

1 A bill to be entitled
2 An act relating to residential property insurance;
3 amending s. 627.062, F.S.; providing that nonassessable
4 residential property insurance is not subject to
5 determinations as excessive or unfairly discriminatory;
6 providing an exception; preserving the authority of the
7 Office of Insurance Regulation to disapprove rates or rate
8 filings; amending s. 627.351, F.S.; excluding
9 nonassessable residential property insurance policies from
10 aggregate direct written premium for subject lines of
11 business for purposes of calculating certain emergency
12 assessments; excluding nonassessable residential property
13 insurance from subject lines of business; amending s.
14 627.4025, F.S.; defining the terms "assessable residential
15 property insurance" and "nonassessable residential
16 property insurance" for purposes of personal lines
17 residential coverage; creating s. 627.7031, F.S.;
18 authorizing insurers to offer nonassessable residential
19 property insurance policies; providing requirements;
20 authorizing residential property owners to purchase
21 nonassessable residential property insurance policies;
22 requiring applications for a nonassessable residential
23 property insurance policy to contain a specified
24 disclaimer; requiring notices of nonrenewal premium for
25 such policies to contain a specified disclaimer; providing
26 an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56

Section 1. Paragraph (k) is added to subsection (2) of section 627.062, Florida Statutes, to read:

627.062 Rate standards.--

(2) As to all such classes of insurance:

(k)1. Notwithstanding any other provision of this section, a rate filing for nonassessable residential property insurance as defined in s. 627.4025(1)(b) is not subject to a determination that the rate is excessive or unfairly discriminatory, except as provided in subparagraph 3.

2. This paragraph does not apply to filings for assessable residential property insurance as defined in s. 627.4025(1)(a).

3. This paragraph does not affect the power of the office to disapprove rates as inadequate or to disapprove a rate filing for the use of a rating factor that is unlawful pursuant to s. 626.9541(1).

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

Section 2. Paragraph (b) of subsection (6) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.--

(6) CITIZENS PROPERTY INSURANCE CORPORATION.--

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers

CS/HB 1171

2009

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

70 | 2.a. All revenues, assets, liabilities, losses, and
71 | expenses of the corporation shall be divided into three separate
72 | accounts as follows:

73 | (I) A personal lines account for personal residential
74 | policies issued by the corporation or issued by the Residential
75 | Property and Casualty Joint Underwriting Association and renewed
76 | by the corporation that provide comprehensive, multiperil
77 | coverage on risks that are not located in areas eligible for
78 | coverage in the Florida Windstorm Underwriting Association as
79 | those areas were defined on January 1, 2002, and for such
80 | policies that do not provide coverage for the peril of wind on
81 | risks that are located in such areas;

82 | (II) A commercial lines account for commercial residential
83 | and commercial nonresidential policies issued by the corporation
84 | or issued by the Residential Property and Casualty Joint

CS/HB 1171

2009

85 Underwriting Association and renewed by the corporation that
86 provide coverage for basic property perils on risks that are not
87 located in areas eligible for coverage in the Florida Windstorm
88 Underwriting Association as those areas were defined on January
89 1, 2002, and for such policies that do not provide coverage for
90 the peril of wind on risks that are located in such areas; and
91 (III) A high-risk account for personal residential
92 policies and commercial residential and commercial
93 nonresidential property policies issued by the corporation or
94 transferred to the corporation that provide coverage for the
95 peril of wind on risks that are located in areas eligible for
96 coverage in the Florida Windstorm Underwriting Association as
97 those areas were defined on January 1, 2002. The corporation may
98 offer policies that provide multiperil coverage and the
99 corporation shall continue to offer policies that provide
100 coverage only for the peril of wind for risks located in areas
101 eligible for coverage in the high-risk account. In issuing
102 multiperil coverage, the corporation may use its approved policy
103 forms and rates for the personal lines account. An applicant or
104 insured who is eligible to purchase a multiperil policy from the
105 corporation may purchase a multiperil policy from an authorized
106 insurer without prejudice to the applicant's or insured's
107 eligibility to prospectively purchase a policy that provides
108 coverage only for the peril of wind from the corporation. An
109 applicant or insured who is eligible for a corporation policy
110 that provides coverage only for the peril of wind may elect to
111 purchase or retain such policy and also purchase or retain
112 coverage excluding wind from an authorized insurer without

