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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/03/2012	.	
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The Committee on Budget (Alexander) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (e) of subsection (2), paragraphs (b)
and (c) of subsection (4), and paragraph (b) of subsection (5)
of section 215.555, Florida Statutes, are amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(2) DEFINITIONS.—As used in this section:

(e) "Retention" means the amount of losses below which an
insurer is not entitled to reimbursement from the fund. An
insurer's retention shall be calculated as follows:

1. The board shall calculate and report to each insurer the



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14 retention multiples for that year.

15 a. For the contract year beginning June 1, 2005, the
16 retention multiple shall be equal to \$4.5 billion divided by the
17 total estimated reimbursement premium for the contract year; for
18 subsequent years, up to and including the 2012-2013 contract
19 year, the retention multiple shall be equal to \$4.5 billion,
20 adjusted based upon the reported exposure for the contract year
21 occurring 2 years before the particular contract year to reflect
22 the percentage growth in exposure to the fund for covered
23 policies since 2004, divided by the total estimated
24 reimbursement premium for the contract year.

25 b. For the 2012-2013 contract year, the total reimbursement
26 premium for purposes of the calculation under this subparagraph
27 shall be estimated using the assumption that all insurers have
28 selected the 90-percent coverage level.

29 c. In order to implement the phase-in of reduced coverage
30 levels as provided in paragraph (4) (b), total reimbursement
31 premium for purposes of the calculation under this subparagraph
32 shall be estimated using the following assumptions:

33 (I) For the 2013-2014 contract year, the assumption is that
34 all insurers have selected the 85-percent coverage level.

35 (II) For the 2014-2015 contract year and subsequent
36 contract years, the assumption is that all insurers have
37 selected the 80-percent coverage level.

38 2. The retention multiple as determined under subparagraph
39 1. shall be adjusted to reflect the coverage level elected by
40 the insurer.

41 a. For an insurer electing the maximum coverage level
42 available under paragraph (4) (b) for a particular contract year



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43 ~~For insurers electing the 90-percent coverage level, the~~
44 adjusted retention multiple is 100 percent of the amount
45 determined under subparagraph 1.

46 b. In order to implement the phase-in of reduced coverage
47 levels as provided in paragraph (4) (b), for an insurer electing
48 a coverage level other than the maximum coverage level, the
49 adjusted retention multiple is as follows:

50 (I) With respect to the 2012-2013 contract year, for an
51 insurer ~~For insurers~~ electing the 75-percent coverage level, the
52 retention multiple is 90/75ths ~~120-percent~~ of the amount
53 determined under subparagraph 1., and for an insurer ~~For~~
54 ~~insurers~~ electing the 45-percent coverage level, the adjusted
55 retention multiple is 90/45ths ~~200-percent~~ of the amount
56 determined under subparagraph 1.

57 (II) With respect to the 2013-2014 contract year, for an
58 insurer electing the 75-percent coverage level, the retention
59 multiple is 85/75ths of the amount determined under subparagraph
60 1., and for an insurer electing the 45-percent coverage level,
61 the retention multiple is 85/45ths of the amount determined
62 under subparagraph 1.

63 (III) With respect to the 2014-2015 contract year and
64 subsequent contract years, for an insurer electing the 75-
65 percent coverage level, the retention multiple is 80/75ths of
66 the amount determined under subparagraph 1., and for an insurer
67 electing the 45-percent coverage level, the retention multiple
68 is 80/45ths of the amount determined under subparagraph 1.

69 3. An insurer shall determine its provisional retention by
70 multiplying its provisional reimbursement premium by the
71 applicable adjusted retention multiple and shall determine its



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72 actual retention by multiplying its actual reimbursement premium
73 by the applicable adjusted retention multiple.

74 4. For insurers who experience multiple covered events
75 causing loss during the contract year, beginning June 1, 2005,
76 each insurer's full retention shall be applied to each of the
77 covered events causing the two largest losses for that insurer.
78 For each other covered event resulting in losses, the insurer's
79 retention shall be reduced to one-third of the full retention.
80 The reimbursement contract must ~~shall~~ provide for the
81 reimbursement of losses for each covered event based on the full
82 retention with adjustments made to reflect the reduced
83 retentions on or after January 1 of the contract year provided
84 the insurer reports its losses as specified in the reimbursement
85 contract.

