

1 A bill to be entitled
 2 An act relating to Citizens Property Insurance
 3 Corporation; amending s. 627.351, F.S.; revising the
 4 definition of the term "subject lines of business;"
 5 prohibiting assessing assessable insurers and assessable
 6 insureds for certain deficits under certain circumstances;
 7 providing an exception; providing an effective date.

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 9 Be It Enacted by the Legislature of the State of Florida:

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 11 Section 1. Paragraph (b) of subsection (6) of section
 12 627.351, Florida Statutes, is amended to read:

13 627.351 Insurance risk apportionment plans.--

14 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

15 (b)1. All insurers authorized to write one or more subject
 16 lines of business in this state are subject to assessment by the
 17 corporation and, for the purposes of this subsection, are
 18 referred to collectively as "assessable insurers." Insurers
 19 writing one or more subject lines of business in this state
 20 pursuant to part VIII of chapter 626 are not assessable
 21 insurers, but insureds who procure one or more subject lines of
 22 business in this state pursuant to part VIII of chapter 626 are
 23 subject to assessment by the corporation and are referred to
 24 collectively as "assessable insureds." An authorized insurer's
 25 assessment liability shall begin on the first day of the
 26 calendar year following the year in which the insurer was issued
 27 a certificate of authority to transact insurance for subject
 28 lines of business in this state and shall terminate 1 year after

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29 | the end of the first calendar year during which the insurer no
30 | longer holds a certificate of authority to transact insurance
31 | for subject lines of business in this state.

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

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

44 | (II) A commercial lines account for commercial residential
45 | and commercial nonresidential policies issued by the corporation
46 | or issued by the Residential Property and Casualty Joint
47 | Underwriting Association and renewed by the corporation that
48 | provide coverage for basic property perils on risks that are not
49 | located in areas eligible for coverage in the Florida Windstorm
50 | Underwriting Association as those areas were defined on January
51 | 1, 2002, and for such policies that do not provide coverage for
52 | the peril of wind on risks that are located in such areas; and

53 | (III) A high-risk account for personal residential
54 | policies and commercial residential and commercial
55 | nonresidential property policies issued by the corporation or
56 | transferred to the corporation that provide coverage for the

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57 | peril of wind on risks that are located in areas eligible for
58 | coverage in the Florida Windstorm Underwriting Association as
59 | those areas were defined on January 1, 2002. The corporation may
60 | offer policies that provide multiperil coverage and the
61 | corporation shall continue to offer policies that provide
62 | coverage only for the peril of wind for risks located in areas
63 | eligible for coverage in the high-risk account. In issuing
64 | multiperil coverage, the corporation may use its approved policy
65 | forms and rates for the personal lines account. An applicant or
66 | insured who is eligible to purchase a multiperil policy from the
67 | corporation may purchase a multiperil policy from an authorized
68 | insurer without prejudice to the applicant's or insured's
69 | eligibility to prospectively purchase a policy that provides
70 | coverage only for the peril of wind from the corporation. An
71 | applicant or insured who is eligible for a corporation policy
72 | that provides coverage only for the peril of wind may elect to
73 | purchase or retain such policy and also purchase or retain
74 | coverage excluding wind from an authorized insurer without
75 | prejudice to the applicant's or insured's eligibility to
76 | prospectively purchase a policy that provides multiperil
77 | coverage from the corporation. It is the goal of the Legislature
78 | that there would be an overall average savings of 10 percent or
79 | more for a policyholder who currently has a wind-only policy
80 | with the corporation, and an ex-wind policy with a voluntary
81 | insurer or the corporation, and who then obtains a multiperil
82 | policy from the corporation. It is the intent of the Legislature
83 | that the offer of multiperil coverage in the high-risk account
84 | be made and implemented in a manner that does not adversely

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85 affect the tax-exempt status of the corporation or
86 creditworthiness of or security for currently outstanding
87 financing obligations or credit facilities of the high-risk
88 account, the personal lines account, or the commercial lines
89 account. The high-risk account must also include quota share
90 primary insurance under subparagraph (c)2. The area eligible for
91 coverage under the high-risk account also includes the area
92 within Port Canaveral, which is bordered on the south by the
93 City of Cape Canaveral, bordered on the west by the Banana
94 River, and bordered on the north by Federal Government property.

95 b. The three separate accounts must be maintained as long
96 as financing obligations entered into by the Florida Windstorm
97 Underwriting Association or Residential Property and Casualty
98 Joint Underwriting Association are outstanding, in accordance
99 with the terms of the corresponding financing documents. When
100 the financing obligations are no longer outstanding, in
101 accordance with the terms of the corresponding financing
102 documents, the corporation may use a single account for all
103 revenues, assets, liabilities, losses, and expenses of the
104 corporation. Consistent with the requirement of this
105 subparagraph and prudent investment policies that minimize the
106 cost of carrying debt, the board shall exercise its best efforts
107 to retire existing debt or to obtain approval of necessary
108 parties to amend the terms of existing debt, so as to structure
109 the most efficient plan to consolidate the three separate
110 accounts into a single account. By February 1, 2007, the board
111 shall submit a report to the Financial Services Commission, the
112 President of the Senate, and the Speaker of the House of

113 Representatives which includes an analysis of consolidating the
 114 accounts, the actions the board has taken to minimize the cost
 115 of carrying debt, and its recommendations for executing the most
 116 efficient plan.

