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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/17/2009	.	
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The Policy and Steering Committee on Ways and Means (Baker) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 1033 - 1053
and insert:

5. Effective January 1, 2009, a personal lines residential structure that is located in the "wind-borne debris region," as defined in s. 1609.2, International Building Code (2006), and that has an insured value on the structure of \$750,000 or more is not eligible for coverage by the corporation unless the structure has opening protections as required under the Florida



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12 Building Code for a newly constructed residential structure in
13 that area. A residential structure shall be deemed to comply
14 with the requirements of this subparagraph if it has shutters or
15 opening protections on all openings and if such opening
16 protections complied with the Florida Building Code at the time
17 they were installed. ~~Effective January 1, 2010, for personal~~
18 ~~lines residential property insured by the corporation that is~~
19 ~~located in the wind-borne debris region and has an insured value~~
20 ~~on the structure of \$500,000 or more, a prospective purchaser of~~
21 ~~any such residential property must be provided by the seller a~~
22 ~~written disclosure that contains the structure's windstorm~~
23 ~~mitigation rating based on the uniform home grading scale~~
24 ~~adopted under s. 215.55865. Such rating shall be provided to the~~
25 ~~purchaser at or before the time the purchaser executes a~~
26 ~~contract for sale and purchase.~~

27 (b)1. All insurers authorized to write one or more subject
28 lines of business in this state are subject to assessment by the
29 corporation and, for the purposes of this subsection, are
30 referred to collectively as "assessable insurers." Insurers
31 writing one or more subject lines of business in this state
32 pursuant to part VIII of chapter 626 are not assessable
33 insurers, but insureds who procure one or more subject lines of
34 business in this state pursuant to part VIII of chapter 626 are
35 subject to assessment by the corporation and are referred to
36 collectively as "assessable insureds." An authorized insurer's
37 assessment liability shall begin on the first day of the
38 calendar year following the year in which the insurer was issued
39 a certificate of authority to transact insurance for subject
40 lines of business in this state and shall terminate 1 year after



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41 the end of the first calendar year during which the insurer no
42 longer holds a certificate of authority to transact insurance
43 for subject lines of business in this state.

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

47 (I) A personal lines account for personal residential
48 policies issued by the corporation or issued by the Residential
49 Property and Casualty Joint Underwriting Association and renewed
50 by the corporation that provide comprehensive, multiperil
51 coverage on risks that are not located in areas eligible for
52 coverage in the Florida Windstorm Underwriting Association as
53 those areas were defined on January 1, 2002, and for such
54 policies that do not provide coverage for the peril of wind on
55 risks that are located in such areas;

56 (II) A commercial lines account for commercial residential
57 and commercial nonresidential policies issued by the corporation
58 or issued by the Residential Property and Casualty Joint
59 Underwriting Association and renewed by the corporation that
60 provide coverage for basic property perils on risks that are not
61 located in areas eligible for coverage in the Florida Windstorm
62 Underwriting Association as those areas were defined on January
63 1, 2002, and for such policies that do not provide coverage for
64 the peril of wind on risks that are located in such areas; and

65 (III) A high-risk account for personal residential policies
66 and commercial residential and commercial nonresidential
67 property policies issued by the corporation or transferred to
68 the corporation that provide coverage for the peril of wind on
69 risks that are located in areas eligible for coverage in the



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70 Florida Windstorm Underwriting Association as those areas were
71 defined on January 1, 2002. The corporation may offer policies
72 that provide multiperil coverage and the corporation shall
73 continue to offer policies that provide coverage only for the
74 peril of wind for risks located in areas eligible for coverage
75 in the high-risk account. In issuing multiperil coverage, the
76 corporation may use its approved policy forms and rates for the
77 personal lines account. An applicant or insured who is eligible
78 to purchase a multiperil policy from the corporation may
79 purchase a multiperil policy from an authorized insurer without
80 prejudice to the applicant's or insured's eligibility to
81 prospectively purchase a policy that provides coverage only for
82 the peril of wind from the corporation. An applicant or insured
83 who is eligible for a corporation policy that provides coverage
84 only for the peril of wind may elect to purchase or retain such
85 policy and also purchase or retain coverage excluding wind from
86 an authorized insurer without prejudice to the applicant's or
87 insured's eligibility to prospectively purchase a policy that
88 provides multiperil coverage from the corporation. It is the
89 goal of the Legislature that there would be an overall average
90 savings of 10 percent or more for a policyholder who currently
91 has a wind-only policy with the corporation, and an ex-wind
92 policy with a voluntary insurer or the corporation, and who then
93 obtains a multiperil policy from the corporation. It is the
94 intent of the Legislature that the offer of multiperil coverage
95 in the high-risk account be made and implemented in a manner
96 that does not adversely affect the tax-exempt status of the
97 corporation or creditworthiness of or security for currently
98 outstanding financing obligations or credit facilities of the