86 (4) REIMBURSEMENT CONTRACTS.—

87 (b)1. The contract shall contain a promise by the board to
88 reimburse the insurer for a specified percentage ~~45 percent, 75~~
89 ~~percent, or 90 percent~~ of its losses from each covered event in
90 excess of the insurer's retention, plus 5 percent of the
91 reimbursed losses to cover loss adjustment expenses. The
92 available coverage levels are as follows:

93 a. For the 2012-2013 contract year, 90 percent, 75 percent,
94 and 45 percent.

95 b. For the 2013-2014 contract year, 85 percent, 75 percent,
96 and 45 percent.

97 c. For the 2014-2015 contract year, 80 percent, 75 percent,
98 and 45 percent.

99 2.a. The insurer must elect one of the percentage coverage
100 levels specified in this paragraph and may, upon renewal of a



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101 reimbursement contract, elect a lower percentage coverage level
102 if no revenue bonds issued under subsection (6) after a covered
103 event are outstanding, or elect a higher percentage coverage
104 level, regardless of whether or not revenue bonds are
105 outstanding. All members of an insurer group must elect the same
106 percentage coverage level. A ~~Any~~ joint underwriting association,
107 risk apportionment plan, or other entity created under s.
108 627.351 must elect the maximum ~~90-percent~~ coverage level
109 available under subparagraph 1.

110 b. In order to implement the phase-in of reduced coverage
111 levels as provided in subparagraph 1., and notwithstanding sub-
112 paragraph a., if revenue bonds issued under subsection (6)
113 after a covered event are outstanding and the insurer has
114 elected the maximum coverage level available under subparagraph
115 1., the insurer must, upon renewal of the reimbursement
116 contract, elect the maximum coverage level available under
117 subparagraph 1. for the renewal contract year.

118 3. The contract must ~~shall~~ provide that reimbursement
119 amounts ~~shall~~ not be reduced by reinsurance paid or payable to
120 the insurer from other sources.

121 4. Notwithstanding any other provision ~~contained~~ in this
122 section, the board shall make available to insurers that
123 purchased coverage provided by this subparagraph in 2008,
124 insurers qualifying as limited apportionment companies under s.
125 627.351(6)(c), and insurers that have been approved to
126 participate in the Insurance Capital Build-Up Incentive Program
127 pursuant to s. 215.5595 a contract or contract addendum that
128 provides an additional amount of reimbursement coverage of up to
129 \$10 million. The premium to be charged for this additional



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130 reimbursement coverage shall be 50 percent of the additional
131 reimbursement coverage provided, which must ~~shall~~ include one
132 prepaid reinstatement. The minimum retention level that an
133 eligible participating insurer must retain associated with this
134 additional coverage layer is 30 percent of the insurer's surplus
135 ~~as of December 31, 2008, for the 2009-2010 contract year; as of~~
136 ~~December 31, 2009, for the 2010-2011 contract year; and as of~~
137 December 31, 2010, for the 2011-2012 contract year. This
138 coverage is ~~shall be~~ in addition to all other coverage that may
139 be provided under this section. The coverage provided by the
140 fund under this subparagraph is ~~shall be~~ in addition to the
141 claims-paying capacity as defined in subparagraph (c)1., but
142 only with respect to those insurers that select the additional
143 coverage option and meet the requirements of this subparagraph.
144 The claims-paying capacity with respect to all other
145 participating insurers and limited apportionment companies that
146 do not select the additional coverage option shall be limited to
147 their reimbursement premium's proportionate share of the actual
148 claims-paying capacity otherwise defined in subparagraph (c)1.
149 and as provided for under the terms of the reimbursement
150 contract. The optional coverage retention as specified shall be
151 accessed before the mandatory coverage under the reimbursement
152 contract, but once the limit of coverage selected under this
153 option is exhausted, the insurer's retention under the mandatory
154 coverage applies ~~will apply~~. This coverage will apply and be
155 paid concurrently with mandatory coverage. This subparagraph
156 expires on May 31, 2012.

157 (c)1. The contract must ~~shall~~ also provide that the
158 obligation of the board with respect to all contracts covering a



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159 particular contract year ~~shall~~ not exceed the actual claims-
160 paying capacity of the fund up to the limit specified in this
161 subparagraph.

162 a. For the 2012-2013 contract year, the limit is \$17
163 billion.

