

Amendment No.

CHAMBER ACTION

Senate

House

1 Representative(s) Ross and Gardiner offered the following:

2
3 **Amendment (with directory and title amendments)**

4 On page 14, line 19, through page 32, line 23,
5 Remove: all of said lines,

6 And insert:

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

24 1.2-a. All revenues, assets, liabilities, losses, and
25 expenses of the corporation shall be divided into three separate
26 accounts as follows:

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

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

074213

5/2/2007 3:10:36 PM

Amendment No.

45 (III) A high-risk account for personal residential
46 policies and commercial residential and commercial
47 nonresidential property policies issued by the corporation or
48 transferred to the corporation that provide coverage for the
49 peril of wind on risks that are located in areas eligible for
50 coverage in the Florida Windstorm Underwriting Association as
51 those areas were defined on January 1, 2002. Subject to the
52 approval of a business plan by the Financial Services Commission
53 and Legislative Budget Commission as provided in this sub-sub-
54 subparagraph, but no earlier than March 31, 2007, the
55 corporation may offer policies that provide multiperil coverage
56 and the corporation shall continue to offer policies that
57 provide coverage only for the peril of wind for risks located in
58 areas eligible for coverage in the high-risk account. In issuing
59 multiperil coverage, the corporation may use its approved policy
60 forms and rates for the personal lines account. An applicant or
61 insured who is eligible to purchase a multiperil policy from the
62 corporation may purchase a multiperil policy from an authorized
63 insurer without prejudice to the applicant's or insured's
64 eligibility to prospectively purchase a policy that provides
65 coverage only for the peril of wind from the corporation. An
66 applicant or insured who is eligible for a corporation policy
67 that provides coverage only for the peril of wind may elect to
68 purchase or retain such policy and also purchase or retain
69 coverage excluding wind from an authorized insurer without
70 prejudice to the applicant's or insured's eligibility to
71 prospectively purchase a policy that provides multiperil
72 coverage from the corporation. It is the goal of the Legislature
074213

5/2/2007 3:10:36 PM

Amendment No.

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

110 b. The three separate accounts must be maintained as long
111 as financing obligations entered into by the Florida Windstorm
112 Underwriting Association or Residential Property and Casualty
113 Joint Underwriting Association are outstanding, in accordance
114 with the terms of the corresponding financing documents. When
115 the financing obligations are no longer outstanding, in
116 accordance with the terms of the corresponding financing
117 documents, the corporation may use a single account for all
118 revenues, assets, liabilities, losses, and expenses of the
119 corporation. Consistent with the requirement of this
120 subparagraph and prudent investment policies that minimize the
121 cost of carrying debt, the board shall exercise its best efforts
122 to retire existing debt or to obtain approval of necessary
123 parties to amend the terms of existing debt, so as to structure
124 the most efficient plan to consolidate the three separate
125 accounts into a single account. By February 1, 2007, the board
126 shall submit a report to the Financial Services Commission, the
127 President of the Senate, and the Speaker of the House of
128 Representatives which includes an analysis of consolidating the
074213

5/2/2007 3:10:36 PM

Amendment No.

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

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

137 Creditors of the Florida Windstorm Underwriting Association
138 shall have a claim against, and recourse to, the account
139 referred to in sub-sub-subparagraph a.(III) and shall have no
140 claim against, or recourse to, the accounts referred to in sub-
141 sub-subparagraphs a.(I) and (II).

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

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

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

151 ~~2.3-~~ With respect to a deficit in an account:

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

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

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

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

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

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

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

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

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

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

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

335 d. Personal lines and commercial lines residential
336 property insurance forms that cover the peril of wind only. The
337 forms are applicable only to residential properties located in
338 areas eligible for coverage under the high-risk account referred
339 to in sub-subparagraph (b)1.2-a.

340 e. Commercial lines nonresidential property insurance
341 forms that cover the peril of wind only. The forms are
342 applicable only to nonresidential properties located in areas
343 eligible for coverage under the high-risk account referred to in
344 sub-subparagraph (b)1.2-a.

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

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

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

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

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

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

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

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

074213

5/2/2007 3:10:36 PM

Amendment No.

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

467 4.a. Must require that the corporation operate subject to
468 the supervision and approval of a board of governors consisting
469 of eight individuals who are residents of this state, from
470 different geographical areas of this state. The Governor, the
471 Chief Financial Officer, the President of the Senate, and the
472 Speaker of the House of Representatives shall each appoint two
473 members of the board. At least one of the two members appointed
474 by each appointing officer must have demonstrated expertise in
475 insurance. The Chief Financial Officer shall designate one of
476 the appointees as chair. All board members serve at the pleasure
477 of the appointing officer. All members of the board of governors
478 are subject to removal at will by the officers who appointed
479 them. All board members, including the chair, must be appointed
480 to serve for 3-year terms beginning annually on a date
481 designated by the plan. Any board vacancy shall be filled for
482 the unexpired term by the appointing officer. The Chief
483 Financial Officer shall appoint a technical advisory group to
484 provide information and advice to the board of governors in
485 connection with the board's duties under this subsection. The
486 executive director and senior managers of the corporation shall
074213

5/2/2007 3:10:36 PM

Amendment No.

487 | be engaged by the board and serve at the pleasure of the board.
488 | Any executive director appointed on or after July 1, 2006, is
489 | subject to confirmation by the Senate. The executive director is
490 | responsible for employing other staff as the corporation may
491 | require, subject to review and concurrence by the board.

492 | b. The board shall create a Market Accountability Advisory
493 | Committee to assist the corporation in developing awareness of
494 | its rates and its customer and agent service levels in
495 | relationship to the voluntary market insurers writing similar
496 | coverage. The members of the advisory committee shall consist of
497 | the following 11 persons, one of whom must be elected chair by
498 | the members of the committee: four representatives, one
499 | appointed by the Florida Association of Insurance Agents, one by
500 | the Florida Association of Insurance and Financial Advisors, one
501 | by the Professional Insurance Agents of Florida, and one by the
502 | Latin American Association of Insurance Agencies; three
503 | representatives appointed by the insurers with the three highest
504 | voluntary market share of residential property insurance
505 | business in the state; one representative from the Office of
506 | Insurance Regulation; one consumer appointed by the board who is
507 | insured by the corporation at the time of appointment to the
508 | committee; one representative appointed by the Florida
509 | Association of Realtors; and one representative appointed by the
510 | Florida Bankers Association. All members must serve for 3-year
511 | terms and may serve for consecutive terms. The committee shall
512 | report to the corporation at each board meeting on insurance
513 | market issues which may include rates and rate competition with
514 | the voluntary market; service, including policy issuance, claims
074213

5/2/2007 3:10:36 PM

Amendment No.

515 processing, and general responsiveness to policyholders,
516 applicants, and agents; and matters relating to depopulation.

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

519 a. Subject to the provisions of s. 627.3517, with respect
520 to personal lines residential risks, if the risk is offered
521 coverage from an authorized insurer at the insurer's approved
522 rate under either a standard policy including wind coverage or,
523 if consistent with the insurer's underwriting rules as filed
524 with the office, a basic policy including wind coverage, for a
525 new application to the corporation for coverage, the risk is not
526 eligible for any policy issued by the corporation unless the
527 premium for coverage from the authorized insurer is more than 25
528 percent greater than the premium for comparable coverage from
529 the corporation. If the risk is not able to obtain any such
530 offer, the risk is eligible for either a standard policy
531 including wind coverage or a basic policy including wind
532 coverage issued by the corporation; however, if the risk could
533 not be insured under a standard policy including wind coverage
534 regardless of market conditions, the risk shall be eligible for
535 a basic policy including wind coverage unless rejected under
536 subparagraph 9.8. However, with regard to a policyholder of the
537 corporation, the policyholder remains eligible for coverage from
538 the corporation regardless of any offer of coverage from an
539 authorized insurer or surplus lines insurer. The corporation
540 shall determine the type of policy to be provided on the basis
541 of objective standards specified in the underwriting manual and
542 based on generally accepted underwriting practices.

074213

5/2/2007 3:10:36 PM

Amendment No.

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

550 (A) Pay to the producing agent of record of the policy,
551 for the first year, an amount that is the greater of the
552 insurer's usual and customary commission for the type of policy
553 written or a fee equal to the usual and customary commission of
554 the corporation; or

555 (B) Offer to allow the producing agent of record of the
556 policy to continue servicing the policy for a period of not less
557 than 1 year and offer to pay the agent the greater of the
558 insurer's or the corporation's usual and customary commission
559 for the type of policy written.

560
561 If the producing agent is unwilling or unable to accept
562 appointment, the new insurer shall pay the agent in accordance
563 with sub-sub-sub-subparagraph (A).

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

568 (A) Pay to the producing agent of record of the
569 corporation policy, for the first year, an amount that is the
570 greater of the insurer's usual and customary commission for the
074213

5/2/2007 3:10:36 PM

Amendment No.

571 type of policy written or a fee equal to the usual and customary
572 commission of the corporation; or

573 (B) Offer to allow the producing agent of record of the
574 corporation policy to continue servicing the policy for a period
575 of not less than 1 year and offer to pay the agent the greater
576 of the insurer's or the corporation's usual and customary
577 commission for the type of policy written.

