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LEGISLATIVE ACTION

Senate

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House

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Floor: 16/AD/2R

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04/27/2009 05:31 PM

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Senator Baker moved the following:

Senate Amendment (with title amendment)

Delete lines 1971 - 2056

and insert:

(1) The Legislature finds and declares that all assessments paid by an insurer or insurer group as a result of a levy by any residual market entity, including regular assessments levied on insurers by Citizens Property Insurance Corporation and any other assessments levied on insurers by an insurance risk apportionment plan or assigned risk plan under s. 627.311 or s. 627.351 constitute advances of funds from the insurer to the residual market entity, and that the insurer is entitled to



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13 fully recoup such advances. An insurer or insurer group may
14 recoup any assessments that have been paid during or after 1995
15 by the insurer or insurer group to defray deficits of an
16 insurance risk apportionment plan or assigned risk plan under
17 ss. 627.311 and 627.351, net of any earnings returned to the
18 insurer or insurer group by the association or plan for any year
19 after 1993. A limited apportionment company as defined in s.
20 627.351(6)(c) may recoup any regular assessment that has been
21 levied by, or paid to, Citizens Property Insurance Corporation.

22 (2) The recoupment shall be made by applying a separate
23 recoupment ~~assessment~~ factor on policies of the same line or
24 type as were considered by the residual markets in determining
25 the assessment liability of the insurer or insurer group. An
26 insurer or insurer group shall calculate a separate assessment
27 factor for personal lines and commercial lines. The separate
28 assessment factor shall provide for full recoupment of the
29 assessments over a period of 1 year, unless the insurer or
30 insurer group, at its option, elects to recoup the assessments
31 over a longer period. The assessment factor expires upon
32 collection of the full amount allowed to be recouped. Amounts
33 recouped under this section are not subject to premium taxes,
34 fees, or commissions.

35 (3) ~~(2)~~ The recoupment ~~assessment~~ factor may ~~must~~ not be
36 more than 3 percentage points above the ratio of the deficit
37 assessment to the Florida direct written premium for policies
38 for the lines or types of business as to which the assessment
39 was calculated, as written in the year the deficit assessment
40 was paid. If an insurer or insurer group does not ~~fails to~~
41 collect the full amount of the deficit assessment during one 12-



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42 month period, the insurer or insurer group may apply
43 recalculated recoupment factors to policies issued or renewed
44 during one or more succeeding 12-month periods ~~must carry~~
45 ~~forward the amount of the deficit and adjust the deficit~~
46 ~~assessment to be recouped in a subsequent year by that amount.~~

47 (4) ~~(3)~~ The insurer or insurer group shall file with the
48 office a statement for informational purposes only setting forth
49 the amount of the recoupment ~~assessment~~ factor and an
50 explanation of how the factor will be applied, at least 15 days
51 prior to the factor being applied to any policies. The
52 informational statement shall include documentation of the
53 assessment paid by the insurer or insurer group and the
54 arithmetic calculations supporting the recoupment ~~assessment~~
55 factor. ~~The office shall complete its review within 15 days~~
56 ~~after receipt of the filing and shall limit its review to~~
57 ~~verification of the arithmetic calculations.~~ The insurer or
58 insurer group may use the recoupment ~~assessment~~ factor at any
59 time after the expiration of the 15-day period ~~unless the office~~
60 ~~has notified the insurer or insurer group in writing that the~~
61 ~~arithmetic calculations are incorrect.~~ The recoupment factor
62 shall apply to all policies described in subsection (3) that are
63 issued or renewed by the insurer or insurer group during a 12-
64 month period. If full recoupment requires the insurer or insurer
65 group to apply a recoupment factor over a subsequent 12-month
66 period, the insurer or insurer group must file a supplemental
67 informational statement pursuant to this subsection.

68 (5) No later than 90 days after the insurer or insurer
69 group has completed the recoupment process, it shall file with
70 the office a final accounting report documenting the recoupment.



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71 The report shall provide the amounts of assessments paid by the
72 insurer or insurer group, the amounts and percentages recouped
73 by year from each affected line of business, and the direct
74 written premium subject to recoupment by year.

75 ~~(6)~~(4) The commission may adopt rules to implement this
76 section.

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79 ===== T I T L E A M E N D M E N T =====

80 And the title is amended as follows:

81 Delete lines 72 - 80

82 and insert:

83 627.3512, F.S.; providing legislative findings;
84 providing for the recoupment of residual market
85 assessments paid by insurers or insurer groups;
86 limiting the amount of a recoupment factor;
87 authorizing an insurer to apply recalculated
88 recoupment factors to policies issued or renewed
89 during specified periods under certain circumstances;
90 requiring that insurers or insurer groups file a
91 statement setting forth certain information; providing
92 for the application of recoupment factors to certain
93 policies upon issuance or renewal; requiring that
94 insurers or insurer groups file a supplemental
95 statement under certain circumstances; requiring that
96 such entities file a final accounting report
97 documenting certain information within a specified
98 period after the completion of the recoupment process;
99 requiring that such report provide certain



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information; amending s.