164 b. For the 2013-2014 contract year, the limit is \$16
165 billion.

166 c. For the 2014-2015 contract year, the limit is \$15
167 billion.

168 d. For contract years after the 2014-2015 contract year, if
169 a limit of \$17 billion for that contract year, unless the board
170 determines that there is sufficient estimated claims-paying
171 capacity to provide \$15 \$17 billion of capacity for the current
172 contract year and an additional \$15 \$17 billion of capacity for
173 subsequent contract years. If the board makes such a
174 determination, the estimated claims-paying capacity for the
175 particular contract year shall be determined by adding to the
176 \$15 \$17 billion limit one-half of the fund's estimated claims-
177 paying capacity in excess of \$30 \$34 billion. However, the
178 dollar growth in the limit may not increase in any year by an
179 amount greater than the dollar growth of the balance of the fund
180 as of December 31, less any premiums or interest attributable to
181 optional coverage, as defined by rule, which occurred over the
182 prior calendar year.

183 2. In May and October of the contract year, the board shall
184 publish in the Florida Administrative Weekly a statement of the
185 fund's estimated borrowing capacity, the fund's estimated
186 claims-paying capacity, and the projected balance of the fund as
187 of December 31. After the end of each calendar year, the board



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188 shall notify insurers of the estimated borrowing capacity,
189 estimated claims-paying capacity, and the balance of the fund as
190 of December 31 to provide insurers with data necessary to assist
191 them in determining their retention and projected payout from
192 the fund for loss reimbursement purposes. In conjunction with
193 the development of the premium formula, as provided ~~for~~ in
194 subsection (5), the board shall publish factors or multiples
195 that assist insurers in determining their retention and
196 projected payout for the next contract year. For all regulatory
197 and reinsurance purposes, an insurer may calculate its projected
198 payout from the fund as its share of the total fund premium for
199 the current contract year multiplied by the sum of the projected
200 balance of the fund as of December 31 and the estimated
201 borrowing capacity for that contract year as reported under this
202 subparagraph.

203 (5) REIMBURSEMENT PREMIUMS.—

204 (b) The State Board of Administration shall select an
205 independent consultant to develop a formula for determining the
206 actuarially indicated premium to be paid to the fund. The
207 formula shall specify, for each zip code or other limited
208 geographical area, the amount of premium to be paid by an
209 insurer for each \$1,000 of insured value under covered policies
210 in that zip code or other area. In establishing premiums, the
211 board shall consider the coverage elected under paragraph (4) (b)
212 and any factors that tend to enhance the actuarial
213 sophistication of ratemaking for the fund, including
214 deductibles, type of construction, type of coverage provided,
215 relative concentration of risks, and other such factors deemed
216 by the board to be appropriate.



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217 1. The formula must provide for a cash build-up factor as
218 follows:. ~~For the 2009-2010 contract year, the factor is 5~~
219 ~~percent. For the 2010-2011 contract year, the factor is 10~~
220 ~~percent.~~

221 a. For the 2011-2012 contract year, the factor is 15
222 percent.

223 b. For the 2012-2013 contract year, the factor is 20
224 percent.

225 c. For the 2013-2014 contract year ~~and thereafter~~, the
226 factor is 25 percent.

227 2. The formula may provide ~~for~~ a procedure to determine the
228 premiums to be paid by new insurers that begin writing covered
229 policies after the beginning of a contract year, taking into
230 consideration when the insurer starts writing covered policies,
231 the potential exposure of the insurer, the potential exposure of
232 the fund, the administrative costs to the insurer and to the
233 fund, and any other factors deemed appropriate by the board. The
234 formula must be approved by unanimous vote of the board. The
235 board may, at any time, revise the formula pursuant to the
236 procedure provided in this paragraph.

237 (6) REVENUE BONDS.—

238 (d) State Board of Administration ~~Florida Hurricane~~
239 ~~Catastrophe Fund Finance Corporation.~~—

240 1. In addition to the findings and declarations in
241 subsection (1), the Legislature also finds and declares that:

242 a. The public benefits corporation created under this
243 paragraph shall ~~will~~ provide a mechanism necessary for the cost-
244 effective and efficient issuance of bonds. This mechanism will
245 eliminate unnecessary costs in the bond issuance process,



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246 thereby increasing the amounts available to pay reimbursement
247 for losses to property sustained as a result of hurricane
248 damage.