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99 high-risk account, the personal lines account, or the commercial
100 lines account. The high-risk account must also include quota
101 share primary insurance under subparagraph (c)2. The area
102 eligible for coverage under the high-risk account also includes
103 the area within Port Canaveral, which is bordered on the south
104 by the City of Cape Canaveral, bordered on the west by the
105 Banana River, and bordered on the north by Federal Government
106 property.

107 b. The three separate accounts must be maintained as long
108 as financing obligations entered into by the Florida Windstorm
109 Underwriting Association or Residential Property and Casualty
110 Joint Underwriting Association are outstanding, in accordance
111 with the terms of the corresponding financing documents. When
112 the financing obligations are no longer outstanding, in
113 accordance with the terms of the corresponding financing
114 documents, the corporation may use a single account for all
115 revenues, assets, liabilities, losses, and expenses of the
116 corporation. Consistent with the requirement of this
117 subparagraph and prudent investment policies that minimize the
118 cost of carrying debt, the board shall exercise its best efforts
119 to retire existing debt or to obtain approval of necessary
120 parties to amend the terms of existing debt, so as to structure
121 the most efficient plan to consolidate the three separate
122 accounts into a single account. By February 1, 2007, the board
123 shall submit a report to the Financial Services Commission, the
124 President of the Senate, and the Speaker of the House of
125 Representatives which includes an analysis of consolidating the
126 accounts, the actions the board has taken to minimize the cost
127 of carrying debt, and its recommendations for executing the most



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128 efficient plan.

129 c. Creditors of the Residential Property and Casualty Joint
130 Underwriting Association and of the accounts specified in sub-
131 sub-subparagraphs a.(I) and (II) may have a claim against, and
132 recourse to, the accounts referred to in sub-sub-subparagraphs
133 a.(I) and (II) and shall have no claim against, or recourse to,
134 the account referred to in sub-sub-subparagraph a.(III).

135 Creditors of the Florida Windstorm Underwriting Association
136 shall have a claim against, and recourse to, the account
137 referred to in sub-sub-subparagraph a.(III) and shall have no
138 claim against, or recourse to, the accounts referred to in sub-
139 sub-subparagraphs a.(I) and (II).

140 d. Revenues, assets, liabilities, losses, and expenses not
141 attributable to particular accounts shall be prorated among the
142 accounts.

143 e. The Legislature finds that the revenues of the
144 corporation are revenues that are necessary to meet the
145 requirements set forth in documents authorizing the issuance of
146 bonds under this subsection.

147 f. No part of the income of the corporation may inure to
148 the benefit of any private person.

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

150 a. After accounting for the Citizens policyholder surcharge
151 imposed under sub-subparagraph i., when the remaining projected
152 deficit incurred in a particular calendar year is not greater
153 than 6 percent of the aggregate statewide direct written premium
154 for the subject lines of business for the prior calendar year,
155 the entire deficit shall be recovered through regular
156 assessments of assessable insurers under paragraph (p) and



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157 assessable insureds.

158 b. After accounting for the Citizens policyholder surcharge
159 imposed under sub-subparagraph i., when the remaining projected
160 deficit incurred in a particular calendar year exceeds 6 percent
161 of the aggregate statewide direct written premium for the
162 subject lines of business for the prior calendar year, the
163 corporation shall levy regular assessments on assessable
164 insurers under paragraph (p) and on assessable insureds in an
165 amount equal to the greater of 6 percent of the deficit or 6
166 percent of the aggregate statewide direct written premium for
167 the subject lines of business for the prior calendar year. Any
168 remaining deficit shall be recovered through emergency
169 assessments under sub-subparagraph d.