578

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

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

596 (I) If the risk accepts an offer of coverage through the
597 market assistance plan or an offer of coverage through a
598 mechanism established by the corporation before a policy is

074213

5/2/2007 3:10:36 PM

Amendment No.

599 | issued to the risk by the corporation or during the first 30
600 | days of coverage by the corporation, and the producing agent who
601 | submitted the application to the plan or the corporation is not
602 | currently appointed by the insurer, the insurer shall:

603 | (A) Pay to the producing agent of record of the policy,
604 | for the first year, an amount that is the greater of the
605 | insurer's usual and customary commission for the type of policy
606 | written or a fee equal to the usual and customary commission of
607 | the corporation; or

608 | (B) Offer to allow the producing agent of record of the
609 | policy to continue servicing the policy for a period of not less
610 | than 1 year and offer to pay the agent the greater of the
611 | insurer's or the corporation's usual and customary commission
612 | for the type of policy written.

613 |
614 | If the producing agent is unwilling or unable to accept
615 | appointment, the new insurer shall pay the agent in accordance
616 | with sub-sub-sub-subparagraph (A).

617 | (II) When the corporation enters into a contractual
618 | agreement for a take-out plan, the producing agent of record of
619 | the corporation policy is entitled to retain any unearned
620 | commission on the policy, and the insurer shall:

621 | (A) Pay to the producing agent of record of the
622 | corporation policy, for the first year, an amount that is the
623 | greater of the insurer's usual and customary commission for the
624 | type of policy written or a fee equal to the usual and customary
625 | commission of the corporation; or

074213

5/2/2007 3:10:36 PM

Amendment No.

626 (B) Offer to allow the producing agent of record of the
627 corporation policy to continue servicing the policy for a period
628 of not less than 1 year and offer to pay the agent the greater
629 of the insurer's or the corporation's usual and customary
630 commission for the type of policy written.

631
632 If the producing agent is unwilling or unable to accept
633 appointment, the new insurer shall pay the agent in accordance
634 with sub-sub-sub-subparagraph (A).

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

645 7. Must include rules for classifications of risks and
646 rates therefor.

647 8. Must provide that if premium and investment income for
648 an account attributable to a particular calendar year are in
649 excess of projected losses and expenses for the account
650 attributable to that year, such excess shall be held in surplus
651 in the account. Such surplus shall be available to defray
652 deficits in that account as to future years and shall be used

074213

5/2/2007 3:10:36 PM

Amendment No.

653 for that purpose prior to assessing ~~assessable insurers and~~
654 ~~assessable insureds~~ as to any calendar year.

655 9. Must provide objective criteria and procedures to be
656 uniformly applied for all applicants in determining whether an
657 individual risk is so hazardous as to be uninsurable. In making
658 this determination and in establishing the criteria and
659 procedures, the following shall be considered:

660 a. Whether the likelihood of a loss for the individual
661 risk is substantially higher than for other risks of the same
662 class; and

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

665

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

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

673 ~~11. Must provide that in the event of regular deficit~~
674 ~~assessments under sub-subparagraph (b)3.a. or sub-subparagraph~~
675 ~~(b)3.b., in the personal lines account, the commercial lines~~
676 ~~residential account, or the high risk account, the corporation~~
677 ~~shall levy upon corporation policyholders in its next rate~~
678 ~~filing, or by a separate rate filing solely for this purpose, a~~
679 ~~Citizens policyholder surcharge arising from a regular~~
680 ~~assessment in such account in a percentage equal to the total~~

074213

5/2/2007 3:10:36 PM

Amendment No.

681 ~~amount of such regular assessments divided by the aggregate~~
682 ~~statewide direct written premium for subject lines of business~~
683 ~~for the prior calendar year. For purposes of calculating the~~
684 ~~Citizens policyholder surcharge to be levied under this~~
685 ~~subparagraph, the total amount of the regular assessment to~~
686 ~~which this surcharge is related shall be determined as set forth~~
687 ~~in subparagraph (b)3., without deducting the estimated Citizens~~
688 ~~policyholder surcharge. Citizens policyholder surcharges under~~
689 ~~this subparagraph are not considered premium and are not subject~~
690 ~~to commissions, fees, or premium taxes; however, failure to pay~~
691 ~~a market equalization surcharge shall be treated as failure to~~
692 ~~pay premium.~~

693 ~~11.12.~~ The policies issued by the corporation must provide
694 that, if the corporation or the market assistance plan obtains
695 an offer from an authorized insurer to cover the risk at its
696 approved rates, the risk is no longer eligible for renewal
697 through the corporation, except as otherwise provided in this
698 subsection.

699 ~~12.13.~~ Corporation policies and applications must include
700 a notice that the corporation policy could, under this section,
701 be replaced with a policy issued by an authorized insurer that
702 does not provide coverage identical to the coverage provided by
703 the corporation. The notice shall also specify that acceptance
704 of corporation coverage creates a conclusive presumption that
705 the applicant or policyholder is aware of this potential.

706 ~~13.14.~~ May establish, subject to approval by the office,
707 different eligibility requirements and operational procedures
708 for any line or type of coverage for any specified county or
074213

5/2/2007 3:10:36 PM

Amendment No.

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

721 ~~15. Must provide that, with respect to the high risk~~
722 ~~account, any assessable insurer with a surplus as to~~
723 ~~policyholders of \$25 million or less writing 25 percent or more~~
724 ~~of its total countrywide property insurance premiums in this~~
725 ~~state may petition the office, within the first 90 days of each~~
726 ~~calendar year, to qualify as a limited apportionment company. A~~
727 ~~regular assessment levied by the corporation on a limited~~
728 ~~apportionment company for a deficit incurred by the corporation~~
729 ~~for the high risk account in 2006 or thereafter may be paid to~~
730 ~~the corporation on a monthly basis as the assessments are~~
731 ~~collected by the limited apportionment company from its insureds~~
732 ~~pursuant to s. 627.3512, but the regular assessment must be paid~~
733 ~~in full within 12 months after being levied by the corporation.~~
734 ~~A limited apportionment company shall collect from its~~
735 ~~policyholders any emergency assessment imposed under sub-~~
736 ~~paragraph (b)3.d. The plan shall provide that, if the office~~
074213

5/2/2007 3:10:36 PM

Amendment No.

737 ~~determines that any regular assessment will result in an~~
738 ~~impairment of the surplus of a limited apportionment company,~~
739 ~~the office may direct that all or part of such assessment be~~
740 ~~deferred as provided in subparagraph (g)4. However, there shall~~
741 ~~be no limitation or deferment of an emergency assessment to be~~
742 ~~collected from policyholders under sub subparagraph (b)3.d.~~

743 14.16. Must provide that the corporation appoint as its
744 licensed agents only those agents who also hold an appointment
745 as defined in s. 626.015(3) with an insurer who at the time of
746 the agent's initial appointment by the corporation is authorized
747 to write and is actually writing personal lines residential
748 property coverage, commercial residential property coverage, or
749 commercial nonresidential property coverage within the state.

750 15.17. Must provide, by July 1, 2007, a premium payment
751 plan option to its policyholders which allows for quarterly and
752 semiannual payment of premiums.

753 16.18. Must provide, effective June 1, 2007, that the
754 corporation contract with each insurer providing the non-wind
755 coverage for risks insured by the corporation in the high-risk
756 account, requiring that the insurer provide claims adjusting
757 services for the wind coverage provided by the corporation for
758 such risks. An insurer is required to enter into this contract
759 as a condition of providing non-wind coverage for a risk that is
760 insured by the corporation in the high-risk account unless the
761 board finds, after a hearing, that the insurer is not capable of
762 providing adjusting services at an acceptable level of quality
763 to corporation policyholders. The terms and conditions of such
764 contracts must be substantially the same as the contracts that
074213

5/2/2007 3:10:36 PM

Amendment No.

765 the corporation executed with insurers under the "adjust-your-
766 own" program in 2006, except as may be mutually agreed to by the
767 parties and except for such changes that the board determines
768 are necessary to ensure that claims are adjusted appropriately.
769 The corporation shall provide a process for neutral arbitration
770 of any dispute between the corporation and the insurer regarding
771 the terms of the contract. The corporation shall review and
772 monitor the performance of insurers under these contracts.

773 ~~17.19.~~ Must limit coverage on mobile homes or manufactured
774 homes built prior to 1994 to actual cash value of the dwelling
775 rather than replacement costs of the dwelling.

776 ~~18.20.~~ May provide such limits of coverage as the board
777 determines, consistent with the requirements of this subsection.

778 ~~19.21.~~ May require commercial property to meet specified
779 hurricane mitigation construction features as a condition of
780 eligibility for coverage.

781 (n) If coverage in an account is deactivated pursuant to
782 paragraph ~~(o)~~(f), coverage through the corporation shall be
783 reactivated by order of the office only under one of the
784 following circumstances:

785 1. If the market assistance plan receives a minimum of 100
786 applications for coverage within a 3-month period, or 200
787 applications for coverage within a 1-year period or less for
788 residential coverage, unless the market assistance plan provides
789 a quotation from admitted carriers at their filed rates for at
790 least 90 percent of such applicants. Any market assistance plan
791 application that is rejected because an individual risk is so
792 hazardous as to be uninsurable using the criteria specified in
074213

5/2/2007 3:10:36 PM

Amendment No.