249 b. The purpose of such bonds is to fund reimbursements
250 through the Florida Hurricane Catastrophe Fund to pay for the
251 costs of construction, reconstruction, repair, restoration, and
252 other costs associated with damage to properties of
253 policyholders of covered policies due to the occurrence of a
254 hurricane.

255 c. The efficacy of the financing mechanism will be enhanced
256 by the corporation's ownership of the assessments, by insulating
257 ~~the insulation of~~ the assessments from possible bankruptcy
258 proceedings, and by covenants of the state with the
259 corporation's bondholders.

260 ~~2.a.~~ There is created a public benefits corporation, which
261 is an instrumentality of the state, to be known as the State
262 Board of Administration Florida Hurricane Catastrophe Fund
263 Finance Corporation.

264 ~~a.b.~~ The corporation shall operate under a five-member
265 board of directors consisting of the Governor or a designee, the
266 Chief Financial Officer or a designee, the Attorney General or a
267 designee, the director of the Division of Bond Finance of the
268 State Board of Administration, and the Chief Operating Officer
269 ~~senior employee of the State Board of Administration responsible~~
270 ~~for operations~~ of the Florida Hurricane Catastrophe Fund.

271 ~~b.e.~~ The corporation has all of the powers of corporations
272 under chapter 607 and under chapter 617, subject only to the
273 provisions of this subsection.

274 ~~c.d.~~ The corporation may issue bonds and engage in such



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275 other financial transactions as are necessary to provide
276 sufficient funds to achieve the purposes of this section.

277 ~~d.e.~~ The corporation may invest in any of the investments
278 authorized under s. 215.47.

279 ~~e.f.~~ There shall be no liability on the part of, and no
280 cause of action shall arise against, any board members or
281 employees of the corporation for any actions taken by them in
282 the performance of their duties under this paragraph.

283 3.a. In actions under chapter 75 to validate any bonds
284 issued by the corporation, the notice required by s. 75.06 shall
285 be published only in Leon County and in two newspapers of
286 general circulation in the state, and the complaint and order of
287 the court shall be served only on the State Attorney of the
288 Second Judicial Circuit.

289 b. The state hereby covenants with holders of bonds of the
290 corporation that the state will not repeal or abrogate the power
291 of the board to direct the Office of Insurance Regulation to
292 levy the assessments and to collect the proceeds of the revenues
293 pledged to the payment of such bonds as long as any such bonds
294 remain outstanding unless adequate provision has been made for
295 the payment of such bonds pursuant to the documents authorizing
296 the issuance of such bonds.

297 4. The bonds of the corporation are not a debt of the state
298 or of any political subdivision, and neither the state nor any
299 political subdivision is liable on such bonds. The corporation
300 does not have the power to pledge the credit, the revenues, or
301 the taxing power of the state or of any political subdivision.
302 The credit, revenues, or taxing power of the state or of any
303 political subdivision shall not be deemed to be pledged to the



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304 payment of any bonds of the corporation.

305 5.a. The property, revenues, and other assets of the
306 corporation; the transactions and operations of the corporation
307 and the income from such transactions and operations; and all
308 bonds issued under this paragraph and interest on such bonds are
309 exempt from taxation by the state and any political subdivision,
310 including the intangibles tax under chapter 199 and the income
311 tax under chapter 220. This exemption does not apply to any tax
312 imposed by chapter 220 on interest, income, or profits on debt
313 obligations owned by corporations other than the State Board of
314 Administration Florida Hurricane Catastrophe Fund Finance
315 Corporation.

316 b. All bonds of the corporation shall be and constitute
317 legal investments without limitation for all public bodies of
318 this state; for all banks, trust companies, savings banks,
319 savings associations, savings and loan associations, and
320 investment companies; for all administrators, executors,
321 trustees, and other fiduciaries; for all insurance companies and
322 associations and other persons carrying on an insurance
323 business; and for all other persons who are now or may hereafter
324 be authorized to invest in bonds or other obligations of the
325 state and shall be and constitute eligible securities to be
326 deposited as collateral for the security of any state, county,
327 municipal, or other public funds. This sub-subparagraph shall be
328 considered as additional and supplemental authority and shall
329 not be limited without specific reference to this sub-
330 subparagraph.

