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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/1/2008	.	
	.	
	.	

1 The Committee on Banking and Insurance (Bennett) recommended the
 2 following **amendment**:

Senate Amendment (with title amendment)

5 Delete everything after the enacting clause
6 and insert:

7 Section 1. Subsections (10) and (11) are added to section
8 627.041, Florida Statutes, to read:

9 627.041 Definitions.--As used in this part:

10 (10) "Assessable commercial property insurance" means
 11 insurance on commercial property of every kind, as well as every
 12 interest therein, whether such property is on land, water, or in
 13 the air, against loss or damage from any and all hazard or cause,
 14 and against loss consequential upon such loss or damage, other
 15 than noncontractual legal liability for any such loss or damage
 16 that is subject to the rate standards set forth in s. 627.062 and
 17 deficit assessments by Citizens Property Insurance Corporation.

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18 Assessable commercial property insurance may contain a provision
19 for accidental death or injury as part of a multiple peril
20 policy.

21 (11) "Nonassessable commercial property insurance" means
22 insurance on commercial property of every kind, as well as every
23 interest therein, whether such property is on land, water, or in
24 the air, against loss or damage from any and all hazard or cause,
25 and against loss consequential upon such loss or damage, other
26 than noncontractual legal liability for any such loss or damage
27 that is not subject to the rate standards set forth in s.
28 627.062, except as provided in s. 627.062(2)(k), or deficit
29 assessments by Citizens Property Insurance Corporation.

30 Nonassessable commercial property insurance may contain a
31 provision for accidental death or injury as part of a multiple
32 peril policy.

33 Section 2. Paragraph (k) is added to subsection (2) of
34 section 627.062, Florida Statutes, to read:

35 627.062 Rate standards.--

36 (2) As to all such classes of insurance:

37 (k)1. Notwithstanding any other provisions of this section,
38 nonassessable commercial property insurance is not subject to a
39 determination that the rate is excessive or unfairly
40 discriminatory, except as provided in subparagraph 3.

41 2. This paragraph does not apply to filings for commercial
42 lines residential insurance or assessable commercial property
43 insurance.

44 3. This paragraph does not affect the power of the office
45 to disapprove rates as inadequate or to disapprove a rate filing
46 for the use of a rating factor that is unlawful under Florida
47 law.

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48
49 The provisions of this subsection shall not apply to workers'
50 compensation and employer's liability insurance and to motor
51 vehicle insurance.

52 Section 3. Paragraph (b) of subsection (6) of section
53 627.351, Florida Statutes, is amended to read:

54 627.351 Insurance risk apportionment plans.--

55 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

56 (b)1. All insurers authorized to write one or more subject
57 lines of business in this state are subject to assessment by the
58 corporation and, for the purposes of this subsection, are
59 referred to collectively as "assessable insurers." Insurers
60 writing one or more subject lines of business in this state
61 pursuant to part VIII of chapter 626 are not assessable insurers,
62 but insureds who procure one or more subject lines of business in
63 this state pursuant to part VIII of chapter 626 are subject to
64 assessment by the corporation and are referred to collectively as
65 "assessable insureds." An authorized insurer's assessment
66 liability shall begin on the first day of the calendar year
67 following the year in which the insurer was issued a certificate
68 of authority to transact insurance for subject lines of business
69 in this state and shall terminate 1 year after the end of the
70 first calendar year during which the insurer no longer holds a
71 certificate of authority to transact insurance for subject lines
72 of business in this state.

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

76 (I) A personal lines account for personal residential
77 policies issued by the corporation or issued by the Residential

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78 Property and Casualty Joint Underwriting Association and renewed
79 by the corporation that provide comprehensive, multiperil
80 coverage on risks that are not located in areas eligible for
81 coverage in the Florida Windstorm Underwriting Association as
82 those areas were defined on January 1, 2002, and for such
83 policies that do not provide coverage for the peril of wind on
84 risks that are located in such areas;

85 (II) A commercial lines account for commercial residential
86 and commercial nonresidential policies issued by the corporation
87 or issued by the Residential Property and Casualty Joint
88 Underwriting Association and renewed by the corporation that
89 provide coverage for basic property perils on risks that are not
90 located in areas eligible for coverage in the Florida Windstorm
91 Underwriting Association as those areas were defined on January
92 1, 2002, and for such policies that do not provide coverage for
93 the peril of wind on risks that are located in such areas; and