793 subparagraph (c) ~~9.8~~ shall not be included in the minimum
794 percentage calculation provided herein. In the event that there
795 is a legal or administrative challenge to a determination by the
796 office that the conditions of this subparagraph have been met
797 for eligibility for coverage in the corporation, any eligible
798 risk may obtain coverage during the pendency of such challenge.

799 2. In response to a state of emergency declared by the
800 Governor under s. 252.36, the office may activate coverage by
801 order for the period of the emergency upon a finding by the
802 office that the emergency significantly affects the availability
803 of residential property insurance.

804 (p)1. The corporation shall certify to the office its
805 needs for annual assessments as to a particular calendar year,
806 and for any interim assessments that it deems to be necessary to
807 sustain operations as to a particular year pending the receipt
808 of annual assessments. Upon verification, the office shall
809 approve such certification, and the corporation shall levy such
810 annual or interim assessments. Such assessments shall be
811 prorated as provided in paragraph (b). The corporation shall
812 take all reasonable and prudent steps necessary to collect the
813 amount of assessment due from each assessable insured insurer,
814 including, if prudent, filing suit to collect such assessment.
815 ~~If the corporation is unable to collect an assessment from any~~
816 ~~assessable insurer, the uncollected assessments shall be levied~~
817 ~~as an additional assessment against the assessable insurers and~~
818 ~~any assessable insurer required to pay an additional assessment~~
819 ~~as a result of such failure to pay shall have a cause of action~~
820 ~~against such nonpaying assessable insurer. Assessments shall be~~

074213

5/2/2007 3:10:36 PM

Amendment No.

821 ~~included as an appropriate factor in the making of rates. The~~
822 ~~failure of a surplus lines agent to collect and remit any~~
823 ~~regular or emergency assessment levied by the corporation is~~
824 ~~considered to be a violation of s. 626.936 and subjects the~~
825 ~~surplus lines agent to the penalties provided in that section.~~

826 2. The governing body of any unit of local government, any
827 residents of which are insured by the corporation, may issue
828 bonds as defined in s. 125.013 or s. 166.101 from time to time
829 to fund an assistance program, in conjunction with the
830 corporation, for the purpose of defraying deficits of the
831 corporation. In order to avoid needless and indiscriminate
832 proliferation, duplication, and fragmentation of such assistance
833 programs, any unit of local government, any residents of which
834 are insured by the corporation, may provide for the payment of
835 losses, regardless of whether or not the losses occurred within
836 or outside of the territorial jurisdiction of the local
837 government. Revenue bonds under this subparagraph may not be
838 issued until validated pursuant to chapter 75, unless a state of
839 emergency is declared by executive order or proclamation of the
840 Governor pursuant to s. 252.36 making such findings as are
841 necessary to determine that it is in the best interests of, and
842 necessary for, the protection of the public health, safety, and
843 general welfare of residents of this state and declaring it an
844 essential public purpose to permit certain municipalities or
845 counties to issue such bonds as will permit relief to claimants
846 and policyholders of the corporation. Any such unit of local
847 government may enter into such contracts with the corporation
848 and with any other entity created pursuant to this subsection as
074213

5/2/2007 3:10:36 PM

Amendment No.

849 are necessary to carry out this paragraph. Any bonds issued
850 under this subparagraph shall be payable from and secured by
851 moneys received by the corporation from ~~emergency~~ assessments
852 under sub-subparagraph (b)~~2.3.d.~~, and assigned and pledged to or
853 on behalf of the unit of local government for the benefit of the
854 holders of such bonds. The funds, credit, property, and taxing
855 power of the state or of the unit of local government shall not
856 be pledged for the payment of such bonds. ~~If any of the bonds~~
857 ~~remain unsold 60 days after issuance, the office shall require~~
858 ~~all insurers subject to assessment to purchase the bonds, which~~
859 ~~shall be treated as admitted assets; each insurer shall be~~
860 ~~required to purchase that percentage of the unsold portion of~~
861 ~~the bond issue that equals the insurer's relative share of~~
862 ~~assessment liability under this subsection. An insurer shall not~~
863 ~~be required to purchase the bonds to the extent that the office~~
864 ~~determines that the purchase would endanger or impair the~~
865 ~~solvency of the insurer.~~

866 3.a. The corporation shall adopt one or more programs
867 subject to approval by the office for the reduction of both new
868 and renewal writings in the corporation. Beginning January 1,
869 2008, any program the corporation adopts for the payment of
870 bonuses to an insurer for each risk the insurer removes from the
871 corporation shall comply with s. 627.3511(2) and may not exceed
872 the amount referenced in s. 627.3511(2) for each risk removed.
873 ~~The corporation may consider any prudent and not unfairly~~
874 ~~discriminatory approach to reducing corporation writings, and~~
875 ~~may adopt a credit against assessment liability or other~~
876 ~~liability that provides an incentive for insurers to take risks~~

074213

5/2/2007 3:10:36 PM

Amendment No.

877 ~~out of the corporation and to keep risks out of the corporation~~
878 ~~by maintaining or increasing voluntary writings in counties or~~
879 ~~areas in which corporation risks are highly concentrated and a~~
880 ~~program to provide a formula under which an insurer voluntarily~~
881 ~~taking risks out of the corporation by maintaining or increasing~~
882 ~~voluntary writings will be relieved wholly or partially from~~
883 ~~assessments under sub-subparagraphs (b)3.a. and b.~~ However, any
884 "take-out bonus" or payment to an insurer must be conditioned on
885 the property being insured for at least 5 years by the insurer,
886 unless canceled or nonrenewed by the policyholder. If the policy
887 is canceled or nonrenewed by the policyholder before the end of
888 the 5-year period, the amount of the take-out bonus must be
889 prorated for the time period the policy was insured. When the
890 corporation enters into a contractual agreement for a take-out
891 plan, the producing agent of record of the corporation policy is
892 entitled to retain any unearned commission on such policy, and
893 the insurer shall either:

894 (I) Pay to the producing agent of record of the policy,
895 for the first year, an amount which is the greater of the
896 insurer's usual and customary commission for the type of policy
897 written or a policy fee equal to the usual and customary
898 commission of the corporation; or

899 (II) Offer to allow the producing agent of record of the
900 policy to continue servicing the policy for a period of not less
901 than 1 year and offer to pay the agent the insurer's usual and
902 customary commission for the type of policy written. If the
903 producing agent is unwilling or unable to accept appointment by

074213

5/2/2007 3:10:36 PM

Amendment No.

904 the new insurer, the new insurer shall pay the agent in
905 accordance with sub-sub-subparagraph (I).

906 ~~b. Any credit or exemption from regular assessments~~
907 ~~adopted under this subparagraph shall last no longer than the 3~~
908 ~~years following the cancellation or expiration of the policy by~~
909 ~~the corporation. With the approval of the office, the board may~~
910 ~~extend such credits for an additional year if the insurer~~
911 ~~guarantees an additional year of renewability for all policies~~
912 ~~removed from the corporation, or for 2 additional years if the~~
913 ~~insurer guarantees 2 additional years of renewability for all~~
914 ~~policies so removed.~~

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

918 ~~4. The plan shall provide for the deferment, in whole or~~
919 ~~in part, of the assessment of an assessable insurer, other than~~
920 ~~an emergency assessment collected from policyholders pursuant to~~
921 ~~sub-subparagraph (b)3.d., if the office finds that payment of~~
922 ~~the assessment would endanger or impair the solvency of the~~
923 ~~insurer. In the event an assessment against an assessable~~
924 ~~insurer is deferred in whole or in part, the amount by which~~
925 ~~such assessment is deferred may be assessed against the other~~
926 ~~assessable insurers in a manner consistent with the basis for~~
927 ~~assessments set forth in paragraph (b).~~

928 ~~4.5.~~ Effective July 1, 2007, in order to evaluate the
929 costs and benefits of approved take-out plans, if the
930 corporation pays a bonus or other payment to an insurer for an
931 approved take-out plan, it shall maintain a record of the

074213

5/2/2007 3:10:36 PM

Amendment No.

932 address or such other identifying information on the property or
933 risk removed in order to track if and when the property or risk
934 is later insured by the corporation.

935 ~~5.6-~~ Any policy taken out, assumed, or removed from the
936 corporation is, as of the effective date of the take-out,
937 assumption, or removal, direct insurance issued by the insurer
938 and not by the corporation, even if the corporation continues to
939 service the policies. This subparagraph applies to policies of
940 the corporation and not policies taken out, assumed, or removed
941 from any other entity.