331 6. The corporation and its corporate existence shall
332 continue until terminated by law; however, ~~ne~~ such law will not



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333 ~~shall~~ take effect if ~~as long as~~ the corporation has bonds
334 outstanding unless adequate provision has been made for the
335 payment of such bonds pursuant to the documents authorizing the
336 issuance of such bonds. Upon termination of the ~~existence of the~~
337 corporation, all of its rights and properties in excess of its
338 obligations shall pass to and be vested in the state.

339 7. The State Board of Administration Finance Corporation is
340 for all purposes the successor to the Florida Hurricane
341 Catastrophe Fund Finance Corporation.

342 Section 2. Effective July 1, 2012, paragraphs (b), (c),
343 (q), and (w) of subsection (6) of section 627.351, Florida
344 Statutes, are amended to read:

345 627.351 Insurance risk apportionment plans.—

346 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

347 (b)1. All insurers authorized to write one or more subject
348 lines of business in this state are subject to assessment by the
349 corporation and, for the purposes of this subsection, are
350 referred to collectively as "assessable insurers." Insurers
351 writing one or more subject lines of business in this state
352 pursuant to part VIII of chapter 626 are not assessable
353 insurers, but insureds who procure one or more subject lines of
354 business in this state pursuant to part VIII of chapter 626 are
355 subject to assessment by the corporation and are referred to
356 collectively as "assessable insureds." An insurer's assessment
357 liability begins on the first day of the calendar year following
358 the year in which the insurer was issued a certificate of
359 authority to transact insurance for subject lines of business in
360 this state and terminates 1 year after the end of the first
361 calendar year during which the insurer no longer holds a



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362 certificate of authority to transact insurance for subject lines
363 of business in this state.

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

367 (I) A personal lines account for personal residential
368 policies issued by the corporation, or issued by the Residential
369 Property and Casualty Joint Underwriting Association and renewed
370 by the corporation, which provides comprehensive, multiperil
371 coverage on risks that are not located in areas eligible for
372 coverage by the Florida Windstorm Underwriting Association as
373 those areas were defined on January 1, 2002, and for policies
374 that do not provide coverage for the peril of wind on risks that
375 are located in such areas;

376 (II) A commercial lines account for commercial residential
377 and commercial nonresidential policies issued by the
378 corporation, or issued by the Residential Property and Casualty
379 Joint Underwriting Association and renewed by the corporation,
380 which provides coverage for basic property perils on risks that
381 are not located in areas eligible for coverage by the Florida
382 Windstorm Underwriting Association as those areas were defined
383 on January 1, 2002, and for policies that do not provide
384 coverage for the peril of wind on risks that are located in such
385 areas; and

386 (III) A coastal account for personal residential policies
387 and commercial residential and commercial nonresidential
388 property policies issued by the corporation, or transferred to
389 the corporation, which provides coverage for the peril of wind
390 on risks that are located in areas eligible for coverage by the



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391 Florida Windstorm Underwriting Association as those areas were
392 defined on January 1, 2002. The corporation may offer policies
393 that provide multiperil coverage and the corporation shall
394 continue to offer policies that provide coverage only for the
395 peril of wind for risks located in areas eligible for coverage
396 in the coastal account. In issuing multiperil coverage, the
397 corporation may use its approved policy forms and rates for the
398 personal lines account. An applicant or insured who is eligible
399 to purchase a multiperil policy from the corporation may
400 purchase a multiperil policy from an authorized insurer without
401 prejudice to the applicant's or insured's eligibility to
402 prospectively purchase a policy that provides coverage only for
403 the peril of wind from the corporation. An applicant or insured
404 who is eligible for a corporation policy that provides coverage
405 only for the peril of wind may elect to purchase or retain such
406 policy and also purchase or retain coverage excluding wind from
407 an authorized insurer without prejudice to the applicant's or
408 insured's eligibility to prospectively purchase a policy that
409 provides multiperil coverage from the corporation. It is the
410 goal of the Legislature that there be an overall average savings
411 of 10 percent or more for a policyholder who currently has a
412 wind-only policy with the corporation, and an ex-wind policy
413 with a voluntary insurer or the corporation, and who obtains a
414 multiperil policy from the corporation. It is the intent of the
415 Legislature that the offer of multiperil coverage in the coastal
416 account be made and implemented in a manner that does not
417 adversely affect the tax-exempt status of the corporation or
418 creditworthiness of or security for currently outstanding
419 financing obligations or credit facilities of the coastal



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420 account, the personal lines account, or the commercial lines
421 account. The coastal account must also include quota share
422 primary insurance under subparagraph (c)2. The area eligible for
423 coverage under the coastal account also includes the area within
424 Port Canaveral, which is bordered on the south by the City of
425 Cape Canaveral, bordered on the west by the Banana River, and
426 bordered on the north by Federal Government property.