94 (III) A high-risk account for personal residential policies
95 and commercial residential and commercial nonresidential property
96 policies issued by the corporation or transferred to the
97 corporation that provide coverage for the peril of wind on risks
98 that are located in areas eligible for coverage in the Florida
99 Windstorm Underwriting Association as those areas were defined on
100 January 1, 2002. Subject to the approval of a business plan by
101 the Financial Services Commission and Legislative Budget
102 Commission as provided in this sub-sub-subparagraph, but no
103 earlier than March 31, 2007, the corporation may offer policies
104 that provide multiperil coverage and the corporation shall
105 continue to offer policies that provide coverage only for the
106 peril of wind for risks located in areas eligible for coverage in
107 the high-risk account. In issuing multiperil coverage, the

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108 corporation may use its approved policy forms and rates for the
109 personal lines account. An applicant or insured who is eligible
110 to purchase a multiperil policy from the corporation may purchase
111 a multiperil policy from an authorized insurer without prejudice
112 to the applicant's or insured's eligibility to prospectively
113 purchase a policy that provides coverage only for the peril of
114 wind from the corporation. An applicant or insured who is
115 eligible for a corporation policy that provides coverage only for
116 the peril of wind may elect to purchase or retain such policy and
117 also purchase or retain coverage excluding wind from an
118 authorized insurer without prejudice to the applicant's or
119 insured's eligibility to prospectively purchase a policy that
120 provides multiperil coverage from the corporation. It is the goal
121 of the Legislature that there would be an overall average savings
122 of 10 percent or more for a policyholder who currently has a
123 wind-only policy with the corporation, and an ex-wind policy with
124 a voluntary insurer or the corporation, and who then obtains a
125 multiperil policy from the corporation. It is the intent of the
126 Legislature that the offer of multiperil coverage in the high-
127 risk account be made and implemented in a manner that does not
128 adversely affect the tax-exempt status of the corporation or
129 creditworthiness of or security for currently outstanding
130 financing obligations or credit facilities of the high-risk
131 account, the personal lines account, or the commercial lines
132 account. By March 1, 2007, the corporation shall prepare and
133 submit for approval by the Financial Services Commission and
134 Legislative Budget Commission a report detailing the
135 corporation's business plan for issuing multiperil coverage in
136 the high-risk account. The business plan shall be approved or
137 disapproved within 30 days after receipt, as submitted or



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138 modified and resubmitted by the corporation. The business plan
139 must include: the impact of such multiperil coverage on the
140 corporation's financial resources, the impact of such multiperil
141 coverage on the corporation's tax-exempt status, the manner in
142 which the corporation plans to implement the processing of
143 applications and policy forms for new and existing policyholders,
144 the impact of such multiperil coverage on the corporation's
145 ability to deliver customer service at the high level required by
146 this subsection, the ability of the corporation to process
147 claims, the ability of the corporation to quote and issue
148 policies, the impact of such multiperil coverage on the
149 corporation's agents, the impact of such multiperil coverage on
150 the corporation's existing policyholders, and the impact of such
151 multiperil coverage on rates and premium. The high-risk account
152 must also include quota share primary insurance under
153 subparagraph (c)2. The area eligible for coverage under the high-
154 risk account also includes the area within Port Canaveral, which
155 is bordered on the south by the City of Cape Canaveral, bordered
156 on the west by the Banana River, and bordered on the north by
157 Federal Government property.

158 b. The three separate accounts must be maintained as long
159 as financing obligations entered into by the Florida Windstorm
160 Underwriting Association or Residential Property and Casualty
161 Joint Underwriting Association are outstanding, in accordance
162 with the terms of the corresponding financing documents. When the
163 financing obligations are no longer outstanding, in accordance
164 with the terms of the corresponding financing documents, the
165 corporation may use a single account for all revenues, assets,
166 liabilities, losses, and expenses of the corporation. Consistent
167 with the requirement of this subparagraph and prudent investment



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168 policies that minimize the cost of carrying debt, the board shall
169 exercise its best efforts to retire existing debt or to obtain
170 approval of necessary parties to amend the terms of existing
171 debt, so as to structure the most efficient plan to consolidate
172 the three separate accounts into a single account. By February 1,
173 2007, the board shall submit a report to the Financial Services
174 Commission, the President of the Senate, and the Speaker of the
175 House of Representatives which includes an analysis of
176 consolidating the accounts, the actions the board has taken to
177 minimize the cost of carrying debt, and its recommendations for
178 executing the most efficient plan.

179 c. Creditors of the Residential Property and Casualty Joint
180 Underwriting Association and of the accounts specified in sub-
181 sub-subparagraphs a.(I) and (II) may have a claim against, and
182 recourse to, the accounts referred to in sub-sub-subparagraphs
183 a.(I) and (II) and shall have no claim against, or recourse to,
184 the account referred to in sub-sub-subparagraph a.(III).