942 ~~(r) There shall be no liability on the part of, and no~~
943 ~~cause of action of any nature shall arise against, any~~
944 ~~assessable insurer or its agents or employees, the corporation~~
945 ~~or its agents or employees, members of the board of governors or~~
946 ~~their respective designees at a board meeting, corporation~~
947 ~~committee members, or the office or its representatives, for any~~
948 ~~action taken by them in the performance of their duties or~~
949 ~~responsibilities under this subsection. Such immunity does not~~
950 ~~apply to:~~

951 ~~1. Any of the foregoing persons or entities for any~~
952 ~~willful tort;~~

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

955 ~~3. The corporation with respect to issuance or payment of~~
956 ~~debt; or~~

957 ~~4. Any assessable insurer with respect to any action to~~
958 ~~enforce an assessable insurer's obligations to the corporation~~
959 ~~under this subsection.~~

074213

5/2/2007 3:10:36 PM

Amendment No.

960 (r)~~(s)~~ For the purposes of s. 199.183(1), the corporation
961 shall be considered a political subdivision of the state and
962 shall be exempt from the corporate income tax. The premiums,
963 assessments, investment income, and other revenue of the
964 corporation are funds received for providing property insurance
965 coverage as required by this subsection, paying claims for
966 Florida citizens insured by the corporation, securing and
967 repaying debt obligations issued by the corporation, and
968 conducting all other activities of the corporation, and shall
969 not be considered taxes, fees, licenses, or charges for services
970 imposed by the Legislature on individuals, businesses, or
971 agencies outside state government. Bonds and other debt
972 obligations issued by or on behalf of the corporation are not to
973 be considered "state bonds" within the meaning of s. 215.58(8).
974 The corporation is not subject to the procurement provisions of
975 chapter 287, and policies and decisions of the corporation
976 relating to incurring debt, levying of assessments and the sale,
977 issuance, continuation, terms and claims under corporation
978 policies, and all services relating thereto, are not subject to
979 the provisions of chapter 120. The corporation is not required
980 to obtain or to hold a certificate of authority issued by the
981 office, nor is it required to participate as a member insurer of
982 the Florida Insurance Guaranty Association. However, the
983 corporation is required to pay, in the same manner as an
984 authorized insurer, assessments levied by the Florida Insurance
985 Guaranty Association. It is the intent of the Legislature that
986 the tax exemptions provided in this paragraph will augment the
987 financial resources of the corporation to better enable the

074213

5/2/2007 3:10:36 PM

Amendment No.

988 corporation to fulfill its public purposes. Any debt obligations
989 issued by the corporation, their transfer, and the income
990 therefrom, including any profit made on the sale thereof, shall
991 at all times be free from taxation of every kind by the state
992 and any political subdivision or local unit or other
993 instrumentality thereof; however, this exemption does not apply
994 to any tax imposed by chapter 220 on interest, income, or
995 profits on debt obligations owned by corporations other than the
996 corporation.

997 ~~(t)~~ Upon a determination by the office that the
998 conditions giving rise to the establishment and activation of
999 the corporation no longer exist, the corporation is dissolved.
1000 Upon dissolution, the assets of the corporation shall be applied
1001 first to pay all debts, liabilities, and obligations of the
1002 corporation, including the establishment of reasonable reserves
1003 for any contingent liabilities or obligations, and all remaining
1004 assets of the corporation shall become property of the state and
1005 shall be deposited in the Florida Hurricane Catastrophe Fund.
1006 However, no dissolution shall take effect as long as the
1007 corporation has bonds or other financial obligations outstanding
1008 unless adequate provision has been made for the payment of the
1009 bonds or other financial obligations pursuant to the documents
1010 authorizing the issuance of the bonds or other financial
1011 obligations.

1012 ~~(u)~~1. Effective July 1, 2002, policies of the
1013 Residential Property and Casualty Joint Underwriting Association
1014 shall become policies of the corporation. All obligations,
1015 rights, assets and liabilities of the Residential Property and
074213

5/2/2007 3:10:36 PM

Amendment No.

1016 Casualty Joint Underwriting Association, including bonds, note
1017 and debt obligations, and the financing documents pertaining to
1018 them become those of the corporation as of July 1, 2002. The
1019 corporation is not required to issue endorsements or
1020 certificates of assumption to insureds during the remaining term
1021 of in-force transferred policies.

1022 2. Effective July 1, 2002, policies of the Florida
1023 Windstorm Underwriting Association are transferred to the
1024 corporation and shall become policies of the corporation. All
1025 obligations, rights, assets, and liabilities of the Florida
1026 Windstorm Underwriting Association, including bonds, note and
1027 debt obligations, and the financing documents pertaining to them
1028 are transferred to and assumed by the corporation on July 1,
1029 2002. The corporation is not required to issue endorsements or
1030 certificates of assumption to insureds during the remaining term
1031 of in-force transferred policies.

1032 3. The Florida Windstorm Underwriting Association and the
1033 Residential Property and Casualty Joint Underwriting Association
1034 shall take all actions as may be proper to further evidence the
1035 transfers and shall provide the documents and instruments of
1036 further assurance as may reasonably be requested by the
1037 corporation for that purpose. The corporation shall execute
1038 assumptions and instruments as the trustees or other parties to
1039 the financing documents of the Florida Windstorm Underwriting
1040 Association or the Residential Property and Casualty Joint
1041 Underwriting Association may reasonably request to further
1042 evidence the transfers and assumptions, which transfers and
1043 assumptions, however, are effective on the date provided under
074213

5/2/2007 3:10:36 PM

Amendment No.

1044 | this paragraph whether or not, and regardless of the date on
1045 | which, the assumptions or instruments are executed by the
1046 | corporation. Subject to the relevant financing documents
1047 | pertaining to their outstanding bonds, notes, indebtedness, or
1048 | other financing obligations, the moneys, investments,
1049 | receivables, choses in action, and other intangibles of the
1050 | Florida Windstorm Underwriting Association shall be credited to
1051 | the high-risk account of the corporation, and those of the
1052 | personal lines residential coverage account and the commercial
1053 | lines residential coverage account of the Residential Property
1054 | and Casualty Joint Underwriting Association shall be credited to
1055 | the personal lines account and the commercial lines account,
1056 | respectively, of the corporation.

1057 | 4. Effective July 1, 2002, a new applicant for property
1058 | insurance coverage who would otherwise have been eligible for
1059 | coverage in the Florida Windstorm Underwriting Association is
1060 | eligible for coverage from the corporation as provided in this
1061 | subsection.

1062 | 5. The transfer of all policies, obligations, rights,
1063 | assets, and liabilities from the Florida Windstorm Underwriting
1064 | Association to the corporation and the renaming of the
1065 | Residential Property and Casualty Joint Underwriting Association
1066 | as the corporation shall in no way affect the coverage with
1067 | respect to covered policies as defined in s. 215.555(2)(c)
1068 | provided to these entities by the Florida Hurricane Catastrophe
1069 | Fund. The coverage provided by the Florida Hurricane Catastrophe
1070 | Fund to the Florida Windstorm Underwriting Association based on
1071 | its exposures as of June 30, 2002, and each June 30 thereafter
074213

5/2/2007 3:10:36 PM

Amendment No.

1072 shall be redesignated as coverage for the high-risk account of
1073 the corporation. Notwithstanding any other provision of law, the
1074 coverage provided by the Florida Hurricane Catastrophe Fund to
1075 the Residential Property and Casualty Joint Underwriting
1076 Association based on its exposures as of June 30, 2002, and each
1077 June 30 thereafter shall be transferred to the personal lines
1078 account and the commercial lines account of the corporation.
1079 Notwithstanding any other provision of law, the high-risk
1080 account shall be treated, for all Florida Hurricane Catastrophe
1081 Fund purposes, as if it were a separate participating insurer
1082 with its own exposures, reimbursement premium, and loss
1083 reimbursement. Likewise, the personal lines and commercial lines
1084 accounts shall be viewed together, for all Florida Hurricane
1085 Catastrophe Fund purposes, as if the two accounts were one and
1086 represent a single, separate participating insurer with its own
1087 exposures, reimbursement premium, and loss reimbursement. The
1088 coverage provided by the Florida Hurricane Catastrophe Fund to
1089 the corporation shall constitute and operate as a full transfer
1090 of coverage from the Florida Windstorm Underwriting Association
1091 and Residential Property and Casualty Joint Underwriting to the
1092 corporation.

1093 (u)~~(v)~~ Notwithstanding any other provision of law:

1094 1. The pledge or sale of, the lien upon, and the security
1095 interest in any rights, revenues, or other assets of the
1096 corporation created or purported to be created pursuant to any
1097 financing documents to secure any bonds or other indebtedness of
1098 the corporation shall be and remain valid and enforceable,
1099 notwithstanding the commencement of and during the continuation

074213

5/2/2007 3:10:36 PM

Amendment No.

1100 of, and after, any rehabilitation, insolvency, liquidation,
1101 bankruptcy, receivership, conservatorship, reorganization, or
1102 similar proceeding against the corporation under the laws of
1103 this state.

1104 2. No such proceeding shall relieve the corporation of its
1105 obligation, or otherwise affect its ability to perform its
1106 obligation, to continue to collect, or levy and collect,
1107 assessments, market equalization or other surcharges ~~under~~
1108 ~~subparagraph (c)10-~~, or any other rights, revenues, or other
1109 assets of the corporation pledged pursuant to any financing
1110 documents.