CS/HB 1171

2009

113 prejudice to the applicant's or insured's eligibility to
114 prospectively purchase a policy that provides multiperil
115 coverage from the corporation. It is the goal of the Legislature
116 that there would be an overall average savings of 10 percent or
117 more for a policyholder who currently has a wind-only policy
118 with the corporation, and an ex-wind policy with a voluntary
119 insurer or the corporation, and who then obtains a multiperil
120 policy from the corporation. It is the intent of the Legislature
121 that the offer of multiperil coverage in the high-risk account
122 be made and implemented in a manner that does not adversely
123 affect the tax-exempt status of the corporation or
124 creditworthiness of or security for currently outstanding
125 financing obligations or credit facilities of the high-risk
126 account, the personal lines account, or the commercial lines
127 account. The high-risk account must also include quota share
128 primary insurance under subparagraph (c)2. The area eligible for
129 coverage under the high-risk account also includes the area
130 within Port Canaveral, which is bordered on the south by the
131 City of Cape Canaveral, bordered on the west by the Banana
132 River, and bordered on the north by Federal Government property.

133 b. The three separate accounts must be maintained as long
134 as financing obligations entered into by the Florida Windstorm
135 Underwriting Association or Residential Property and Casualty
136 Joint Underwriting Association are outstanding, in accordance
137 with the terms of the corresponding financing documents. When
138 the financing obligations are no longer outstanding, in
139 accordance with the terms of the corresponding financing
140 documents, the corporation may use a single account for all

CS/HB 1171

2009

141 revenues, assets, liabilities, losses, and expenses of the
142 corporation. Consistent with the requirement of this
143 subparagraph and prudent investment policies that minimize the
144 cost of carrying debt, the board shall exercise its best efforts
145 to retire existing debt or to obtain approval of necessary
146 parties to amend the terms of existing debt, so as to structure
147 the most efficient plan to consolidate the three separate
148 accounts into a single account. By February 1, 2007, the board
149 shall submit a report to the Financial Services Commission, the
150 President of the Senate, and the Speaker of the House of
151 Representatives which includes an analysis of consolidating the
152 accounts, the actions the board has taken to minimize the cost
153 of carrying debt, and its recommendations for executing the most
154 efficient plan.

155 c. Creditors of the Residential Property and Casualty
156 Joint Underwriting Association and of the accounts specified in
157 sub-sub-subparagraphs a.(I) and (II) may have a claim against,
158 and recourse to, the accounts referred to in sub-sub-
159 subparagraphs a.(I) and (II) and shall have no claim against, or
160 recourse to, the account referred to in sub-sub-subparagraph
161 a.(III). Creditors of the Florida Windstorm Underwriting
162 Association shall have a claim against, and recourse to, the
163 account referred to in sub-sub-subparagraph a.(III) and shall
164 have no claim against, or recourse to, the accounts referred to
165 in sub-sub-subparagraphs a.(I) and (II).

166 d. Revenues, assets, liabilities, losses, and expenses not
167 attributable to particular accounts shall be prorated among the
168 accounts.

CS/HB 1171

2009

169 e. The Legislature finds that the revenues of the
170 corporation are revenues that are necessary to meet the
171 requirements set forth in documents authorizing the issuance of
172 bonds under this subsection.

173 f. No part of the income of the corporation may inure to
174 the benefit of any private person.

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

176 a. After accounting for the Citizens policyholder
177 surcharge imposed under sub-subparagraph i., when the remaining
178 projected deficit incurred in a particular calendar year is not
179 greater than 6 percent of the aggregate statewide direct written
180 premium for the subject lines of business for the prior calendar
181 year, the entire deficit shall be recovered through regular
182 assessments of assessable insurers under paragraph (p) and
183 assessable insureds.