185 Creditors of the Florida Windstorm Underwriting Association shall
186 have a claim against, and recourse to, the account referred to in
187 sub-sub-subparagraph a.(III) and shall have no claim against, or
188 recourse to, the accounts referred to in sub-sub-subparagraphs
189 a.(I) and (II).

190 d. Revenues, assets, liabilities, losses, and expenses not
191 attributable to particular accounts shall be prorated among the
192 accounts.

193 e. The Legislature finds that the revenues of the
194 corporation are revenues that are necessary to meet the
195 requirements set forth in documents authorizing the issuance of
196 bonds under this subsection.



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197 f. No part of the income of the corporation may inure to
198 the benefit of any private person.

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

200 a. When the deficit incurred in a particular calendar year
201 is not greater than 10 percent of the aggregate statewide direct
202 written premium for the subject lines of business for the prior
203 calendar year, the entire deficit shall be recovered through
204 regular assessments of assessable insurers under paragraph (p)
205 and assessable insureds.

206 b. When the deficit incurred in a particular calendar year
207 exceeds 10 percent of the aggregate statewide direct written
208 premium for the subject lines of business for the prior calendar
209 year, the corporation shall levy regular assessments on
210 assessable insurers under paragraph (p) and on assessable
211 insureds in an amount equal to the greater of 10 percent of the
212 deficit or 10 percent of the aggregate statewide direct written
213 premium for the subject lines of business for the prior calendar
214 year. Any remaining deficit shall be recovered through emergency
215 assessments under sub-subparagraph d.

216 c. Each assessable insurer's share of the amount being
217 assessed under sub-subparagraph a. or sub-subparagraph b. shall
218 be in the proportion that the assessable insurer's direct written
219 premium for the subject lines of business for the year preceding
220 the assessment bears to the aggregate statewide direct written
221 premium for the subject lines of business for that year. The
222 assessment percentage applicable to each assessable insured is
223 the ratio of the amount being assessed under sub-subparagraph a.
224 or sub-subparagraph b. to the aggregate statewide direct written
225 premium for the subject lines of business for the prior year.
226 Assessments levied by the corporation on assessable insurers

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227 | under sub-subparagraphs a. and b. shall be paid as required by
228 | the corporation's plan of operation and paragraph (p).
229 | Notwithstanding any other provision of this subsection, the
230 | aggregate amount of a regular assessment for a deficit incurred
231 | in a particular calendar year shall be reduced by the estimated
232 | amount to be received by the corporation from the Citizens
233 | policyholder surcharge under subparagraph (c)10. and the amount
234 | collected or estimated to be collected from the assessment on
235 | Citizens policyholders pursuant to sub-subparagraph i.
236 | Assessments levied by the corporation on assessable insureds
237 | under sub-subparagraphs a. and b. shall be collected by the
238 | surplus lines agent at the time the surplus lines agent collects
239 | the surplus lines tax required by s. 626.932 and shall be paid to
240 | the Florida Surplus Lines Service Office at the time the surplus
241 | lines agent pays the surplus lines tax to the Florida Surplus
242 | Lines Service Office. Upon receipt of regular assessments from
243 | surplus lines agents, the Florida Surplus Lines Service Office
244 | shall transfer the assessments directly to the corporation as
245 | determined by the corporation.

246 | d. Upon a determination by the board of governors that a
247 | deficit in an account exceeds the amount that will be recovered
248 | through regular assessments under sub-subparagraph a. or sub-
249 | subparagraph b., the board shall levy, after verification by the
250 | office, emergency assessments, for as many years as necessary to
251 | cover the deficits, to be collected by assessable insurers and
252 | the corporation and collected from assessable insureds upon
253 | issuance or renewal of policies for subject lines of business,
254 | excluding National Flood Insurance policies. The amount of the
255 | emergency assessment collected in a particular year shall be a
256 | uniform percentage of that year's direct written premium for