1111 3. Each such pledge or sale of, lien upon, and security
1112 interest in, including the priority of such pledge, lien, or
1113 security interest, any such assessments, market equalization or
1114 other surcharges, or other rights, revenues, or other assets
1115 which are collected, or levied and collected, after the
1116 commencement of and during the pendency of, or after, any such
1117 proceeding shall continue unaffected by such proceeding. As used
1118 in this subsection, the term "financing documents" means any
1119 agreement or agreements, instrument or instruments, or other
1120 document or documents now existing or hereafter created
1121 evidencing any bonds or other indebtedness of the corporation or
1122 pursuant to which any such bonds or other indebtedness has been
1123 or may be issued and pursuant to which any rights, revenues, or
1124 other assets of the corporation are pledged or sold to secure
1125 the repayment of such bonds or indebtedness, together with the
1126 payment of interest on such bonds or such indebtedness, or the
1127 payment of any other obligation or financial product, as defined
074213

5/2/2007 3:10:36 PM

Amendment No.

1128 in the plan of operation of the corporation related to such
1129 bonds or indebtedness.

1130 4. Any such pledge or sale of assessments, revenues,
1131 contract rights, or other rights or assets of the corporation
1132 shall constitute a lien and security interest, or sale, as the
1133 case may be, that is immediately effective and attaches to such
1134 assessments, revenues, or contract rights or other rights or
1135 assets, whether or not imposed or collected at the time the
1136 pledge or sale is made. Any such pledge or sale is effective,
1137 valid, binding, and enforceable against the corporation or other
1138 entity making such pledge or sale, and valid and binding against
1139 and superior to any competing claims or obligations owed to any
1140 other person or entity, including policyholders in this state,
1141 asserting rights in any such assessments, revenues, or contract
1142 rights or other rights or assets to the extent set forth in and
1143 in accordance with the terms of the pledge or sale contained in
1144 the applicable financing documents, whether or not any such
1145 person or entity has notice of such pledge or sale and without
1146 the need for any physical delivery, recordation, filing, or
1147 other action.

1148 5. As long as the corporation has any bonds outstanding,
1149 the corporation may not file a voluntary petition under chapter
1150 9 of the federal Bankruptcy Code or such corresponding chapter
1151 or sections as may be in effect, from time to time, and a public
1152 officer or any organization, entity, or other person may not
1153 authorize the corporation to be or become a debtor under chapter
1154 9 of the federal Bankruptcy Code or such corresponding chapter

074213

5/2/2007 3:10:36 PM

Amendment No.

1155 or sections as may be in effect, from time to time, during any
1156 such period.

1157 6. If ordered by a court of competent jurisdiction, the
1158 corporation may assume policies or otherwise provide coverage
1159 for policyholders of an insurer placed in liquidation under
1160 chapter 631, under such forms, rates, terms, and conditions as
1161 the corporation deems appropriate, subject to approval by the
1162 office.

1163 (v)~~(w)~~1. The following records of the corporation are
1164 confidential and exempt from the provisions of s. 119.07(1) and
1165 s. 24(a), Art. I of the State Constitution:

1166 a. Underwriting files, except that a policyholder or an
1167 applicant shall have access to his or her own underwriting
1168 files.

1169 b. Claims files, until termination of all litigation and
1170 settlement of all claims arising out of the same incident,
1171 although portions of the claims files may remain exempt, as
1172 otherwise provided by law. Confidential and exempt claims file
1173 records may be released to other governmental agencies upon
1174 written request and demonstration of need; such records held by
1175 the receiving agency remain confidential and exempt as provided
1176 for herein.

1177 c. Records obtained or generated by an internal auditor
1178 pursuant to a routine audit, until the audit is completed, or if
1179 the audit is conducted as part of an investigation, until the
1180 investigation is closed or ceases to be active. An investigation
1181 is considered "active" while the investigation is being
1182 conducted with a reasonable, good faith belief that it could
074213

5/2/2007 3:10:36 PM

Amendment No.

1183 | lead to the filing of administrative, civil, or criminal
1184 | proceedings.

1185 | d. Matters reasonably encompassed in privileged attorney-
1186 | client communications.

1187 | e. Proprietary information licensed to the corporation
1188 | under contract and the contract provides for the confidentiality
1189 | of such proprietary information.

1190 | f. All information relating to the medical condition or
1191 | medical status of a corporation employee which is not relevant
1192 | to the employee's capacity to perform his or her duties, except
1193 | as otherwise provided in this paragraph. Information which is
1194 | exempt shall include, but is not limited to, information
1195 | relating to workers' compensation, insurance benefits, and
1196 | retirement or disability benefits.

1197 | g. Upon an employee's entrance into the employee
1198 | assistance program, a program to assist any employee who has a
1199 | behavioral or medical disorder, substance abuse problem, or
1200 | emotional difficulty which affects the employee's job
1201 | performance, all records relative to that participation shall be
1202 | confidential and exempt from the provisions of s. 119.07(1) and
1203 | s. 24(a), Art. I of the State Constitution, except as otherwise
1204 | provided in s. 112.0455(11).

1205 | h. Information relating to negotiations for financing,
1206 | reinsurance, depopulation, or contractual services, until the
1207 | conclusion of the negotiations.

1208 | i. Minutes of closed meetings regarding underwriting
1209 | files, and minutes of closed meetings regarding an open claims
1210 | file until termination of all litigation and settlement of all
074213

5/2/2007 3:10:36 PM

Amendment No.

1211 claims with regard to that claim, except that information
1212 otherwise confidential or exempt by law will be redacted.
1213
1214 When an authorized insurer is considering underwriting a risk
1215 insured by the corporation, relevant underwriting files and
1216 confidential claims files may be released to the insurer
1217 provided the insurer agrees in writing, notarized and under
1218 oath, to maintain the confidentiality of such files. When a file
1219 is transferred to an insurer that file is no longer a public
1220 record because it is not held by an agency subject to the
1221 provisions of the public records law. Underwriting files and
1222 confidential claims files may also be released to staff of and
1223 the board of governors of the market assistance plan established
1224 pursuant to s. 627.3515, who must retain the confidentiality of
1225 such files, except such files may be released to authorized
1226 insurers that are considering assuming the risks to which the
1227 files apply, provided the insurer agrees in writing, notarized
1228 and under oath, to maintain the confidentiality of such files.
1229 Finally, the corporation or the board or staff of the market
1230 assistance plan may make the following information obtained from
1231 underwriting files and confidential claims files available to
1232 licensed general lines insurance agents: name, address, and
1233 telephone number of the residential property owner or insured;
1234 location of the risk; rating information; loss history; and
1235 policy type. The receiving licensed general lines insurance
1236 agent must retain the confidentiality of the information
1237 received.

074213

5/2/2007 3:10:36 PM

Amendment No.

1238 2. Portions of meetings of the corporation are exempt from
1239 the provisions of s. 286.011 and s. 24(b), Art. I of the State
1240 Constitution wherein confidential underwriting files or
1241 confidential open claims files are discussed. All portions of
1242 corporation meetings which are closed to the public shall be
1243 recorded by a court reporter. The court reporter shall record
1244 the times of commencement and termination of the meeting, all
1245 discussion and proceedings, the names of all persons present at
1246 any time, and the names of all persons speaking. No portion of
1247 any closed meeting shall be off the record. Subject to the
1248 provisions hereof and s. 119.07(1)(b)-(d), the court reporter's
1249 notes of any closed meeting shall be retained by the corporation
1250 for a minimum of 5 years. A copy of the transcript, less any
1251 exempt matters, of any closed meeting wherein claims are
1252 discussed shall become public as to individual claims after
1253 settlement of the claim.

1254 (w)~~(x)~~ It is the intent of the Legislature that the
1255 amendments to this subsection enacted in 2002 should, over time,
1256 reduce the probable maximum windstorm losses in the residual
1257 markets and should reduce the potential assessments to be levied
1258 on property insurers and policyholders statewide. In furtherance
1259 of this intent:

1260 1. The board shall, on or before February 1 of each year,
1261 provide a report to the President of the Senate and the Speaker
1262 of the House of Representatives showing the reduction or
1263 increase in the 100-year probable maximum loss attributable to
1264 wind-only coverages and the quota share program under this
1265 subsection combined, as compared to the benchmark 100-year
074213

5/2/2007 3:10:36 PM

Amendment No.

1266 probable maximum loss of the Florida Windstorm Underwriting
1267 Association. For purposes of this paragraph, the benchmark 100-
1268 year probable maximum loss of the Florida Windstorm Underwriting
1269 Association shall be the calculation dated February 2001 and
1270 based on November 30, 2000, exposures. In order to ensure
1271 comparability of data, the board shall use the same methods for
1272 calculating its probable maximum loss as were used to calculate
1273 the benchmark probable maximum loss.

1274 2. Beginning February 1, 2010, if the report under
1275 subparagraph 1. for any year indicates that the 100-year
1276 probable maximum loss attributable to wind-only coverages and
1277 the quota share program combined does not reflect a reduction of
1278 at least 25 percent from the benchmark, the board shall reduce
1279 the boundaries of the high-risk area eligible for wind-only
1280 coverages under this subsection in a manner calculated to reduce
1281 such probable maximum loss to an amount at least 25 percent
1282 below the benchmark.

