

By Senator Gardiner

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1 A bill to be entitled
2 An act relating to Citizens Property Insurance
3 Corporation; amending s. 627.351, F.S.; redefining the
4 term "subject lines of business" for purposes of
5 insurance risk apportionment; providing an effective
6 date.

7
8 Be It Enacted by the Legislature of the State of Florida:

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

12 627.351 Insurance risk apportionment plans.—

13 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

14 (b)1. All insurers authorized to write one or more subject
15 lines of business in this state are subject to assessment by the
16 corporation and, for the purposes of this subsection, are
17 referred to collectively as "assessable insurers." Insurers
18 writing one or more subject lines of business in this state
19 pursuant to part VIII of chapter 626 are not assessable
20 insurers, but insureds who procure one or more subject lines of
21 business in this state pursuant to part VIII of chapter 626 are
22 subject to assessment by the corporation and are referred to
23 collectively as "assessable insureds." An authorized insurer's
24 assessment liability shall begin on the first day of the
25 calendar year following the year in which the insurer was issued
26 a certificate of authority to transact insurance for subject
27 lines of business in this state and shall terminate 1 year after
28 the end of the first calendar year during which the insurer no
29 longer holds a certificate of authority to transact insurance

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30 for subject lines of business in this state.

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

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

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

52 (III) A high-risk account for personal residential policies
53 and commercial residential and commercial nonresidential
54 property policies issued by the corporation or transferred to
55 the corporation that provide coverage for the peril of wind on
56 risks that are located in areas eligible for coverage in the
57 Florida Windstorm Underwriting Association as those areas were
58 defined on January 1, 2002. The corporation may offer policies

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59 that provide multiperil coverage and the corporation shall
60 continue to offer policies that provide coverage only for the
61 peril of wind for risks located in areas eligible for coverage
62 in the high-risk account. In issuing multiperil coverage, the
63 corporation may use its approved policy forms and rates for the
64 personal lines account. An applicant or insured who is eligible
65 to purchase a multiperil policy from the corporation may
66 purchase a multiperil policy from an authorized insurer without
67 prejudice to the applicant's or insured's eligibility to
68 prospectively purchase a policy that provides coverage only for
69 the peril of wind from the corporation. An applicant or insured
70 who is eligible for a corporation policy that provides coverage
71 only for the peril of wind may elect to purchase or retain such
72 policy and also purchase or retain coverage excluding wind from
73 an authorized insurer without prejudice to the applicant's or
74 insured's eligibility to prospectively purchase a policy that
75 provides multiperil coverage from the corporation. It is the
76 goal of the Legislature that there would be an overall average
77 savings of 10 percent or more for a policyholder who currently
78 has a wind-only policy with the corporation, and an ex-wind
79 policy with a voluntary insurer or the corporation, and who then
80 obtains a multiperil policy from the corporation. It is the
81 intent of the Legislature that the offer of multiperil coverage
82 in the high-risk account be made and implemented in a manner
83 that does not adversely affect the tax-exempt status of the
84 corporation or creditworthiness of or security for currently
85 outstanding financing obligations or credit facilities of the
86 high-risk account, the personal lines account, or the commercial
87 lines account. The high-risk account must also include quota

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88 share primary insurance under subparagraph (c)2. The area
89 eligible for coverage under the high-risk account also includes
90 the area within Port Canaveral, which is bordered on the south
91 by the City of Cape Canaveral, bordered on the west by the
92 Banana River, and bordered on the north by Federal Government
93 property.

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

116 c. Creditors of the Residential Property and Casualty Joint

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

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

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

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

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

137 a. After accounting for the Citizens policyholder surcharge
138 imposed under sub-subparagraph i., when the remaining projected
139 deficit incurred in a particular calendar year is not greater
140 than 6 percent of the aggregate statewide direct written premium
141 for the subject lines of business for the prior calendar year,
142 the entire deficit shall be recovered through regular
143 assessments of assessable insurers under paragraph (p) and
144 assessable insureds.

145 b. After accounting for the Citizens policyholder surcharge

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

157 c. Each assessable insurer's share of the amount being
158 assessed under sub-subparagraph a. or sub-subparagraph b. shall
159 be in the proportion that the assessable insurer's direct
160 written premium for the subject lines of business for the year
161 preceding the assessment bears to the aggregate statewide direct
162 written premium for the subject lines of business for that year.
163 The assessment percentage applicable to each assessable insured
164 is the ratio of the amount being assessed under sub-subparagraph
165 a. or sub-subparagraph b. to the aggregate statewide direct
166 written premium for the subject lines of business for the prior
167 year. Assessments levied by the corporation on assessable
168 insurers under sub-subparagraphs a. and b. shall be paid as
169 required by the corporation's plan of operation and paragraph
170 (p). Assessments levied by the corporation on assessable
171 insureds under sub-subparagraphs a. and b. shall be collected by
172 the surplus lines agent at the time the surplus lines agent
173 collects the surplus lines tax required by s. 626.932 and shall
174 be paid to the Florida Surplus Lines Service Office at the time

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175 the surplus lines agent pays the surplus lines tax to the
176 Florida Surplus Lines Service Office. Upon receipt of regular
177 assessments from surplus lines agents, the Florida Surplus Lines
178 Service Office shall transfer the assessments directly to the
179 corporation as determined by the corporation.