184 b. After accounting for the Citizens policyholder
185 surcharge imposed under sub-subparagraph i., when the remaining
186 projected deficit incurred in a particular calendar year exceeds
187 6 percent of the aggregate statewide direct written premium for
188 the subject lines of business for the prior calendar year, the
189 corporation shall levy regular assessments on assessable
190 insurers under paragraph (p) and on assessable insureds in an
191 amount equal to the greater of 6 percent of the deficit or 6
192 percent of the aggregate statewide direct written premium for
193 the subject lines of business for the prior calendar year. Any
194 remaining deficit shall be recovered through emergency
195 assessments under sub-subparagraph d.

196 c. Each assessable insurer's share of the amount being

CS/HB 1171

2009

197 assessed under sub-subparagraph a. or sub-subparagraph b. shall
198 be in the proportion that the assessable insurer's direct
199 written premium for the subject lines of business for the year
200 preceding the assessment bears to the aggregate statewide direct
201 written premium for the subject lines of business for that year.
202 The assessment percentage applicable to each assessable insured
203 is the ratio of the amount being assessed under sub-subparagraph
204 a. or sub-subparagraph b. to the aggregate statewide direct
205 written premium for the subject lines of business for the prior
206 year. For purposes of the calculation required by this sub-
207 subparagraph, the term "aggregate statewide direct written
208 premium for the subject lines of business" does not include
209 direct written premium for nonassessable residential property
210 insurance policies as defined in s. 627.4025(1)(b). Assessments
211 levied by the corporation on assessable insurers under sub-
212 subparagraphs a. and b. shall be paid as required by the
213 corporation's plan of operation and paragraph (p). Assessments
214 levied by the corporation on assessable insureds under sub-
215 subparagraphs a. and b. shall be collected by the surplus lines
216 agent at the time the surplus lines agent collects the surplus
217 lines tax required by s. 626.932 and shall be paid to the
218 Florida Surplus Lines Service Office at the time the surplus
219 lines agent pays the surplus lines tax to the Florida Surplus
220 Lines Service Office. Upon receipt of regular assessments from
221 surplus lines agents, the Florida Surplus Lines Service Office
222 shall transfer the assessments directly to the corporation as
223 determined by the corporation.

224 d. Upon a determination by the board of governors that a

CS/HB 1171

2009

225 deficit in an account exceeds the amount that will be recovered
226 through regular assessments under sub-subparagraph a. or sub-
227 subparagraph b., plus the amount that is expected to be
228 recovered through surcharges under sub-subparagraph i., as to
229 the remaining projected deficit the board shall levy, after
230 verification by the office, emergency assessments, for as many
231 years as necessary to cover the deficits, to be collected by
232 assessable insurers and the corporation and collected from
233 assessable insureds upon issuance or renewal of policies for
234 subject lines of business, excluding National Flood Insurance
235 policies. The amount of the emergency assessment collected in a
236 particular year shall be a uniform percentage of that year's
237 direct written premium for subject lines of business and all
238 accounts of the corporation, excluding National Flood Insurance
239 Program policy premiums, as annually determined by the board and
240 verified by the office. For purposes of the calculation required
241 by this sub-subparagraph, the term "that year's direct written
242 premium for the subject lines of business" does not include
243 direct written premium for nonassessable residential property
244 insurance policies as defined in s. 627.4025(1)(b). The office
245 shall verify the arithmetic calculations involved in the board's
246 determination within 30 days after receipt of the information on
247 which the determination was based. Notwithstanding any other
248 provision of law, the corporation and each assessable insurer
249 that writes subject lines of business shall collect emergency
250 assessments from its policyholders without such obligation being
251 affected by any credit, limitation, exemption, or deferment.
252 Emergency assessments levied by the corporation on assessable

CS/HB 1171

2009

253 insureds shall be collected by the surplus lines agent at the
254 time the surplus lines agent collects the surplus lines tax
255 required by s. 626.932 and shall be paid to the Florida Surplus
256 Lines Service Office at the time the surplus lines agent pays
257 the surplus lines tax to the Florida Surplus Lines Service
258 Office. The emergency assessments so collected shall be
259 transferred directly to the corporation on a periodic basis as
260 determined by the corporation and shall be held by the
261 corporation solely in the applicable account. The aggregate
262 amount of emergency assessments levied for an account under this
263 sub-subparagraph in any calendar year may, at the discretion of
264 the board of governors, be less than but may not exceed the
265 greater of 10 percent of the amount needed to cover the deficit,
266 plus interest, fees, commissions, required reserves, and other
267 costs associated with financing of the original deficit, or 10
268 percent of the aggregate statewide direct written premium for
269 subject lines of business and for all accounts of the
270 corporation for the prior year, plus interest, fees,
271 commissions, required reserves, and other costs associated with
272 financing the deficit.