1283 3. Beginning February 1, 2015, if the report under
1284 subparagraph 1. for any year indicates that the 100-year
1285 probable maximum loss attributable to wind-only coverages and
1286 the quota share program combined does not reflect a reduction of
1287 at least 50 percent from the benchmark, the boundaries of the
1288 high-risk area eligible for wind-only coverages under this
1289 subsection shall be reduced by the elimination of any area that
1290 is not seaward of a line 1,000 feet inland from the Intracoastal
1291 Waterway.

1292 ~~(x)~~~~(y)~~ In enacting the provisions of this section, the
1293 Legislature recognizes that both the Florida Windstorm

074213

5/2/2007 3:10:36 PM

Amendment No.

1294 Underwriting Association and the Residential Property and
1295 Casualty Joint Underwriting Association have entered into
1296 financing arrangements that obligate each entity to service its
1297 debts and maintain the capacity to repay funds secured under
1298 these financing arrangements. It is the intent of the
1299 Legislature that nothing in this section be construed to
1300 compromise, diminish, or interfere with the rights of creditors
1301 under such financing arrangements. It is further the intent of
1302 the Legislature to preserve the obligations of the Florida
1303 Windstorm Underwriting Association and Residential Property and
1304 Casualty Joint Underwriting Association with regard to
1305 outstanding financing arrangements, with such obligations
1306 passing entirely and unchanged to the corporation and,
1307 specifically, to the applicable account of the corporation. So
1308 long as any bonds, notes, indebtedness, or other financing
1309 obligations of the Florida Windstorm Underwriting Association or
1310 the Residential Property and Casualty Joint Underwriting
1311 Association are outstanding, under the terms of the financing
1312 documents pertaining to them, the governing board of the
1313 corporation shall have and shall exercise the authority to levy,
1314 charge, collect, and receive all premiums, assessments,
1315 surcharges, charges, revenues, and receipts that the
1316 associations had authority to levy, charge, collect, or receive
1317 under the provisions of subsection (2) and this subsection,
1318 respectively, as they existed on January 1, 2002, to provide
1319 moneys, without exercise of the authority provided by this
1320 subsection, in at least the amounts, and by the times, as would
1321 be provided under those former provisions of subsection (2) or
074213

5/2/2007 3:10:36 PM

Amendment No.

1322 this subsection, respectively, so that the value, amount, and
1323 collectability of any assets, revenues, or revenue source
1324 pledged or committed to, or any lien thereon securing such
1325 outstanding bonds, notes, indebtedness, or other financing
1326 obligations will not be diminished, impaired, or adversely
1327 affected by the amendments made by this act and to permit
1328 compliance with all provisions of financing documents pertaining
1329 to such bonds, notes, indebtedness, or other financing
1330 obligations, or the security or credit enhancement for them, and
1331 any reference in this subsection to bonds, notes, indebtedness,
1332 financing obligations, or similar obligations, of the
1333 corporation shall include like instruments or contracts of the
1334 Florida Windstorm Underwriting Association and the Residential
1335 Property and Casualty Joint Underwriting Association to the
1336 extent not inconsistent with the provisions of the financing
1337 documents pertaining to them.

1338 (y)~~(z)~~ The corporation shall not require the securing of
1339 flood insurance as a condition of coverage if the insured or
1340 applicant executes a form approved by the office affirming that
1341 flood insurance is not provided by the corporation and that if
1342 flood insurance is not secured by the applicant or insured in
1343 addition to coverage by the corporation, the risk will not be
1344 covered for flood damage. A corporation policyholder electing
1345 not to secure flood insurance and executing a form as provided
1346 herein making a claim for water damage against the corporation
1347 shall have the burden of proving the damage was not caused by
1348 flooding. Notwithstanding other provisions of this subsection,

074213

5/2/2007 3:10:36 PM

Amendment No.

1349 the corporation may deny coverage to an applicant or insured who
1350 refuses to execute the form described herein.

1351 ~~(z)(aa)~~ A salaried employee of the corporation who
1352 performs policy administration services subsequent to the
1353 effectuation of a corporation policy is not required to be
1354 licensed as an agent under the provisions of s. 626.112.

1355 ~~(aa)(bb)~~ By February 1, 2007, the corporation shall submit
1356 a report to the President of the Senate, the Speaker of the
1357 House of Representatives, the minority party leaders of the
1358 Senate and the House of Representatives, and the chairs of the
1359 standing committees of the Senate and the House of
1360 Representatives having jurisdiction over matters relating to
1361 property and casualty insurance. In preparing the report, the
1362 corporation shall consult with the Office of Insurance
1363 Regulation, the Department of Financial Services, and any other
1364 party the corporation determines appropriate. The report must
1365 include all findings and recommendations on the feasibility of
1366 requiring authorized insurers that issue and service personal
1367 and commercial residential policies and commercial
1368 nonresidential policies that provide coverage for basic property
1369 perils except for the peril of wind to issue and service for a
1370 fee personal and commercial residential policies and commercial
1371 nonresidential policies providing coverage for the peril of wind
1372 issued by the corporation. The report must include:

1373 1. The expense savings to the corporation of issuing and
1374 servicing such policies as determined by a cost-benefit
1375 analysis.

074213

5/2/2007 3:10:36 PM

Amendment No.

1376 2. The expenses and liability to authorized insurers
1377 associated with issuing and servicing such policies.

1378 3. The effect on service to policyholders of the
1379 corporation relating to issuing and servicing such policies.

1380 4. The effect on the producing agent of the corporation of
1381 issuing and servicing such policies.

1382 5. Recommendations as to the amount of the fee which
1383 should be paid to authorized insurers for issuing and servicing
1384 such policies.

1385 6. The effect that issuing and servicing such policies
1386 will have on the corporation's number of policies, total insured
1387 value, and probable maximum loss.

1388 **(bb)**~~(ee)~~ There shall be no liability on the part of, and
1389 no cause of action of any nature shall arise against, producing
1390 agents of record of the corporation or employees of such agents
1391 for insolvency of any take-out insurer.

1392 **(cc)**~~(dd)~~1. For policies subject to nonrenewal as a result
1393 of the risk being no longer eligible for coverage due to being
1394 valued at \$1 million or more, the corporation shall, directly or
1395 through the market assistance plan, make information from
1396 confidential underwriting and claims files of policyholders
1397 available only to licensed general lines agents who register
1398 with the corporation to receive such information according to
1399 the following procedures:

1400 2. By August 1, 2006, the corporation shall provide such
1401 policyholders who are not eligible for renewal the opportunity
1402 to request in writing, within 30 days after the notification is
1403 sent, that information from their confidential underwriting and
074213

5/2/2007 3:10:36 PM

Amendment No.

1404 claims files not be released to licensed general lines agents
1405 registered pursuant to this paragraph.

1406 3. By August 1, 2006, the corporation shall make available
1407 to licensed general lines agents the registration procedures to
1408 be used to obtain confidential information from underwriting and
1409 claims files for such policies not eligible for renewal. As a
1410 condition of registration, the corporation shall require the
1411 licensed general lines agent to attest that the agent has the
1412 experience and relationships with authorized or surplus lines
1413 carriers to attempt to offer replacement coverage for such
1414 policies.

1415 4. By September 1, 2006, the corporation shall make
1416 available through a secured website to licensed general lines
1417 agents registered pursuant to this paragraph application,
1418 rating, loss history, mitigation, and policy type information
1419 relating to such policies not eligible for renewal and for which
1420 the policyholder has not requested the corporation withhold such
1421 information. The registered licensed general lines agent may use
1422 such information to contact and assist the policyholder in
1423 securing replacement policies, and the agent may disclose to the
1424 policyholder that such information was obtained from the
1425 corporation.

1426 ~~(dd)(ee)~~ The assets of the corporation may be invested and
1427 managed by the State Board of Administration.

1428 Section 6. Subsection (1) of section 624.4072, Florida
1429 Statutes, is amended to read:

1430 624.4072 Minority-owned property and casualty insurers;
1431 limited exemption for taxation and assessments.--

074213

5/2/2007 3:10:36 PM

Amendment No.

1432 (1) A minority business that is at least 51 percent owned
1433 by minority persons, as defined in s. 288.703(3), initially
1434 issued a certificate of authority in this state as an authorized
1435 insurer after May 1, 1998, and before January 1, 2002, to write
1436 property and casualty insurance shall be exempt, for a period
1437 not to exceed 10 years from the date of receiving its
1438 certificate of authority, ~~from the following taxes and~~
1439 ~~assessments:~~

1440 ~~(a) taxes imposed under ss. 175.101, 185.08, and 624.509;~~

1441 ~~(b) Assessments by the Citizens Property Insurance~~
1442 ~~Corporation, except for emergency assessments collected from~~
1443 ~~policyholders pursuant to s. 627.351(6)(b)3.d. Any such insurer~~
1444 ~~shall be a member insurer of the Citizens Property Insurance~~
1445 ~~Corporation. The premiums of such insurer shall be included in~~
1446 ~~determining, for the Citizens Property Insurance Corporation,~~
1447 ~~the aggregate statewide direct written premium for the subject~~
1448 ~~lines of business for all member insurers.~~

1449 Section 7. Subsections (3), (4), (5), (6), and (7) of
1450 section 627.3511, Florida Statutes, are amended to read:

1451 627.3511 Depopulation of Citizens Property Insurance
1452 Corporation.--

1453 ~~(3) EXEMPTION FROM DEFICIT ASSESSMENTS.~~

1454 ~~(a) The calculation of an insurer's assessment liability~~
1455 ~~under s. 627.351(6)(b)3.a. or b. shall, for an insurer that in~~
1456 ~~any calendar year removes 50,000 or more risks from the Citizens~~
1457 ~~Property Insurance Corporation, either by issuance of a policy~~
1458 ~~upon expiration or cancellation of the corporation policy or by~~
1459 ~~assumption of the corporation's obligations with respect to in-~~
074213

5/2/2007 3:10:36 PM

Amendment No.