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257 | subject lines of business and all accounts of the corporation,
258 | excluding National Flood Insurance Program policy premiums, as
259 | annually determined by the board and verified by the office. The
260 | office shall verify the arithmetic calculations involved in the
261 | board's determination within 30 days after receipt of the
262 | information on which the determination was based. Notwithstanding
263 | any other provision of law, the corporation and each assessable
264 | insurer that writes subject lines of business shall collect
265 | emergency assessments from its policyholders without such
266 | obligation being affected by any credit, limitation, exemption,
267 | or deferment. Emergency assessments levied by the corporation on
268 | assessable insureds shall be collected by the surplus lines agent
269 | at the time the surplus lines agent collects the surplus lines
270 | tax required by s. 626.932 and shall be paid to the Florida
271 | Surplus Lines Service Office at the time the surplus lines agent
272 | pays the surplus lines tax to the Florida Surplus Lines Service
273 | Office. The emergency assessments so collected shall be
274 | transferred directly to the corporation on a periodic basis as
275 | determined by the corporation and shall be held by the
276 | corporation solely in the applicable account. The aggregate
277 | amount of emergency assessments levied for an account under this
278 | sub-subparagraph in any calendar year may not exceed the greater
279 | of 10 percent of the amount needed to cover the original deficit,
280 | plus interest, fees, commissions, required reserves, and other
281 | costs associated with financing of the original deficit, or 10
282 | percent of the aggregate statewide direct written premium for
283 | subject lines of business and for all accounts of the corporation
284 | for the prior year, plus interest, fees, commissions, required
285 | reserves, and other costs associated with financing the original
286 | deficit.



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287 e. The corporation may pledge the proceeds of assessments,
288 projected recoveries from the Florida Hurricane Catastrophe Fund,
289 other insurance and reinsurance recoverables, policyholder
290 surcharges and other surcharges, and other funds available to the
291 corporation as the source of revenue for and to secure bonds
292 issued under paragraph (p), bonds or other indebtedness issued
293 under subparagraph (c)3., or lines of credit or other financing
294 mechanisms issued or created under this subsection, or to retire
295 any other debt incurred as a result of deficits or events giving
296 rise to deficits, or in any other way that the board determines
297 will efficiently recover such deficits. The purpose of the lines
298 of credit or other financing mechanisms is to provide additional
299 resources to assist the corporation in covering claims and
300 expenses attributable to a catastrophe. As used in this
301 subsection, the term "assessments" includes regular assessments
302 under sub-subparagraph a., sub-subparagraph b., or subparagraph
303 (p)1. and emergency assessments under sub-subparagraph d.
304 Emergency assessments collected under sub-subparagraph d. are not
305 part of an insurer's rates, are not premium, and are not subject
306 to premium tax, fees, or commissions; however, failure to pay the
307 emergency assessment shall be treated as failure to pay premium.
308 The emergency assessments under sub-subparagraph d. shall
309 continue as long as any bonds issued or other indebtedness
310 incurred with respect to a deficit for which the assessment was
311 imposed remain outstanding, unless adequate provision has been
312 made for the payment of such bonds or other indebtedness pursuant
313 to the documents governing such bonds or other indebtedness.

314 f. As used in this subsection for purposes of any deficit
315 incurred on or after January 25, 2007, the term "subject lines of
316 business" means insurance written by assessable insurers or

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317 | procured by assessable insureds for all property and casualty
318 | lines of business in this state, but not including workers'
319 | compensation, ~~or~~ medical malpractice, or nonassessable commercial
320 | property insurance as defined in s. 627.041(11). As used in the
321 | sub-subparagraph, the term "property and casualty lines of
322 | business" includes all lines of business identified on Form 2,
323 | Exhibit of Premiums and Losses, in the annual statement required
324 | of authorized insurers by s. 624.424 and any rule adopted under
325 | this section, except for those lines identified as accident and
326 | health insurance and except for policies written under the
327 | National Flood Insurance Program or the Federal Crop Insurance
328 | Program. For purposes of this sub-subparagraph, the term
329 | "workers' compensation" includes both workers' compensation
330 | insurance and excess workers' compensation insurance. Insurers
331 | issuing nonassessable commercial property insurance policies are
332 | not assessable for the portion of the assessment from which the
333 | nonassessable commercial property insurance policy is exempt.

334 | g. The Florida Surplus Lines Service Office shall determine
335 | annually the aggregate statewide written premium in subject lines
336 | of business procured by assessable insureds and shall report that
337 | information to the corporation in a form and at a time the
338 | corporation specifies to ensure that the corporation can meet the
339 | requirements of this subsection and the corporation's financing
340 | obligations.

341 | h. The Florida Surplus Lines Service Office shall verify
342 | the proper application by surplus lines agents of assessment
343 | percentages for regular assessments and emergency assessments
344 | levied under this subparagraph on assessable insureds and shall
345 | assist the corporation in ensuring the accurate, timely

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346 collection and payment of assessments by surplus lines agents as
347 required by the corporation.

