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LEGISLATIVE ACTION

Senate

House

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04/27/2009 04:48 PM

Senators Fasano, Crist, Storms, and Lynn moved the following:

Senate Amendment (with directory and title amendments)

Between lines 1417 and 1418

insert:

(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 writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers, but insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are



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13 subject to assessment by the corporation and are referred to
14 collectively as "assessable insureds." An authorized insurer's
15 assessment liability shall begin on the first day of the
16 calendar year following the year in which the insurer was issued
17 a certificate of authority to transact insurance for subject
18 lines of business in this state and shall terminate 1 year after
19 the end of the first calendar year during which the insurer no
20 longer holds a certificate of authority to transact insurance
21 for subject lines of business in this state.

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

25 (I) A personal lines account for personal residential
26 policies issued by the corporation or issued by the Residential
27 Property and Casualty Joint Underwriting Association and renewed
28 by the corporation that provide comprehensive, multiperil
29 coverage on risks that are not located in areas eligible for
30 coverage in the Florida Windstorm Underwriting Association as
31 those areas were defined on January 1, 2002, and for such
32 policies that do not provide coverage for the peril of wind on
33 risks that are located in such areas;

34 (II) A commercial lines account for commercial residential
35 and commercial nonresidential policies issued by the corporation
36 or issued by the Residential Property and Casualty Joint
37 Underwriting Association and renewed by the corporation that
38 provide coverage for basic property perils on risks that are not
39 located in areas eligible for coverage in the Florida Windstorm
40 Underwriting Association as those areas were defined on January
41 1, 2002, and for such policies that do not provide coverage for



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42 the peril of wind on risks that are located in such areas; and
43 (III) A high-risk account for personal residential policies
44 and commercial residential and commercial nonresidential
45 property policies issued by the corporation or transferred to
46 the corporation that provide coverage for the peril of wind on
47 risks that are located in areas eligible for coverage in the
48 Florida Windstorm Underwriting Association as those areas were
49 defined on January 1, 2002. The corporation may offer policies
50 that provide multiperil coverage and the corporation may renew
51 ~~shall continue to offer~~ policies that provide coverage only for
52 the peril of wind for risks located in areas eligible for
53 coverage in the high-risk account. Beginning July 1, 2009, the
54 corporation may not issue new policies that provide coverage for
55 the peril of wind only. In issuing multiperil coverage, the
56 corporation may use its approved policy forms and rates for the
57 personal lines account. ~~An applicant or insured who is eligible~~
58 ~~to purchase a multiperil policy from the corporation may~~
59 ~~purchase a multiperil policy from an authorized insurer without~~
60 ~~prejudice to the applicant's or insured's eligibility to~~
61 ~~prospectively purchase a policy that provides coverage only for~~
62 ~~the peril of wind from the corporation. An applicant or insured~~
63 ~~who is eligible for a corporation policy that provides coverage~~
64 ~~only for the peril of wind may elect to purchase or retain such~~
65 ~~policy and also purchase or retain coverage excluding wind from~~
66 ~~an authorized insurer without prejudice to the applicant's or~~
67 ~~insured's eligibility to prospectively purchase a policy that~~
68 ~~provides multiperil coverage from the corporation. It is the~~
69 ~~goal of the Legislature that there would be an overall average~~
70 ~~savings of 10 percent or more for a policyholder who currently~~



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71 ~~has a wind only policy with the corporation, and an ex wind~~
72 ~~policy with a voluntary insurer or the corporation, and who then~~
73 ~~obtains a multiperil policy from the corporation.~~ It is the
74 intent of the Legislature that the offer of multiperil coverage
75 in the high-risk account be made and implemented in a manner
76 that does not adversely affect the tax-exempt status of the
77 corporation or creditworthiness of or security for currently
78 outstanding financing obligations or credit facilities of the
79 high-risk account, the personal lines account, or the commercial
80 lines account. The high-risk account must also include quota
81 share primary insurance under subparagraph (c)2. The area
82 eligible for coverage under the high-risk account also includes
83 the area within Port Canaveral, which is bordered on the south
84 by the City of Cape Canaveral, bordered on the west by the
85 Banana River, and bordered on the north by Federal Government
86 property.