273 e. The corporation may pledge the proceeds of assessments,
274 projected recoveries from the Florida Hurricane Catastrophe
275 Fund, other insurance and reinsurance recoverables, policyholder
276 surcharges and other surcharges, and other funds available to
277 the corporation as the source of revenue for and to secure bonds
278 issued under paragraph (p), bonds or other indebtedness issued
279 under subparagraph (c)3., or lines of credit or other financing
280 mechanisms issued or created under this subsection, or to retire

CS/HB 1171

2009

281 any other debt incurred as a result of deficits or events giving
 282 rise to deficits, or in any other way that the board determines
 283 will efficiently recover such deficits. The purpose of the lines
 284 of credit or other financing mechanisms is to provide additional
 285 resources to assist the corporation in covering claims and
 286 expenses attributable to a catastrophe. As used in this
 287 subsection, the term "assessments" includes regular assessments
 288 under sub-subparagraph a., sub-subparagraph b., or subparagraph
 289 (p)1. and emergency assessments under sub-subparagraph d.
 290 Emergency assessments collected under sub-subparagraph d. are
 291 not part of an insurer's rates, are not premium, and are not
 292 subject to premium tax, fees, or commissions; however, failure
 293 to pay the emergency assessment shall be treated as failure to
 294 pay premium. The emergency assessments under sub-subparagraph d.
 295 shall continue as long as any bonds issued or other indebtedness
 296 incurred with respect to a deficit for which the assessment was
 297 imposed remain outstanding, unless adequate provision has been
 298 made for the payment of such bonds or other indebtedness
 299 pursuant to the documents governing such bonds or other
 300 indebtedness.

301 f. As used in this subsection for purposes of any deficit
 302 incurred on or after January 25, 2007, the term "subject lines
 303 of business" means insurance written by assessable insurers or
 304 procured by assessable insureds for all property and casualty
 305 lines of business in this state, but not including workers'
 306 compensation or medical malpractice and not including any
 307 premiums for nonassessable residential property insurance as
 308 defined in s. 627.4025(1)(b). As used in this ~~the~~ sub-

309 subparagraph, except as otherwise provided in this sub-
 310 subparagraph, the term "property and casualty lines of business"
 311 includes all lines of business identified on Form 2, Exhibit of
 312 Premiums and Losses, in the annual statement required of
 313 authorized insurers by s. 624.424 and any rule adopted under
 314 this section, except for those lines identified as accident and
 315 health insurance and except for policies written under the
 316 National Flood Insurance Program or the Federal Crop Insurance
 317 Program. For purposes of this sub-subparagraph, the term
 318 "workers' compensation" includes both workers' compensation
 319 insurance and excess workers' compensation insurance.

320 g. The Florida Surplus Lines Service Office shall
 321 determine annually the aggregate statewide written premium in
 322 subject lines of business procured by assessable insureds and
 323 shall report that information to the corporation in a form and
 324 at a time the corporation specifies to ensure that the
 325 corporation can meet the requirements of this subsection and the
 326 corporation's financing obligations.

327 h. The Florida Surplus Lines Service Office shall verify
 328 the proper application by surplus lines agents of assessment
 329 percentages for regular assessments and emergency assessments
 330 levied under this subparagraph on assessable insureds and shall
 331 assist the corporation in ensuring the accurate, timely
 332 collection and payment of assessments by surplus lines agents as
 333 required by the corporation.

334 i. If a deficit is incurred in any account in 2008 or
 335 thereafter, the board of governors shall levy a Citizens
 336 policyholder surcharge against all policyholders of the

CS/HB 1171

2009

337 corporation for a 12-month period, which shall be collected at
 338 the time of issuance or renewal of a policy, as a uniform
 339 percentage of the premium for the policy of up to 15 percent of
 340 such premium, which funds shall be used to offset the deficit.
 341 Citizens policyholder surcharges under this sub-subparagraph are
 342 not considered premium and are not subject to commissions, fees,
 343 or premium taxes. However, failure to pay such surcharges shall
 344 be treated as failure to pay premium.