348 i. If a deficit is incurred in any account in 2008 or
349 thereafter, the board of governors shall levy an immediate
350 assessment against the premium of each nonhomestead property
351 policyholder in all accounts of the corporation, as a uniform
352 percentage of the premium of the policy of up to 10 percent of
353 such premium, which funds shall be used to offset the deficit. If
354 this assessment is insufficient to eliminate the deficit, the
355 board of governors shall levy an additional assessment against
356 all policyholders of the corporation, which shall be collected at
357 the time of issuance or renewal of a policy, as a uniform
358 percentage of the premium for the policy of up to 10 percent of
359 such premium, which funds shall be used to further offset the
360 deficit.

361 j. The board of governors shall maintain separate
362 accounting records that consolidate data for nonhomestead
363 properties, including, but not limited to, number of policies,
364 insured values, premiums written, and losses. The board of
365 governors shall annually report to the office and the Legislature
366 a summary of such data.

367 Section 4. Section 627.7031, Florida Statutes, is created
368 to read:

369 627.7031 Commercial property insurance.--

370 (1) Insurers offering assessable commercial property
371 insurance policies as defined in s. 627.041(10) may offer
372 nonassessable commercial property insurance policies as defined
373 in s. 627.041(11).



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374 (2) An owner of commercial property may purchase a
375 nonassessable commercial property insurance policy if such a
376 policy is offered by the insurer.

377 (3) The application for a nonassessable commercial property
378 insurance policy shall contain the following disclaimer printed
379 in at least 12-point boldfaced type:

380
381 THIS APPLICATION IS FOR A COMMERCIAL PROPERTY POLICY THAT IS
382 SUBJECT TO LIMITED RATE REGULATION REQUIREMENTS OF FLORIDA LAW OR
383 DEFICIT ASSESSMENTS BY CITIZENS PROPERTY INSURANCE CORPORATION. A
384 COMMERCIAL PROPERTY POLICY THAT IS SUBJECT TO RATE REGULATION
385 REQUIREMENTS AND DEFICIT ASSESSMENT BY CITIZENS PROPERTY
386 INSURANCE CORPORATION IS AVAILABLE. PLEASE DISCUSS YOUR POLICY
387 OPTIONS WITH YOUR INSURANCE AGENT.

388
389 (4) The declarations page of a nonassessable commercial
390 property insurance policy shall contain the following disclaimer
391 printed in at least 12-point boldfaced type:

392
393 THIS COMMERCIAL PROPERTY POLICY IS SUBJECT TO LIMITED RATE
394 REGULATION REQUIREMENTS OF FLORIDA LAW OR DEFICIT ASSESSMENTS BY
395 CITIZENS PROPERTY INSURANCE CORPORATION. A COMMERCIAL PROPERTY
396 POLICY THAT IS SUBJECT TO RATE REGULATION REQUIREMENTS AND
397 DEFICIT ASSESSMENT BY CITIZENS PROPERTY INSURANCE CORPORATION IS
398 AVAILABLE. PLEASE DISCUSS YOUR POLICY OPTIONS WITH YOUR INSURANCE
399 AGENT.

400
401 Section 5. This act shall take effect July 1, 2008.

402
403 ===== T I T L E A M E N D M E N T =====

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404 And the title is amended as follows:

405 Delete everything before the enacting clause
406 and insert:

407 A bill to be entitled
408 An act relating to commercial property insurance; amending
409 s. 627.041, F.S.; defining the terms "assessable
410 commercial property insurance" and "nonassessable
411 commercial property insurance"; amending s. 627.062, F.S.;
412 providing rate standards regarding nonassessable
413 commercial property insurance; providing that
414 nonassessable commercial property insurance is not subject
415 to a determination that the rate is excessive or unfairly
416 discriminatory; providing an exception; amending s.
417 627.351, F.S.; excluding nonassessable commercial property
418 insurance from the definition of "subject lines of
419 business"; providing that insurers issuing nonassessable
420 commercial property insurance policies are not assessable
421 for the portion of the assessment from which the
422 nonassessable commercial property insurance policy is
423 exempt; creating s. 627.7031, F.S.; authorizing insurers
424 offering assessable commercial property insurance policies
425 to offer nonassessable commercial property insurance
426 policies; authorizing an owner of a commercial property to
427 purchase a nonassessable commercial property insurance
428 policy if such a policy is offered by the insurer;
429 requiring that an application for a nonassessable
430 commercial property policy contain a specified disclaimer;
431 requiring that the declarations page of a nonassessable
432 commercial property policy contain a specified disclaimer;
433 providing an effective date.