1460 ~~force policies, exclude such removed policies for the succeeding~~
1461 ~~3 years, as follows:~~

1462 ~~1. In the first year following removal of the risks, the~~
1463 ~~risks are excluded from the calculation to the extent of 100~~
1464 ~~percent.~~

1465 ~~2. In the second year following removal of the risks, the~~
1466 ~~risks are excluded from the calculation to the extent of 75~~
1467 ~~percent.~~

1468 ~~3. In the third year following removal of the risks, the~~
1469 ~~risks are excluded from the calculation to the extent of 50~~
1470 ~~percent.~~

1471
1472 ~~If the removal of risks is accomplished through assumption of~~
1473 ~~obligations with respect to in force policies, the corporation~~
1474 ~~shall pay to the assuming insurer all unearned premium with~~
1475 ~~respect to such policies less any policy acquisition costs~~
1476 ~~agreed to by the corporation and assuming insurer. The term~~
1477 ~~"policy acquisition costs" is defined as costs of issuance of~~
1478 ~~the policy by the corporation which includes agent commissions,~~
1479 ~~servicing company fees, and premium tax. This paragraph does not~~
1480 ~~apply to an insurer that, at any time within 5 years before~~
1481 ~~removing the risks, had a market share in excess of 0.1 percent~~
1482 ~~of the statewide aggregate gross direct written premium for any~~
1483 ~~line of property insurance, or to an affiliate of such an~~
1484 ~~insurer. This paragraph does not apply unless either at least 40~~
1485 ~~percent of the risks removed from the corporation are located in~~
1486 ~~Dade, Broward, and Palm Beach Counties, or at least 30 percent~~
1487 ~~of the risks removed from the corporation are located in such~~
074213

5/2/2007 3:10:36 PM

Amendment No.

1488 ~~counties and an additional 50 percent of the risks removed from~~
1489 ~~the corporation are located in other coastal counties.~~

1490 ~~(b) An insurer that first wrote personal lines residential~~
1491 ~~property coverage in this state on or after July 1, 1994, is~~
1492 ~~exempt from regular deficit assessments imposed pursuant to s.~~
1493 ~~627.351(6) (b)3.a. and b., but not emergency assessments~~
1494 ~~collected from policyholders pursuant to s. 627.351(6) (b)3.d.,~~
1495 ~~of the Citizens Property Insurance Corporation until the earlier~~
1496 ~~of the following:~~

1497 ~~1. The end of the calendar year in which it first wrote~~
1498 ~~0.5 percent or more of the statewide aggregate direct written~~
1499 ~~premium for any line of residential property coverage; or~~

1500 ~~2. December 31, 1997, or December 31 of the third year in~~
1501 ~~which it wrote such coverage in this state, whichever is later.~~

1502 ~~(c) Other than an insurer that is exempt under paragraph~~
1503 ~~(b), an insurer that in any calendar year increases its total~~
1504 ~~structure exposure subject to wind coverage by 25 percent or~~
1505 ~~more over its exposure for the preceding calendar year is, with~~
1506 ~~respect to that year, exempt from deficit assessments imposed~~
1507 ~~pursuant to s. 627.351(6) (b)3.a. and b., but not emergency~~
1508 ~~assessments collected from policyholders pursuant to s.~~
1509 ~~627.351(6) (b)3.d., of the Citizens Property Insurance~~
1510 ~~Corporation attributable to such increase in exposure.~~

1511 ~~(d) Any exemption or credit from regular assessments~~
1512 ~~authorized by this section shall last no longer than 3 years~~
1513 ~~following the cancellation or expiration of the policy by the~~
1514 ~~corporation. With the approval of the office, the board may~~
1515 ~~extend such credits for an additional year if the insurer~~

074213

5/2/2007 3:10:36 PM

Amendment No.

1516 ~~guarantees an additional year of renewability for all policies~~
1517 ~~removed from the corporation, or for 2 additional years if the~~
1518 ~~insurer guarantees 2 additional years of renewability for all~~
1519 ~~policies so removed.~~

1520 (3)~~(4)~~ AGENT BONUS.--When the corporation enters into a
1521 contractual agreement for a take-out plan that provides a bonus
1522 to the insurer, the producing agent of record of the corporation
1523 policy is entitled to retain any unearned commission on such
1524 policy, and the insurer shall either:

1525 (a) Pay to the producing agent of record of the
1526 association policy, for the first year, an amount that is the
1527 greater of the insurer's usual and customary commission for the
1528 type of policy written or a fee equal to the usual and customary
1529 commission of the corporation; or

1530 (b) Offer to allow the producing agent of record of the
1531 corporation policy to continue servicing the policy for a period
1532 of not less than 1 year and offer to pay the agent the greater
1533 of the insurer's or the corporation's usual and customary
1534 commission for the type of policy written.

1535
1536 If the producing agent is unwilling or unable to accept
1537 appointment, the new insurer shall pay the agent in accordance
1538 with paragraph (a). The requirement of this subsection that the
1539 producing agent of record is entitled to retain the unearned
1540 commission on an association policy does not apply to a policy
1541 for which coverage has been provided in the association for 30
1542 days or less or for which a cancellation notice has been issued

074213

5/2/2007 3:10:36 PM

Amendment No.

1543 pursuant to s. 627.351(6)(c) ~~11~~ during the first 30 days of
1544 coverage.

1545 (4) ~~(5)~~ APPLICABILITY.--

1546 ~~(a)~~ The take-out bonus provided by subsection (2) applies
1547 ~~and the exemption from assessment provided by paragraph (3)(a)~~
1548 ~~apply~~ only if the corporation policy is replaced by either a
1549 standard policy including wind coverage or, if consistent with
1550 the insurer's underwriting rules as filed with the office, a
1551 basic policy including wind coverage; however, with respect to
1552 risks located in areas where coverage through the high-risk
1553 account of the corporation is available, the replacement policy
1554 need not provide wind coverage. The insurer must renew the
1555 replacement policy at approved rates on substantially similar
1556 terms for four additional 1-year terms, unless canceled or not
1557 renewed by the policyholder. If an insurer assumes the
1558 corporation's obligations for a policy, it must issue a
1559 replacement policy for a 1-year term upon expiration of the
1560 corporation policy and must renew the replacement policy at
1561 approved rates on substantially similar terms for four
1562 additional 1-year terms, unless canceled or not renewed by the
1563 policyholder. For each replacement policy canceled or nonrenewed
1564 by the insurer for any reason during the 5-year coverage period
1565 required by this paragraph, the insurer must remove from the
1566 corporation one additional policy covering a risk similar to the
1567 risk covered by the canceled or nonrenewed policy. In addition
1568 to these requirements, the corporation must place the bonus
1569 moneys in escrow for a period of 5 years; such moneys may be
1570 released from escrow only to pay claims. If the policy is

074213

5/2/2007 3:10:36 PM

Amendment No.

1571 canceled or nonrenewed before the end of the 5-year period, the
1572 amount of the take-out bonus must be prorated for the time
1573 period the policy was insured. A take-out bonus provided by
1574 subsection (2) or subsection (5)~~(6)~~ shall not be considered
1575 premium income for purposes of taxes and assessments under the
1576 Florida Insurance Code and shall remain the property of the
1577 corporation, subject to the prior security interest of the
1578 insurer under the escrow agreement until it is released from
1579 escrow, and after it is released from escrow it shall be
1580 considered an asset of the insurer and credited to the insurer's
1581 capital and surplus.

1582 ~~(b) It is the intent of the Legislature that an insurer~~
1583 ~~eligible for the exemption under paragraph (3) (a) establish a~~
1584 ~~preference in appointment of agents for those agents who lose a~~
1585 ~~substantial amount of business as a result of risks being~~
1586 ~~removed from the corporation.~~

1587 (5)~~(6)~~ COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.--

1588 (a) The corporation shall pay a bonus to an insurer for
1589 each commercial residential policy that the insurer removes from
1590 the corporation pursuant to an approved take-out plan, either by
1591 issuance of a new policy upon expiration of the corporation
1592 policy or by assumption of the corporation's obligations with
1593 respect to an in-force policy. The corporation board shall
1594 determine the amount of the bonus based on such factors as the
1595 coverage provided, relative hurricane risk, the length of time
1596 that the property has been covered by the corporation, and the
1597 criteria specified in paragraphs (b) and (c). The amount of the
1598 bonus with respect to a particular policy may not exceed 25

074213

5/2/2007 3:10:36 PM

Amendment No.