345 j. If the amount of any assessments or surcharges
 346 collected from corporation policyholders, assessable insurers or
 347 their policyholders, or assessable insureds exceeds the amount
 348 of the deficits, such excess amounts shall be remitted to and
 349 retained by the corporation in a reserve to be used by the
 350 corporation, as determined by the board of governors and
 351 approved by the office, to pay claims or reduce any past,
 352 present, or future plan-year deficits or to reduce outstanding
 353 debt.

354 Section 3. Subsection (1) of section 627.4025, Florida
 355 Statutes, is amended to read:

356 627.4025 Residential coverage and hurricane coverage
 357 defined.--

358 (1) Residential coverage includes both personal lines
 359 residential coverage, which consists of the type of coverage
 360 provided by homeowner's, mobile home owner's, dwelling,
 361 tenant's, condominium unit owner's, cooperative unit owner's,
 362 and similar policies, and commercial lines residential coverage,
 363 which consists of the type of coverage provided by condominium
 364 association, cooperative association, apartment building, and

365 similar policies, including policies covering the common
 366 elements of a homeowners' association. Residential coverage for
 367 personal lines and commercial lines as set forth in this section
 368 includes policies that provide coverage for particular perils
 369 such as windstorm and hurricane or coverage for insurer
 370 insolvency or deductibles. Policies providing personal lines
 371 residential property insurance coverage as described in this
 372 subsection consist of two classes, assessable residential
 373 property insurance and nonassessable residential property
 374 insurance. For purposes of this subsection, the term:

375 (a) "Assessable residential property insurance" means
 376 personal lines residential property insurance that is subject to
 377 deficit assessments by Citizens Property Insurance Corporation
 378 under s. 627.351(6).

379 (b) "Nonassessable residential property insurance" means
 380 personal lines residential property insurance that is not
 381 subject to deficit assessments by Citizens Property Insurance
 382 Corporation under s. 627.351(6).

383 Section 4. Section 627.7031, Florida Statutes, is created
 384 to read:

385 627.7031 Residential property insurance.--

386 (1) Any insurer may offer nonassessable residential
 387 property insurance policies as defined in s. 627.4025(1)(b) if:

388 (a) The insurer is authorized to write property insurance
 389 in this state.

390 (b) The insurer maintains surplus as to policyholders
 391 equal to or greater than \$500 million.

392 (2) An owner of residential property may purchase a

CS/HB 1171

2009

393 nonassessable residential property insurance policy if such a
 394 policy is offered by the insurer.

395 (3) (a) The application for a nonassessable residential
 396 property insurance policy shall contain the following disclaimer
 397 printed in at least 12-point boldfaced type:

398
 399 THIS APPLICATION IS FOR A RESIDENTIAL PROPERTY POLICY THAT IS
 400 SUBJECT ONLY TO THE RATE REGULATION REQUIREMENTS UNDER FLORIDA
 401 LAW THAT ENSURE THAT RATES ARE ADEQUATE TO PAY CLAIMS AND IS NOT
 402 SUBJECT TO DEFICIT ASSESSMENTS BY CITIZENS PROPERTY INSURANCE
 403 CORPORATION. PLEASE DISCUSS YOUR POLICY OPTIONS WITH YOUR
 404 INSURANCE AGENT.

405 (b) Each notice of renewal premium for a nonassessable
 406 residential property insurance policy shall contain the
 407 following disclaimer printed in at least 12-point boldfaced
 408 type:

409
 410 THIS POLICY IS SUBJECT ONLY TO THE RATE REQUIREMENTS UNDER
 411 FLORIDA LAW THAT ENSURE THAT RATES ARE ADEQUATE TO PAY CLAIMS
 412 AND IS NOT SUBJECT TO DEFICIT ASSESSMENTS BY CITIZENS PROPERTY
 413 INSURANCE CORPORATION. PLEASE DISCUSS YOUR POLICY OPTIONS WITH
 414 YOUR INSURANCE AGENT.

415 Section 5. This act shall take effect July 1, 2009.