170 c. Each assessable insurer's share of the amount being
171 assessed under sub-subparagraph a. or sub-subparagraph b. shall
172 be in the proportion that the assessable insurer's direct
173 written premium for the subject lines of business for the year
174 preceding the assessment bears to the aggregate statewide direct
175 written premium for the subject lines of business for that year.
176 The assessment percentage applicable to each assessable insured
177 is the ratio of the amount being assessed under sub-subparagraph
178 a. or sub-subparagraph b. to the aggregate statewide direct
179 written premium for the subject lines of business for the prior
180 year. Assessments levied by the corporation on assessable
181 insurers under sub-subparagraphs a. and b. shall be paid as
182 required by the corporation's plan of operation and paragraph
183 (p). Assessments levied by the corporation on assessable
184 insureds under sub-subparagraphs a. and b. shall be collected by
185 the surplus lines agent at the time the surplus lines agent



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186 collects the surplus lines tax required by s. 626.932 and shall
187 be paid to the Florida Surplus Lines Service Office at the time
188 the surplus lines agent pays the surplus lines tax to the
189 Florida Surplus Lines Service Office. Upon receipt of regular
190 assessments from surplus lines agents, the Florida Surplus Lines
191 Service Office shall transfer the assessments directly to the
192 corporation as determined by the corporation.

193 d. Upon a determination by the board of governors that a
194 deficit in an account exceeds the amount that will be recovered
195 through regular assessments under sub-subparagraph a. or sub-
196 subparagraph b., plus the amount that is expected to be
197 recovered through surcharges under sub-subparagraph i., as to
198 the remaining projected deficit the board shall levy, after
199 verification by the office, emergency assessments, for as many
200 years as necessary to cover the deficits, to be collected by
201 assessable insurers and the corporation and collected from
202 assessable insureds upon issuance or renewal of policies for
203 subject lines of business, excluding National Flood Insurance
204 policies. The amount of the emergency assessment collected in a
205 particular year shall be a uniform percentage of that year's
206 direct written premium for subject lines of business and all
207 accounts of the corporation, excluding National Flood Insurance
208 Program policy premiums, as annually determined by the board and
209 verified by the office. The office shall verify the arithmetic
210 calculations involved in the board's determination within 30
211 days after receipt of the information on which the determination
212 was based. Notwithstanding any other provision of law, the
213 corporation and each assessable insurer that writes subject
214 lines of business shall collect emergency assessments from its



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215 policyholders without such obligation being affected by any
216 credit, limitation, exemption, or deferment. Emergency
217 assessments levied by the corporation on assessable insureds
218 shall be collected by the surplus lines agent at the time the
219 surplus lines agent collects the surplus lines tax required by
220 s. 626.932 and shall be paid to the Florida Surplus Lines
221 Service Office at the time the surplus lines agent pays the
222 surplus lines tax to the Florida Surplus Lines Service Office.
223 The emergency assessments so collected shall be transferred
224 directly to the corporation on a periodic basis as determined by
225 the corporation and shall be held by the corporation solely in
226 the applicable account. The aggregate amount of emergency
227 assessments levied for an account under this sub-subparagraph in
228 any calendar year may, at the discretion of the board of
229 governors, be less than but may not exceed the greater of 10
230 percent of the amount needed to cover the deficit, plus
231 interest, fees, commissions, required reserves, and other costs
232 associated with financing of the original deficit, or 10 percent
233 of the aggregate statewide direct written premium for subject
234 lines of business and for all accounts of the corporation for
235 the prior year, plus interest, fees, commissions, required
236 reserves, and other costs associated with financing the deficit.