1599 | percent of the corporation's 1-year premium for the policy. Such
1600 | payment is subject to approval of the corporation board. In
1601 | order to qualify for the bonus under this subsection, the take-
1602 | out plan must include policies reflecting at least \$100 million
1603 | in structure exposure.

1604 | (b) In order for a plan to qualify for approval:

1605 | 1. At least 40 percent of the policies removed from the
1606 | corporation under the plan must be located in Dade, Broward, and
1607 | Palm Beach Counties, or at least 30 percent of the policies
1608 | removed from the corporation under the plan must be located in
1609 | such counties and an additional 50 percent of the policies
1610 | removed from the corporation must be located in other coastal
1611 | counties.

1612 | 2. The insurer must renew the replacement policy at
1613 | approved rates on substantially similar terms for two additional
1614 | 1-year terms, unless canceled or nonrenewed by the insurer for a
1615 | lawful reason other than reduction of hurricane exposure. If an
1616 | insurer assumes the corporation's obligations for a policy, it
1617 | must issue a replacement policy for a 1-year term upon
1618 | expiration of the corporation policy and must renew the
1619 | replacement policy at approved rates on substantially similar
1620 | terms for two additional 1-year terms, unless canceled by the
1621 | insurer for a lawful reason other than reduction of hurricane
1622 | exposure. For each replacement policy canceled or nonrenewed by
1623 | the insurer for any reason during the 3-year coverage period
1624 | required by this subparagraph, the insurer must remove from the
1625 | corporation one additional policy covering a risk similar to the
1626 | risk covered by the canceled or nonrenewed policy.

074213

5/2/2007 3:10:36 PM

Amendment No.

1627 (c) A take-out plan is deemed approved unless the office,
1628 within 120 days after the board votes to recommend the plan,
1629 disapproves the plan based on:

1630 1. The capacity of the insurer to absorb the policies
1631 proposed to be taken out of the corporation and the
1632 concentration of risks of those policies.

1633 2. Whether the geographic and risk characteristics of
1634 policies in the proposed take-out plan serve to reduce the
1635 exposure of the corporation sufficiently to justify the bonus.

1636 3. Whether coverage for risks to be taken out otherwise
1637 exists in the admitted voluntary market.

1638 4. The degree to which the take-out bonus is promoting new
1639 capital being allocated by the insurer to residential property
1640 coverage in this state.

1641 ~~(d) The calculation of an insurer's regular assessment~~
1642 ~~liability under s. 627.351(6)(b)3.a. and b., but not emergency~~
1643 ~~assessments collected from policyholders pursuant to s.~~
1644 ~~627.351(6)(b)3.d., shall, with respect to commercial residential~~
1645 ~~policies removed from the corporation under an approved take-out~~
1646 ~~plan, exclude such removed policies for the succeeding 3 years,~~
1647 ~~as follows:~~

1648 ~~1. In the first year following removal of the policies,~~
1649 ~~the policies are excluded from the calculation to the extent of~~
1650 ~~100 percent.~~

1651 ~~2. In the second year following removal of the policies,~~
1652 ~~the policies are excluded from the calculation to the extent of~~
1653 ~~75 percent.~~

074213

5/2/2007 3:10:36 PM

Amendment No.

1654 ~~3. In the third year following removal of the policies,~~
1655 ~~the policies are excluded from the calculation to the extent of~~
1656 ~~50 percent.~~

1657 ~~(c) An insurer that first wrote commercial residential~~
1658 ~~property coverage in this state on or after June 1, 1996, is~~
1659 ~~exempt from regular assessments under s. 627.351(6)(b)3.a. and~~
1660 ~~b., but not emergency assessments collected from policyholders~~
1661 ~~pursuant to s. 627.351(6)(b)3.d., with respect to commercial~~
1662 ~~residential policies until the earlier of:~~

1663 ~~1. The end of the calendar year in which such insurer~~
1664 ~~first wrote 0.5 percent or more of the statewide aggregate~~
1665 ~~direct written premium for commercial residential property~~
1666 ~~coverage; or~~

1667 ~~2. December 31 of the third year in which such insurer~~
1668 ~~wrote commercial residential property coverage in this state.~~

1669 ~~(f) An insurer that is not otherwise exempt from regular~~
1670 ~~assessments under s. 627.351(6)(b)3.a. and b. with respect to~~
1671 ~~commercial residential policies is, for any calendar year in~~
1672 ~~which such insurer increased its total commercial residential~~
1673 ~~hurricane exposure by 25 percent or more over its exposure for~~
1674 ~~the preceding calendar year, exempt from regular assessments~~
1675 ~~under s. 627.351(6)(b)3.a. and b., but not emergency assessments~~
1676 ~~collected from policyholders pursuant to s. 627.351(6)(b)3.d.,~~
1677 ~~attributable to such increased exposure.~~

1678 ~~(6)(7)~~ A minority business, which is at least 51 percent
1679 owned by minority persons as described in s. 288.703(3),
1680 desiring to operate or become licensed as a property and
1681 casualty insurer may exempt up to \$50 of the escrow requirements

074213
5/2/2007 3:10:36 PM

Amendment No.

1682 of the take-out bonus, as described in this section. Such
1683 minority business, which has applied for a certificate of
1684 authority to engage in business as a property and casualty
1685 insurer, may simultaneously file the business' proposed take-out
1686 plan, as described in this section, with the corporation.

1687 Section 8. Subsection (1) of section 627.3517, Florida
1688 Statutes, is amended to read:

1689 627.3517 Consumer choice.--

1690 (1) Except as provided in subsection (2), no provision of
1691 s. 627.351, s. 627.3511, or s. 627.3515 shall be construed to
1692 impair the right of any insurance risk apportionment plan
1693 policyholder, upon receipt of any keepout or take-out offer, to
1694 retain his or her current agent, so long as that agent is duly
1695 licensed and appointed by the insurance risk apportionment plan
1696 or otherwise authorized to place business with the insurance
1697 risk apportionment plan. This right shall not be canceled,
1698 suspended, impeded, abridged, or otherwise compromised by any
1699 rule, plan of operation, or depopulation plan, whether through
1700 keepout, take-out, midterm assumption, or any other means, of
1701 any insurance risk apportionment plan or depopulation plan,
1702 including, but not limited to, those described in s. 627.351, s.
1703 627.3511, or s. 627.3515. The commission shall adopt any rules
1704 necessary to cause any insurance risk apportionment plan or
1705 market assistance plan under such sections to demonstrate that
1706 the operations of the plan do not interfere with, promote, or
1707 allow interference with the rights created under this section.
1708 If the policyholder's current agent is unable or unwilling to be
1709 appointed with the insurer making the take-out or keepout offer,
074213

5/2/2007 3:10:36 PM

Amendment No.

1710 the policyholder shall not be disqualified from participation in
1711 the appropriate insurance risk apportionment plan because of an
1712 offer of coverage in the voluntary market. An offer of full
1713 property insurance coverage by the insurer currently insuring
1714 either the ex-wind or wind-only coverage on the policy to which
1715 the offer applies shall not be considered a take-out or keepout
1716 offer. Any rule, plan of operation, or plan of depopulation,
1717 through keepout, take-out, midterm assumption, or any other
1718 means, of any property insurance risk apportionment plan under
1719 s. 627.351(2) or (6) is subject to ss. 627.351(2)(b) and (6)(c)
1720 and 627.3511(3)~~(4)~~.

1721

1722 ===== D I R E C T O R Y A M E N D M E N T =====

1723 On page 9, lines 7-11,
1724 remove: all of said lines,

1725

1726 and insert:

1727 Section 5. Paragraphs (a), (b), (c), (n), (p), (r), (s),
1728 (t), (u), (v), (w), (x), (y), (z), (aa), (bb), (cc), (dd), and
1729 (ee) of subsection (6) of section 627.351, Florida Statutes, as
1730 amended by section 21 of chapter 2007-1, Laws of Florida, are
1731 amended to read:

1732

1733 ===== T I T L E A M E N D M E N T =====

1734 On page 1, lines 22-24,
1735 remove: all of said lines,
1736 and insert:

074213

5/2/2007 3:10:36 PM

Amendment No.

1737 the state; deleting provisions relating to assessing assessable
1738 insurers; deleting provisions relating to what constitutes an
1739 assessable insurer; deleting provisions relating to deficit in
1740 an account; revising the definition of the term "assessments";
1741 deleting provisions relating to subject lines of business;
1742 revising powers of the corporation to levy certain assessments;
1743 deleting provisions relating to unsold bonds; revising powers of
1744 the corporation; deleting provisions relating to credits and
1745 exemptions from assessments; revising provisions for determining
1746 eligibility for coverage under the corporation; reinstating
1747 certain rate filings by the corporation; deleting provisions
1748 relating to the uncollected assessments; deleting provisions
1749 relieving assessable insurers of liability under certain
1750 circumstances; amending ss. 624.4072, 627.3511, and 627.3517,
1751 F.S.; conforming provisions to changes made by this act;
1752 correcting cross-references; amending s.