180 d. Upon a determination by the board of governors that a
181 deficit in an account exceeds the amount that will be recovered
182 through regular assessments under sub-subparagraph a. or sub-
183 subparagraph b., plus the amount that is expected to be
184 recovered through surcharges under sub-subparagraph i., as to
185 the remaining projected deficit the board shall levy, after
186 verification by the office, emergency assessments, for as many
187 years as necessary to cover the deficits, to be collected by
188 assessable insurers and the corporation and collected from
189 assessable insureds upon issuance or renewal of policies for
190 subject lines of business, excluding National Flood Insurance
191 policies. The amount of the emergency assessment collected in a
192 particular year shall be a uniform percentage of that year's
193 direct written premium for subject lines of business and all
194 accounts of the corporation, excluding National Flood Insurance
195 Program policy premiums, as annually determined by the board and
196 verified by the office. The office shall verify the arithmetic
197 calculations involved in the board's determination within 30
198 days after receipt of the information on which the determination
199 was based. Notwithstanding any other provision of law, the
200 corporation and each assessable insurer that writes subject
201 lines of business shall collect emergency assessments from its
202 policyholders without such obligation being affected by any
203 credit, limitation, exemption, or deferment. Emergency

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204 assessments levied by the corporation on assessable insureds
205 shall be collected by the surplus lines agent at the time the
206 surplus lines agent collects the surplus lines tax required by
207 s. 626.932 and shall be paid to the Florida Surplus Lines
208 Service Office at the time the surplus lines agent pays the
209 surplus lines tax to the Florida Surplus Lines Service Office.
210 The emergency assessments so collected shall be transferred
211 directly to the corporation on a periodic basis as determined by
212 the corporation and shall be held by the corporation solely in
213 the applicable account. The aggregate amount of emergency
214 assessments levied for an account under this sub-subparagraph in
215 any calendar year may, at the discretion of the board of
216 governors, be less than but may not exceed the greater of 10
217 percent of the amount needed to cover the deficit, plus
218 interest, fees, commissions, required reserves, and other costs
219 associated with financing of the original deficit, or 10 percent
220 of the aggregate statewide direct written premium for subject
221 lines of business and for all accounts of the corporation for
222 the prior year, plus interest, fees, commissions, required
223 reserves, and other costs associated with financing the deficit.

224 e. The corporation may pledge the proceeds of assessments,
225 projected recoveries from the Florida Hurricane Catastrophe
226 Fund, other insurance and reinsurance recoverables, policyholder
227 surcharges and other surcharges, and other funds available to
228 the corporation as the source of revenue for and to secure bonds
229 issued under paragraph (p), bonds or other indebtedness issued
230 under subparagraph (c)3., or lines of credit or other financing
231 mechanisms issued or created under this subsection, or to retire
232 any other debt incurred as a result of deficits or events giving

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233 rise to deficits, or in any other way that the board determines
234 will efficiently recover such deficits. The purpose of the lines
235 of credit or other financing mechanisms is to provide additional
236 resources to assist the corporation in covering claims and
237 expenses attributable to a catastrophe. As used in this
238 subsection, the term "assessments" includes regular assessments
239 under sub-subparagraph a., sub-subparagraph b., or subparagraph
240 (p)1. and emergency assessments under sub-subparagraph d.
241 Emergency assessments collected under sub-subparagraph d. are
242 not part of an insurer's rates, are not premium, and are not
243 subject to premium tax, fees, or commissions; however, failure
244 to pay the emergency assessment shall be treated as failure to
245 pay premium. The emergency assessments under sub-subparagraph d.
246 shall continue as long as any bonds issued or other indebtedness
247 incurred with respect to a deficit for which the assessment was
248 imposed remain outstanding, unless adequate provision has been
249 made for the payment of such bonds or other indebtedness
250 pursuant to the documents governing such bonds or other
251 indebtedness.

252 f. As used in this subsection for purposes of any deficit
253 incurred on or after January 25, 2007, the term "subject lines
254 of business" means insurance written by assessable insurers or
255 procured by assessable insureds on real or personal property,
256 including insurance for fire, industrial fire, allied lines,
257 farmowners multiperil, homeowners multiperil, commercial
258 multiperil, and mobile homes, and including liability coverage
259 on all such insurance, but excluding inland marine insurance as
260 defined in s. 624.607(3) and vehicle insurance as defined in s.
261 624.605 other than insurance on mobile homes used as permanent

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262 ~~dwelling~~s for all property and casualty lines of business in
263 this state, but not including workers' compensation or medical
264 malpractice. As used in the sub-subparagraph, the term "property
265 and casualty lines of business" includes all lines of business
266 identified on Form 2, Exhibit of Premiums and Losses, in the
267 annual statement required of authorized insurers by s. 624.424
268 and any rule adopted under this section, except for those lines
269 identified as accident and health insurance and except for
270 policies written under the National Flood Insurance Program or
271 the Federal Crop Insurance Program. For purposes of this sub-
272 subparagraph, the term "workers' compensation" includes both
273 workers' compensation insurance and excess workers' compensation
274 insurance.

275 g. The Florida Surplus Lines Service Office shall determine
276 annually the aggregate statewide written premium in subject
277 lines of business procured by assessable insureds and shall
278 report that information to the corporation in a form and at a
279 time the corporation specifies to ensure that the corporation
280 can meet the requirements of this subsection and the
281 corporation's financing obligations.

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

289 i. If a deficit is incurred in any account in 2008 or
290 thereafter, the board of governors shall levy a Citizens

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

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

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