237 e. The corporation may pledge the proceeds of assessments,
238 projected recoveries from the Florida Hurricane Catastrophe
239 Fund, other insurance and reinsurance recoverables, policyholder
240 surcharges and other surcharges, and other funds available to
241 the corporation as the source of revenue for and to secure bonds
242 issued under paragraph (p), bonds or other indebtedness issued
243 under subparagraph (c)3., or lines of credit or other financing



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244 mechanisms issued or created under this subsection, or to retire
245 any other debt incurred as a result of deficits or events giving
246 rise to deficits, or in any other way that the board determines
247 will efficiently recover such deficits. The purpose of the lines
248 of credit or other financing mechanisms is to provide additional
249 resources to assist the corporation in covering claims and
250 expenses attributable to a catastrophe. As used in this
251 subsection, the term "assessments" includes regular assessments
252 under sub-subparagraph a., sub-subparagraph b., or subparagraph
253 (p)1. and emergency assessments under sub-subparagraph d.
254 Emergency assessments collected under sub-subparagraph d. are
255 not part of an insurer's rates, are not premium, and are not
256 subject to premium tax, fees, or commissions; however, failure
257 to pay the emergency assessment shall be treated as failure to
258 pay premium. The emergency assessments under sub-subparagraph d.
259 shall continue as long as any bonds issued or other indebtedness
260 incurred with respect to a deficit for which the assessment was
261 imposed remain outstanding, unless adequate provision has been
262 made for the payment of such bonds or other indebtedness
263 pursuant to the documents governing such bonds or other
264 indebtedness.

265 f. As used in this subsection for purposes of any deficit
266 incurred on or after January 25, 2007, the term "subject lines
267 of business" means insurance written by assessable insurers or
268 procured by assessable insureds for all property and casualty
269 lines of business in this state, but not including workers'
270 compensation or medical malpractice. As used in the sub-
271 subparagraph, the term "property and casualty lines of business"
272 includes all lines of business identified on Form 2, Exhibit of



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273 Premiums and Losses, in the annual statement required of
274 authorized insurers by s. 624.424 and any rule adopted under
275 this section, except for those lines identified as accident and
276 health insurance and except for policies written under the
277 National Flood Insurance Program or the Federal Crop Insurance
278 Program. For purposes of this sub-subparagraph, the term
279 "workers' compensation" includes both workers' compensation
280 insurance and excess workers' compensation insurance.

281 g. The Florida Surplus Lines Service Office shall determine
282 annually the aggregate statewide written premium in subject
283 lines of business procured by assessable insureds and shall
284 report that information to the corporation in a form and at a
285 time the corporation specifies to ensure that the corporation
286 can meet the requirements of this subsection and the
287 corporation's financing obligations.

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

295 i. If a deficit is incurred in any account in 2008 or
296 thereafter, the board of governors shall levy a Citizens
297 policyholder surcharge against all policyholders of the
298 corporation for a 12-month period, which shall be collected at
299 the time of issuance or renewal of a policy, as a uniform
300 percentage of the premium for the policy of up to 15 percent of
301 such premium, which funds shall be used to offset the deficit.



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302 Citizens policyholder surcharges under this sub-subparagraph are
303 not considered premium and are not subject to commissions, fees,
304 or premium taxes. However, failure to pay such surcharges shall
305 be treated as failure to pay premium.

306 j. If the amount of any assessments or surcharges collected
307 from corporation policyholders, assessable insurers or their
308 policyholders, or assessable insureds exceeds the amount of the
309 deficits, such excess amounts shall be remitted to and retained
310 by the corporation in a reserve to be used by the corporation,
311 as determined by the board of governors and approved by the
312 office, to pay claims or reduce any past, present, or future
313 plan-year deficits or to reduce outstanding debt. If the amount
314 of any assessment collected by an assessable insurer from its
315 policyholders exceeds the amount the assessable insurer was
316 actually assessed, such excess amounts shall be remitted to and
317 retained by the corporation in a reserve to be used by the
318 corporation, as determined by the board of governors and
319 approved by the office, to pay claims or reduce any past,
320 present, or future plan-year deficits or to reduce outstanding
321 debt.

322
323 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

324 And the directory clause is amended as follows:

325 Delete line 934

326 and insert:

327
328 Section 5. Paragraphs (a), (b), (c), (m), and (x) of subsection

329
330 ===== T I T L E A M E N D M E N T =====



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331 And the title is amended as follows:

332 Delete line 49

333 and insert:

334

335 to the prospective purchaser of the property;

336 specifying the purposes for which collections in

337 excess of the amount assessed by Citizens Property

338 Insurance Corporation must be used;