117 c. Creditors of the Residential Property and Casualty
 118 Joint Underwriting Association and of the accounts specified in
 119 sub-sub-subparagraphs a.(I) and (II) may have a claim against,
 120 and recourse to, the accounts referred to in sub-sub-
 121 subparagraphs a.(I) and (II) and shall have no claim against, or
 122 recourse to, the account referred to in sub-sub-subparagraph
 123 a.(III). Creditors of the Florida Windstorm Underwriting
 124 Association shall have a claim against, and recourse to, the
 125 account referred to in sub-sub-subparagraph a.(III) and shall
 126 have no claim against, or recourse to, the accounts referred to
 127 in sub-sub-subparagraphs a.(I) and (II).

128 d. Revenues, assets, liabilities, losses, and expenses not
 129 attributable to particular accounts shall be prorated among the
 130 accounts.

131 e. The Legislature finds that the revenues of the
 132 corporation are revenues that are necessary to meet the
 133 requirements set forth in documents authorizing the issuance of
 134 bonds under this subsection.

135 f. No part of the income of the corporation may inure to
 136 the benefit of any private person.

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

138 a. After accounting for the Citizens policyholder
 139 surcharge imposed under sub-subparagraph i., when the remaining
 140 projected deficit incurred in a particular calendar year is not

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141 greater than 6 percent of the aggregate statewide direct written
142 premium for the subject lines of business for the prior calendar
143 year, the entire deficit shall be recovered through regular
144 assessments of assessable insurers under paragraph (p) and
145 assessable insureds.

146 b. After accounting for the Citizens policyholder
147 surcharge imposed under sub-subparagraph i., when the remaining
148 projected deficit incurred in a particular calendar year exceeds
149 6 percent of the aggregate statewide direct written premium for
150 the subject lines of business for the prior calendar year, the
151 corporation shall levy regular assessments on assessable
152 insurers under paragraph (p) and on assessable insureds in an
153 amount equal to the greater of 6 percent of the deficit or 6
154 percent of the aggregate statewide direct written premium for
155 the subject lines of business for the prior calendar year. Any
156 remaining deficit shall be recovered through emergency
157 assessments under sub-subparagraph d.

158 c. Each assessable insurer's share of the amount being
159 assessed under sub-subparagraph a. or sub-subparagraph b. shall
160 be in the proportion that the assessable insurer's direct
161 written premium for the subject lines of business for the year
162 preceding the assessment bears to the aggregate statewide direct
163 written premium for the subject lines of business for that year.
164 The assessment percentage applicable to each assessable insured
165 is the ratio of the amount being assessed under sub-subparagraph
166 a. or sub-subparagraph b. to the aggregate statewide direct
167 written premium for the subject lines of business for the prior
168 year. Assessments levied by the corporation on assessable

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169 insurers under sub-subparagraphs a. and b. shall be paid as
170 required by the corporation's plan of operation and paragraph
171 (p). Assessments levied by the corporation on assessable
172 insureds under sub-subparagraphs a. and b. shall be collected by
173 the surplus lines agent at the time the surplus lines agent
174 collects the surplus lines tax required by s. 626.932 and shall
175 be paid to the Florida Surplus Lines Service Office at the time
176 the surplus lines agent pays the surplus lines tax to the
177 Florida Surplus Lines Service Office. Upon receipt of regular
178 assessments from surplus lines agents, the Florida Surplus Lines
179 Service Office shall transfer the assessments directly to the
180 corporation as determined by the corporation.

181 d. Upon a determination by the board of governors that a
182 deficit in an account exceeds the amount that will be recovered
183 through regular assessments under sub-subparagraph a. or sub-
184 subparagraph b., plus the amount that is expected to be
185 recovered through surcharges under sub-subparagraph i., as to
186 the remaining projected deficit the board shall levy, after
187 verification by the office, emergency assessments, for as many
188 years as necessary to cover the deficits, to be collected by
189 assessable insurers and the corporation and collected from
190 assessable insureds upon issuance or renewal of policies for
191 subject lines of business, excluding National Flood Insurance
192 policies. The amount of the emergency assessment collected in a
193 particular year shall be a uniform percentage of that year's
194 direct written premium for subject lines of business and all
195 accounts of the corporation, excluding National Flood Insurance
196 Program policy premiums, as annually determined by the board and