87 b. The three separate accounts must be maintained as long
88 as financing obligations entered into by the Florida Windstorm
89 Underwriting Association or Residential Property and Casualty
90 Joint Underwriting Association are outstanding, in accordance
91 with the terms of the corresponding financing documents. When
92 the financing obligations are no longer outstanding, in
93 accordance with the terms of the corresponding financing
94 documents, the corporation may use a single account for all
95 revenues, assets, liabilities, losses, and expenses of the
96 corporation. Consistent with the requirement of this
97 subparagraph and prudent investment policies that minimize the
98 cost of carrying debt, the board shall exercise its best efforts
99 to retire existing debt or to obtain approval of necessary



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100 parties to amend the terms of existing debt, so as to structure
101 the most efficient plan to consolidate the three separate
102 accounts into a single account. By February 1, 2007, the board
103 shall submit a report to the Financial Services Commission, the
104 President of the Senate, and the Speaker of the House of
105 Representatives which includes an analysis of consolidating the
106 accounts, the actions the board has taken to minimize the cost
107 of carrying debt, and its recommendations for executing the most
108 efficient plan.

109 c. Creditors of the Residential Property and Casualty Joint
110 Underwriting Association and of the accounts specified in sub-
111 sub-subparagraphs a.(I) and (II) may have a claim against, and
112 recourse to, the accounts referred to in sub-sub-subparagraphs
113 a.(I) and (II) and shall have no claim against, or recourse to,
114 the account referred to in sub-sub-subparagraph a.(III).
115 Creditors of the Florida Windstorm Underwriting Association
116 shall have a claim against, and recourse to, the account
117 referred to in sub-sub-subparagraph a.(III) and shall have no
118 claim against, or recourse to, the accounts referred to in sub-
119 sub-subparagraphs a.(I) and (II).

120 d. Revenues, assets, liabilities, losses, and expenses not
121 attributable to particular accounts shall be prorated among the
122 accounts.

123 e. The Legislature finds that the revenues of the
124 corporation are revenues that are necessary to meet the
125 requirements set forth in documents authorizing the issuance of
126 bonds under this subsection.

127 f. No part of the income of the corporation may inure to
128 the benefit of any private person.



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129 3. With respect to a deficit in an account:
130 a. After accounting for the Citizens policyholder surcharge
131 imposed under sub-subparagraph i., when the remaining projected
132 deficit incurred in a particular calendar year is not greater
133 than 6 percent of the aggregate statewide direct written premium
134 for the subject lines of business for the prior calendar year,
135 the entire deficit shall be recovered through regular
136 assessments of assessable insurers under paragraph (p) and
137 assessable insureds.
138 b. After accounting for the Citizens policyholder surcharge
139 imposed under sub-subparagraph i., when the remaining projected
140 deficit incurred in a particular calendar year exceeds 6 percent
141 of the aggregate statewide direct written premium for the
142 subject lines of business for the prior calendar year, the
143 corporation shall levy regular assessments on assessable
144 insurers under paragraph (p) and on assessable insureds in an
145 amount equal to the greater of 6 percent of the deficit or 6
146 percent of the aggregate statewide direct written premium for
147 the subject lines of business for the prior calendar year. Any
148 remaining deficit shall be recovered through emergency
149 assessments under sub-subparagraph d.
150 c. Each assessable insurer's share of the amount being
151 assessed under sub-subparagraph a. or sub-subparagraph b. shall
152 be in the proportion that the assessable insurer's direct
153 written premium for the subject lines of business for the year
154 preceding the assessment bears to the aggregate statewide direct
155 written premium for the subject lines of business for that year.
156 The assessment percentage applicable to each assessable insured
157 is the ratio of the amount being assessed under sub-subparagraph



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158 a. or sub-subparagraph b. to the aggregate statewide direct
159 written premium for the subject lines of business for the prior
160 year. Assessments levied by the corporation on assessable
161 insurers under sub-subparagraphs a. and b. shall be paid as
162 required by the corporation's plan of operation and paragraph
163 (p). Assessments levied by the corporation on assessable
164 insureds under sub-subparagraphs a. and b. shall be collected by
165 the surplus lines agent at the time the surplus lines agent
166 collects the surplus lines tax required by s. 626.932 and shall
167 be paid to the Florida Surplus Lines Service Office at the time
168 the surplus lines agent pays the surplus lines tax to the
169 Florida Surplus Lines Service Office. Upon receipt of regular
170 assessments from surplus lines agents, the Florida Surplus Lines
171 Service Office shall transfer the assessments directly to the
172 corporation as determined by the corporation.

