



879158

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/05/2011	.	
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The Committee on Rules (Smith) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 1366 and 1367
insert:

(a)~~1. It is~~ The public purpose of this subsection is to ensure that there is ~~the existence of~~ an orderly market for property insurance for residents ~~Floridians~~ and ~~Florida~~ businesses of this state.

1. The Legislature finds that private insurers are unwilling or unable to provide affordable property insurance coverage in this state to the extent sought and needed. The absence of affordable property insurance threatens the public health, safety, and welfare and likewise threatens the economic



14 health of the state. The state therefore has a compelling public
15 interest and a public purpose to assist in assuring that
16 property in the state is insured and that it is insured at
17 affordable rates so as to facilitate the remediation,
18 reconstruction, and replacement of damaged or destroyed property
19 in order to reduce or avoid the negative effects otherwise
20 resulting to the public health, safety, and welfare, to the
21 economy of the state, and to the revenues of the state and local
22 governments which are needed to provide for the public welfare.
23 It is necessary, therefore, to provide affordable property
24 insurance to applicants who are in good faith entitled to
25 procure insurance through the voluntary market but are unable to
26 do so. The Legislature intends, therefore, ~~by this subsection~~
27 that affordable property insurance be provided and that it
28 continue to be provided, as long as necessary, through Citizens
29 Property Insurance Corporation, a government entity that is an
30 integral part of the state, and that is not a private insurance
31 company. To that end, Citizens Property Insurance Corporation
32 shall strive to increase the availability of affordable property
33 insurance in this state, while achieving efficiencies and
34 economies, and while providing service to policyholders,
35 applicants, and agents which is no less than the quality
36 generally provided in the voluntary market, for the achievement
37 of the foregoing public purposes. Because it is essential for
38 this government entity to have the maximum financial resources
39 to pay claims following a catastrophic hurricane, it is the
40 intent of the Legislature that Citizens Property Insurance
41 Corporation continue to be an integral part of the state and
42 that the income of the corporation be exempt from federal income



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43 taxation and that interest on the debt obligations issued by the
44 corporation be exempt from federal income taxation.

45 2. The Residential Property and Casualty Joint Underwriting
46 Association originally created by this statute shall be known~~7~~
47 ~~as of July 1, 2002,~~ as the Citizens Property Insurance
48 Corporation. The corporation shall provide insurance for
49 residential and commercial property, for applicants who are ~~in~~
50 ~~good faith~~ entitled, but, in good faith, are unable~~7~~ to procure
51 insurance through the voluntary market. The corporation shall
52 operate pursuant to a plan of operation approved by order of the
53 Financial Services Commission. The plan is subject to continuous
54 review by the commission. The commission may, by order, withdraw
55 approval of all or part of a plan if the commission determines
56 that conditions have changed since approval was granted and that
57 the purposes of the plan require changes in the plan. ~~The~~
58 ~~corporation shall continue to operate pursuant to the plan of~~
59 ~~operation approved by the Office of Insurance Regulation until~~
60 ~~October 1, 2006.~~ For the purposes of this subsection,
61 residential coverage includes both personal lines residential
62 coverage, which consists of the type of coverage provided by
63 homeowner's, mobile home owner's, dwelling, tenant's,
64 condominium unit owner's, and similar policies;~~7~~ and commercial
65 lines residential coverage, which consists of the type of
66 coverage provided by condominium association, apartment
67 building, and similar policies.

68 3. Effective January 1, 2009, a personal lines residential
69 structure that has a dwelling replacement cost of \$2 million or
70 more, or a single condominium unit that has a combined dwelling
71 and contents ~~content~~ replacement cost of \$2 million or more is



72 not eligible for coverage by the corporation. Such dwellings
73 insured by the corporation on December 31, 2008, may continue to
74 be covered by the corporation until the end of the policy term.
75 However, such dwellings ~~that are insured by the corporation and~~
76 ~~become ineligible for coverage due to the provisions of this~~
77 ~~subparagraph~~ may reapply and obtain coverage if the property
78 owner provides the corporation with a sworn affidavit from one
79 or more insurance agents, on a form provided by the corporation,
80 stating that the agents have made their best efforts to obtain
81 coverage and that the property has been rejected for coverage by
82 at least one authorized insurer and at least three surplus lines
83 insurers. If such conditions are met, the dwelling may be
84 insured by the corporation for up to 3 years, after which time
85 the dwelling is ineligible for coverage. The office shall
86 approve the method used by the corporation for valuing the
87 dwelling replacement cost for the purposes of this subparagraph.
88 If a policyholder is insured by the corporation prior to being
89 determined to be ineligible pursuant to this subparagraph and
90 such policyholder files a lawsuit challenging the determination,
91 the policyholder may remain insured by the corporation until the
92 conclusion of the litigation.

93 4. It is the intent of the Legislature that policyholders,
94 applicants, and agents of the corporation receive service and
95 treatment of the highest possible level but never less than that
96 generally provided in the voluntary market. It is also ~~is~~
97 intended that the corporation be held to service standards no
98 less than those applied to insurers in the voluntary market by
99 the office with respect to responsiveness, timeliness, customer
100 courtesy, and overall dealings with policyholders, applicants,



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101 or agents of the corporation.

102 5. Effective January 1, 2009, a personal lines residential
103 structure that is located in the "wind-borne debris region," as
104 defined in s. 1609.2, International Building Code (2006), and
105 that has an insured value on the structure of \$750,000 or more
106 is not eligible for coverage by the corporation unless the
107 structure has opening protections as required under the Florida
108 Building Code for a newly constructed residential structure in
109 that area. A residential structure shall be deemed to comply
110 with ~~the requirements of~~ this subparagraph if it has shutters or
111 opening protections on all openings and if such opening
112 protections complied with the Florida Building Code at the time
113 they were installed.

114 6. In recognition of the corporation's status as a
115 governmental entity, policies issued by the corporation must
116 include a provision stating that as a condition of coverage with
117 the corporation, policyholders may not engage the services of a
118 public adjuster to represent the policyholder with respect to
119 any claim filed under a policy issued by the corporation until
120 after the corporation has tendered an offer with respect to such
121 claim. For any claim filed under any policy of the corporation,
122 a public adjuster may not request payment or be paid, on a
123 contingency basis or based in any way, directly or indirectly,
124 on a percentage of the claim amount, and may be paid only a
125 reasonable hourly fee based on the actual hours of work
126 performed, subject to a maximum of 5 percent of the additional
127 amount actually paid over the amount that was originally offered
128 by the corporation for any one claim.



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

131 And the directory clause is amended as follows:

132 Delete line 1362

133 and insert:

134 Section 15. Paragraphs (a), (b), (c), (d), (v), and (y) of

135

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

137 And the title is amended as follows:

138 Delete line 112

139 and insert:

140 by the act; amending s. 627.351, F.S.; requiring

141 policies issued by the corporation to include a

142 provision that prohibits policyholders from engaging

143 the services of a public adjuster until after the

144 corporation has tendered an offer; limiting an

145 adjuster's fee for a claim against the corporation;

146 renaming the