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197 | verified by the office. The office shall verify the arithmetic
198 | calculations involved in the board's determination within 30
199 | days after receipt of the information on which the determination
200 | was based. Notwithstanding any other provision of law, the
201 | corporation and each assessable insurer that writes subject
202 | lines of business shall collect emergency assessments from its
203 | policyholders without such obligation being affected by any
204 | credit, limitation, exemption, or deferment. Emergency
205 | assessments levied by the corporation on assessable insureds
206 | shall be collected by the surplus lines agent at the time the
207 | surplus lines agent collects the surplus lines tax required by
208 | s. 626.932 and shall be paid to the Florida Surplus Lines
209 | Service Office at the time the surplus lines agent pays the
210 | surplus lines tax to the Florida Surplus Lines Service Office.
211 | The emergency assessments so collected shall be transferred
212 | directly to the corporation on a periodic basis as determined by
213 | the corporation and shall be held by the corporation solely in
214 | the applicable account. The aggregate amount of emergency
215 | assessments levied for an account under this sub-subparagraph in
216 | any calendar year may, at the discretion of the board of
217 | governors, be less than but may not exceed the greater of 10
218 | percent of the amount needed to cover the deficit, plus
219 | interest, fees, commissions, required reserves, and other costs
220 | associated with financing of the original deficit, or 10 percent
221 | of the aggregate statewide direct written premium for subject
222 | lines of business and for all accounts of the corporation for
223 | the prior year, plus interest, fees, commissions, required
224 | reserves, and other costs associated with financing the deficit.

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

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253 f. As used in this subsection for purposes of any deficit
254 incurred on or after January 25, 2007, the term "subject lines
255 of business" means insurance written by assessable insurers or
256 procured by assessable insureds on real or personal property as
257 property insurance as defined in s. 624.604, including insurance
258 for fire, industrial fire, allied lines, farm owner's
259 multiperil, homeowner's multiperil, commercial multiperil, and
260 mobile homes, and including liability coverage on all such
261 insurance, but excluding inland marine insurance as defined in
262 s. 624.607 and excluding vehicle insurance as defined in s.
263 624.605 other than insurance on mobile homes used as permanent
264 dwellings for all property and casualty lines of business in
265 this state, but not including workers' compensation or medical
266 malpractice. As used in the sub-subparagraph, the term "property
267 and casualty lines of business" includes all lines of business
268 identified on Form 2, Exhibit of Premiums and Losses, in the
269 annual statement required of authorized insurers by s. 624.424
270 and any rule adopted under this section, except for those lines
271 identified as accident and health insurance and except for
272 policies written under the National Flood Insurance Program or
273 the Federal Crop Insurance Program. For purposes of this sub-
274 subparagraph, the term "workers' compensation" includes both
275 workers' compensation insurance and excess workers' compensation
276 insurance.

277 g. The Florida Surplus Lines Service Office shall
278 determine annually the aggregate statewide written premium in
279 subject lines of business procured by assessable insureds and
280 shall report that information to the corporation in a form and

281 at a time the corporation specifies to ensure that the
282 corporation can meet the requirements of this subsection and the
283 corporation's financing obligations.

284 h. The Florida Surplus Lines Service Office shall verify
285 the proper application by surplus lines agents of assessment
286 percentages for regular assessments and emergency assessments
287 levied under this subparagraph on assessable insureds and shall
288 assist the corporation in ensuring the accurate, timely
289 collection and payment of assessments by surplus lines agents as
290 required by the corporation.

291 i. If a deficit is incurred in any account in 2008 or
292 thereafter, the board of governors shall levy a Citizens
293 policyholder surcharge against all policyholders of the
294 corporation for a 12-month period, which shall be collected at
295 the time of issuance or renewal of a policy, as a uniform
296 percentage of the premium for the policy of up to 15 percent of
297 such premium, which funds shall be used to offset the deficit.
298 Citizens policyholder surcharges under this sub-subparagraph are
299 not considered premium and are not subject to commissions, fees,
300 or premium taxes. However, failure to pay such surcharges shall
301 be treated as failure to pay premium.

302 j. If the amount of any assessments or surcharges
303 collected from corporation policyholders, assessable insurers or
304 their policyholders, or assessable insureds exceeds the amount
305 of the deficits, such excess amounts shall be remitted to and
306 retained by the corporation in a reserve to be used by the
307 corporation, as determined by the board of governors and
308 approved by the office, to pay claims or reduce any past,

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309 present, or future plan-year deficits or to reduce outstanding
310 debt.

311 k. An assessable insurer and any assessable insured may
312 not be assessed for any deficit under sub-subparagraph a., sub-
313 subparagraph b., or sub-subparagraph d., except for deficits in
314 those accounts specified in sub-subparagraph 2.a. in which the
315 assessable insurer has written one or more subject lines of
316 business or as an assessable insured has procured one or more
317 policies of the subject lines of business in the account.

318 Section 2. This act shall take effect July 1, 2009.