

Bill No. SB 2498

Barcode 434690

CHAMBER ACTION

Senate

House

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The Committee on Banking and Insurance (Peaden) recommended  
the following amendment:

**Senate Amendment (with title amendment)**

On page 25, line 1, through  
page 34, line 6, delete those lines

and insert:

5. Must provide a procedure for determining the  
eligibility of a risk for coverage, as follows:  
a. Subject to the provisions of s. 627.3517, with  
respect to personal lines residential risks, if the risk is  
offered coverage from an authorized insurer at the insurer's  
approved rate under either a standard policy including wind  
coverage or, if consistent with the insurer's underwriting  
rules as filed with the office, a basic policy including wind  
coverage, for a new application to the corporation for  
coverage, the risk is not eligible for any policy issued by  
the corporation unless the premium for coverage from the  
authorized insurer is more than 15 ~~25~~ percent greater than the  
premium for comparable coverage from the corporation. If the

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1 risk is not able to obtain any such offer, the risk is  
 2 eligible for either a standard policy including wind coverage  
 3 or a basic policy including wind coverage issued by the  
 4 corporation; however, if the risk could not be insured under a  
 5 standard policy including wind coverage regardless of market  
 6 conditions, the risk shall be eligible for a basic policy  
 7 including wind coverage unless rejected under subparagraph 8.  
 8 However, with regard to a policyholder of the corporation, the  
 9 policyholder remains eligible for coverage from the  
 10 corporation regardless of any offer of coverage from an  
 11 authorized insurer or surplus lines insurer. The corporation  
 12 shall determine the type of policy to be provided on the basis  
 13 of objective standards specified in the underwriting manual  
 14 and based on generally accepted underwriting practices.

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

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

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

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1 commission for the type of policy written.

2

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

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

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

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

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

24 b. With respect to commercial lines residential risks,  
25 for a new application to the corporation for coverage, if the  
26 risk is offered coverage under a policy including wind  
27 coverage from an authorized insurer at its approved rate, the  
28 risk is not eligible for any policy issued by the corporation  
29 unless the premium for coverage from the authorized insurer is  
30 more than 15 ~~25~~ percent greater than the premium for  
31 comparable coverage from the corporation. If the risk is not

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1 able to obtain any such offer, the risk is eligible for a  
 2 policy including wind coverage issued by the corporation.  
 3 However, with regard to a policyholder of the corporation, the  
 4 policyholder remains eligible for coverage from the  
 5 corporation regardless of any offer of coverage from an  
 6 authorized insurer or surplus lines insurer.

7 (I) If the risk accepts an offer of coverage through  
 8 the market assistance plan or an offer of coverage through a  
 9 mechanism established by the corporation before a policy is  
 10 issued to the risk by the corporation or during the first 30  
 11 days of coverage by the corporation, and the producing agent  
 12 who submitted the application to the plan or the corporation  
 13 is not currently appointed by the insurer, the insurer shall:

14 (A) Pay to the producing agent of record of the  
 15 policy, for the first year, an amount that is the greater of  
 16 the insurer's usual and customary commission for the type of  
 17 policy written or a fee equal to the usual and customary  
 18 commission of the corporation; or

19 (B) Offer to allow the producing agent of record of  
 20 the policy to continue servicing the policy for a period of  
 21 not less than 1 year and offer to pay the agent the greater of  
 22 the insurer's or the corporation's usual and customary  
 23 commission for the type of policy written.

24

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

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

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

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

11  
 12 If the producing agent is unwilling or unable to accept  
 13 appointment, the new insurer shall pay the agent in accordance  
 14 with sub-sub-sub-subparagraph (A).

15           6. Must provide by July 1, 2007, that an application  
 16 for coverage for a new policy is subject to a waiting period  
 17 of 10 days before coverage is effective, during which time the  
 18 corporation shall make such application available for review  
 19 by general lines agents and authorized property and casualty  
 20 insurers. The board shall approve an exception that allows for  
 21 coverage to be effective before the end of the 10-day waiting  
 22 period, for coverage issued in conjunction with a real estate  
 23 closing. The board may approve such other exceptions as the  
 24 board determines are necessary to prevent lapses in coverage.

25           7. Must include rules for classifications of risks and  
 26 rates therefor.

27           8. Must provide that if premium and investment income  
 28 for an account attributable to a particular calendar year are  
 29 in excess of projected losses and expenses for the account  
 30 attributable to that year, such excess shall be held in  
 31 surplus in the account. Such surplus shall be available to

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1 defray deficits in that account as to future years and shall  
2 be used for that purpose prior to assessing assessable  
3 insurers and assessable insureds as to any calendar year.

4           9. Must provide objective criteria and procedures to  
5 be uniformly applied for all applicants in determining whether  
6 an individual risk is so hazardous as to be uninsurable. In  
7 making this determination and in establishing the criteria and  
8 procedures, the following shall be considered:

9           a. Whether the likelihood of a loss for the individual  
10 risk is substantially higher than for other risks of the same  
11 class; and

12           b. Whether the uncertainty associated with the  
13 individual risk is such that an appropriate premium cannot be  
14 determined.

15  
16 The acceptance or rejection of a risk by the corporation shall  
17 be construed as the private placement of insurance, and the  
18 provisions of chapter 120 shall not apply.

