to assessable insurers; deleting provisions
993 relating to who constitutes an assessable insurer; deleting
994 provisions relating to deficit in an account; revising the
995 definition of the term "assessments"; deleting provisions
996 relating to subject lines of business; revising powers of the
997 corporation to levy certain assessments; deleting provisions
998 relating to unsold bonds; revising powers of the corporation;
999 deleting provisions relating to credits and exemptions from
1000 assessments; revising provisions for determining eligibility for
1001 coverage under the corporation; reinstating certain rate filings
1002 by the corporation; deleting provisions relating to the
1003 uncollected assessments; deleting provisions relieving
1004 assessable insurers of liability under certain circumstances;
1005 prohibiting issuance of new

547291

4/25/2007 4:52:36 PM