

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 prohibiting insurers from purchasing coverage relating to
21 temporary increase in coverage limit options from the
22 Florida Hurricane Catastrophe Fund; specifying a required
23 notice before issuing or nonrenewing policies at certain
24 rates; providing criteria for providing such notice;
25 providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
28

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

31 627.062 Rate standards.--

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

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

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

40 3. This paragraph does not affect the power of the office
 41 to disapprove rates as inadequate or to disapprove a rate filing
 42 for the use of a rating factor that is unlawful pursuant to s.
 43 626.9541(1).

44
 45 The provisions of this subsection shall not apply to workers'
 46 compensation and employer's liability insurance and to motor
 47 vehicle insurance.

48 Section 2. Paragraph (b) of subsection (6) of section
 49 627.351, Florida Statutes, is amended to read:

50 627.351 Insurance risk apportionment plans.--

51 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

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

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

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

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

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

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

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

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

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

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

168 e. The Legislature finds that the revenues of the

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

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

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

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

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

195 c. Each assessable insurer's share of the amount being
196 assessed under sub-subparagraph a. or sub-subparagraph b. shall

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

223 d. Upon a determination by the board of governors that a
224 deficit in an account exceeds the amount that will be recovered

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

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

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

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

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

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

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

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

333 i. If a deficit is incurred in any account in 2008 or
334 thereafter, the board of governors shall levy a Citizens
335 policyholder surcharge against all policyholders of the
336 corporation for a 12-month period, which shall be collected at

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

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

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

355 627.4025 Residential coverage and hurricane coverage
356 defined.--

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

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

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

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

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

384 627.7031 Residential property insurance.--

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

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

389 (b) The insurer has, at the time of issuance of the policy
 390 or at the time of first renewal at rates established pursuant to
 391 s. 627.062(2)(k), surplus as to policyholders equal to or
 392 greater than \$500 million; or, for insurers with surplus

393 exceeding \$150 million but less than \$500 million, the insurer's
 394 ratio of net written premium to its surplus as to policyholders,
 395 as calculated based upon the information in the insurer's most
 396 recent annual statement, does not exceed two to one. For
 397 purposes of this paragraph, the calculation of net written
 398 premium shall consider only reinsurance placed pursuant to s.
 399 215.555(4) and with reinsurers or direct insurers that have been
 400 given a financial strength rating of "A-minus" or better by A.M.
 401 Best Company, or have been given a comparable rating by another
 402 rating agency that is generally considered accurate or
 403 acceptable.

404 (c) The insurer may not purchase coverage relating to
 405 temporary increase in coverage limit options under s.
 406 215.555(17) from the Florida Hurricane Catastrophe Fund.

407 (d) Before the issuance or renewal of a policy at rates
 408 established pursuant to s. 627.062(2)(k), the applicant or
 409 insured must be given the following notice, printed in at least
 410 12-point boldfaced type:

411
 412 THE RATE FOR THIS POLICY IS NOT REGULATED BY THE FLORIDA OFFICE
 413 OF INSURANCE REGULATION AND MAY BE HIGHER THAN RATES THAT HAVE
 414 BEEN APPROVED BY THAT OFFICE. A RESIDENTIAL PROPERTY INSURANCE
 415 POLICY THAT IS SUBJECT TO FULL RATE REGULATION REQUIREMENTS MAY
 416 BE AVAILABLE FROM ANOTHER INSURER OR FROM CITIZENS PROPERTY
 417 INSURANCE CORPORATION. PLEASE DISCUSS YOUR POLICY OPTIONS WITH
 418 AN INSURANCE AGENT.

419
 420 (2) With respect to any renewal of a policy at rates

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421 established pursuant to s. 627.062(2)(k), the notice required by
422 paragraph (1)(d) must be given in writing at the time of, but
423 separate from, the renewal notice but may be contained within
424 the same mailing as the renewal notice.

425 Section 5. This act shall take effect upon becoming a law.