173 d. Upon a determination by the board of governors that a
174 deficit in an account exceeds the amount that will be recovered
175 through regular assessments under sub-subparagraph a. or sub-
176 subparagraph b., plus the amount that is expected to be
177 recovered through surcharges under sub-subparagraph i., as to
178 the remaining projected deficit the board shall levy, after
179 verification by the office, emergency assessments, for as many
180 years as necessary to cover the deficits, to be collected by
181 assessable insurers and the corporation and collected from
182 assessable insureds upon issuance or renewal of policies for
183 subject lines of business, excluding National Flood Insurance
184 policies. The amount of the emergency assessment collected in a
185 particular year shall be a uniform percentage of that year's
186 direct written premium for subject lines of business and all



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



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216 reserves, and other costs associated with financing the deficit.

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



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245 f. As used in this subsection for purposes of any deficit
246 incurred on or after January 25, 2007, the term "subject lines
247 of business" means insurance written by assessable insurers or
248 procured by assessable insureds for all property and casualty
249 lines of business in this state, but not including workers'
250 compensation or medical malpractice. As used in the sub-
251 subparagraph, the term "property and casualty lines of business"
252 includes all lines of business identified on Form 2, Exhibit of
253 Premiums and Losses, in the annual statement required of
254 authorized insurers by s. 624.424 and any rule adopted under
255 this section, except for those lines identified as accident and
256 health insurance and except for policies written under the
257 National Flood Insurance Program or the Federal Crop Insurance
258 Program. For purposes of this sub-subparagraph, the term
259 "workers' compensation" includes both workers' compensation
260 insurance and excess workers' compensation insurance.

261 g. The Florida Surplus Lines Service Office shall determine
262 annually the aggregate statewide written premium in subject
263 lines of business procured by assessable insureds and shall
264 report that information to the corporation in a form and at a
265 time the corporation specifies to ensure that the corporation
266 can meet the requirements of this subsection and the
267 corporation's financing obligations.

268 h. The Florida Surplus Lines Service Office shall verify
269 the proper application by surplus lines agents of assessment
270 percentages for regular assessments and emergency assessments
271 levied under this subparagraph on assessable insureds and shall
272 assist the corporation in ensuring the accurate, timely
273 collection and payment of assessments by surplus lines agents as



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274 required by the corporation.

275 i. If a deficit is incurred in any account in 2008 or
276 thereafter, the board of governors shall levy a Citizens
277 policyholder surcharge against all policyholders of the
278 corporation for a 12-month period, which shall be collected at
279 the time of issuance or renewal of a policy, as a uniform
280 percentage of the premium for the policy of up to 15 percent of
281 such premium, which funds shall be used to offset the deficit.
282 Citizens policyholder surcharges under this sub-subparagraph are
283 not considered premium and are not subject to commissions, fees,
284 or premium taxes. However, failure to pay such surcharges shall
285 be treated as failure to pay premium.

286 j. If the amount of any assessments or surcharges collected
287 from corporation policyholders, assessable insurers or their
288 policyholders, or assessable insureds exceeds the amount of the
289 deficits, such excess amounts shall be remitted to and retained
290 by the corporation in a reserve to be used by the corporation,
291 as determined by the board of governors and approved by the
292 office, to pay claims or reduce any past, present, or future
293 plan-year deficits or to reduce outstanding debt.

294
295 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

296 And the directory clause is amended as follows:

297 Delete line 1298

298 and insert:

299 Section 6. Paragraphs (a), (b), (c), (m), and (x) of
300 subsection

301
302 ===== T I T L E A M E N D M E N T =====



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303 And the title is amended as follows:
304 Delete line 60
305 and insert:
306 to the prospective purchaser of the property;
307 authorizing Citizens Property Insurance Corporation to
308 renew certain policies; prohibiting the corporation
309 from issuing new policies that provide coverage for
310 the peril of wind only as of a specified date;
311 deleting provisions relating to wind-only coverage;