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

23           11. Must provide that in the event of regular deficit  
24 assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
25 (b)3.b., in the personal lines account, the commercial lines  
26 residential account, or the high-risk account, the corporation  
27 shall levy upon corporation policyholders in its next rate  
28 filing, or by a separate rate filing solely for this purpose,  
29 a Citizens policyholder surcharge arising from a regular  
30 assessment in such account in a percentage equal to the total  
31 amount of such regular assessments divided by the aggregate

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1 statewide direct written premium for subject lines of business  
 2 for the prior calendar year. For purposes of calculating the  
 3 Citizens policyholder surcharge to be levied under this  
 4 subparagraph, the total amount of the regular assessment to  
 5 which this surcharge is related shall be determined as set  
 6 forth in subparagraph (b)3., without deducting the estimated  
 7 Citizens policyholder surcharge. Citizens policyholder  
 8 surcharges under this subparagraph are not considered premium  
 9 and are not subject to commissions, fees, or premium taxes;  
 10 however, failure to pay a market equalization surcharge shall  
 11 be treated as failure to pay premium.

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

18         13. Corporation policies and applications must include  
 19 a notice that the corporation policy could, under this  
 20 section, be replaced with a policy issued by an authorized  
 21 insurer that does not provide coverage identical to the  
 22 coverage provided by the corporation. The notice shall also  
 23 specify that acceptance of corporation coverage creates a  
 24 conclusive presumption that the applicant or policyholder is  
 25 aware of this potential.

26         14. May establish, subject to approval by the office,  
 27 different eligibility requirements and operational procedures  
 28 for any line or type of coverage for any specified county or  
 29 area if the board determines that such changes to the  
 30 eligibility requirements and operational procedures are  
 31 justified due to the voluntary market being sufficiently

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1 stable and competitive in such area or for such line or type  
2 of coverage and that consumers who, in good faith, are unable  
3 to obtain insurance through the voluntary market through  
4 ordinary methods would continue to have access to coverage  
5 from the corporation. When coverage is sought in connection  
6 with a real property transfer, such requirements and  
7 procedures shall not provide for an effective date of coverage  
8 later than the date of the closing of the transfer as  
9 established by the transferor, the transferee, and, if  
10 applicable, the lender.

11           15. Must provide that, with respect to the high-risk  
12 account, any assessable insurer with a surplus as to  
13 policyholders of \$25 million or less writing 25 percent or  
14 more of its total countrywide property insurance premiums in  
15 this state may petition the office, within the first 90 days  
16 of each calendar year, to qualify as a limited apportionment  
17 company. A regular assessment levied by the corporation on a  
18 limited apportionment company for a deficit incurred by the  
19 corporation for the high-risk account in 2006 or thereafter  
20 may be paid to the corporation on a monthly basis as the  
21 assessments are collected by the limited apportionment company  
22 from its insureds pursuant to s. 627.3512, but the regular  
23 assessment must be paid in full within 12 months after being  
24 levied by the corporation. A limited apportionment company  
25 shall collect from its policyholders any emergency assessment  
26 imposed under sub-subparagraph (b)3.d. The plan shall provide  
27 that, if the office determines that any regular assessment  
28 will result in an impairment of the surplus of a limited  
29 apportionment company, the office may direct that all or part  
30 of such assessment be deferred as provided in subparagraph  
31 (g)4. However, there shall be no limitation or deferment of an



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1 emergency assessment to be collected from policyholders under  
2 sub-subparagraph (b)3.d.

3           16. Must provide that the corporation appoint as its  
4 licensed agents only those agents who also hold an appointment  
5 as defined in s. 626.015(3) with an insurer who at the time of  
6 the agent's initial appointment by the corporation is  
7 authorized to write and is actually writing personal lines  
8 residential property coverage, commercial residential property  
9 coverage, or commercial nonresidential property coverage  
10 within the state.

11           17. Must provide, by July 1, 2007, a premium payment  
12 plan option to its policyholders which allows for quarterly  
13 and semiannual payment of premiums.

14           18. Must provide, effective June 1, 2007, that the  
15 corporation contract with each insurer providing the non-wind  
16 coverage for risks insured by the corporation in the high-risk  
17 account, requiring that the insurer provide claims adjusting  
18 services for the wind coverage provided by the corporation for  
19 such risks. An insurer is required to enter into this contract  
20 as a condition of providing non-wind coverage for a risk that  
21 is insured by the corporation in the high-risk account unless  
22 the board finds, after a hearing, that the insurer is not  
23 capable of providing adjusting services at an acceptable level  
24 of quality to corporation policyholders. The terms and  
25 conditions of such contracts must be substantially the same as  
26 the contracts that the corporation executed with insurers  
27 under the "adjust-your-own" program in 2006, except as may be  
28 mutually agreed to by the parties and except for such changes  
29 that the board determines are necessary to ensure that claims  
30 are adjusted appropriately. The corporation shall provide a  
31 process for neutral arbitration of any dispute between the

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1 corporation and the insurer regarding the terms of the  
2 contract. The corporation shall review and monitor the  
3 performance of insurers under these contracts.

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

7           20. May provide such limits of coverage as the board  
8 determines, consistent with the requirements of this  
9 subsection.

10           21. May require commercial property to meet specified  
11 hurricane mitigation construction features as a condition of  
12 eligibility for coverage.

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

16 And the title is amended as follows:

17           On page 1, lines 16-27, delete those lines

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19 and insert:

20           revising provisions for determining eligibility  
21           for coverage under Citizens Property Insurance  
22           Corporation; prohibiting issuance of new

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