427 b. The three separate accounts must be maintained as long
428 as financing obligations entered into by the Florida Windstorm
429 Underwriting Association or Residential Property and Casualty
430 Joint Underwriting Association are outstanding, in accordance
431 with the terms of the corresponding financing documents. If the
432 financing obligations are no longer outstanding, the corporation
433 may use a single account for all revenues, assets, liabilities,
434 losses, and expenses of the corporation. Consistent with this
435 subparagraph and prudent investment policies that minimize the
436 cost of carrying debt, the board shall exercise its best efforts
437 to retire existing debt or obtain the approval of necessary
438 parties to amend the terms of existing debt, so as to structure
439 the most efficient plan to consolidate the three separate
440 accounts into a single account.

441 c. Creditors of the Residential Property and Casualty Joint
442 Underwriting Association and the accounts specified in sub-sub-
443 subparagraphs a.(I) and (II) may have a claim against, and
444 recourse to, those accounts and no claim against, or recourse
445 to, the account referred to in sub-sub-subparagraph a.(III).
446 Creditors of the Florida Windstorm Underwriting Association have
447 a claim against, and recourse to, the account referred to in
448 sub-sub-subparagraph a.(III) and no claim against, or recourse



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449 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
450 (II).

451 d. Revenues, assets, liabilities, losses, and expenses not
452 attributable to particular accounts shall be prorated among the
453 accounts.

454 e. The Legislature finds that the revenues of the
455 corporation are revenues that are necessary to meet the
456 requirements set forth in documents authorizing the issuance of
457 bonds under this subsection.

458 f. ~~No part of~~ The income of the corporation may not inure
459 to the benefit of any private person.

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

461 a. After accounting for the Citizens policyholder surcharge
462 imposed under sub-subparagraph i. h., if the remaining projected
463 deficit incurred in the coastal account in a particular calendar
464 year:

465 (I) Is not greater than 2 ½ percent of the aggregate
466 statewide direct written premium for the subject lines of
467 business for the prior calendar year, the entire deficit shall
468 be recovered through regular assessments of assessable insurers
469 under paragraph (q) and assessable insureds.

470 (II) Exceeds 2 ½ percent of the aggregate statewide direct
471 written premium for the subject lines of business for the prior
472 calendar year, the corporation shall levy regular assessments on
473 assessable insurers under paragraph (q) and on assessable
474 insureds in an amount equal to the greater of 2 ½ percent of the
475 projected deficit or 2 ½ percent of the aggregate statewide
476 direct written premium for the subject lines of business for the
477 prior calendar year. Any remaining projected deficit shall be



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478 recovered through emergency assessments under sub-subparagraph
479 d. ~~e.~~

480 b. Each assessable insurer's share of the amount being
481 assessed under sub-subparagraph a. must be in the proportion
482 that the assessable insurer's direct written premium for the
483 subject lines of business for the year preceding the assessment
484 bears to the aggregate statewide direct written premium for the
485 subject lines of business for that year. The assessment
486 percentage applicable to each assessable insured is the ratio of
487 the amount being assessed under sub-subparagraph a. to the
488 aggregate statewide direct written premium for the subject lines
489 of business for the prior year. Assessments levied by the
490 corporation on assessable insurers under sub-subparagraph a.
491 must be paid as required by the corporation's plan of operation
492 and paragraph (q). Assessments levied by the corporation on
493 assessable insureds under sub-subparagraph a. shall be collected
494 by the surplus lines agent at the time the surplus lines agent
495 collects the surplus lines tax required by s. 626.932, and paid
496 to the Florida Surplus Lines Service Office at the time the
497 surplus lines agent pays the surplus lines tax to that office.
498 Upon receipt of regular assessments from surplus lines agents,
499 the Florida Surplus Lines Service Office shall transfer the
500 assessments directly to the corporation as determined by the
501 corporation.

502 c. After accounting for the Citizens policyholder surcharge
503 imposed under sub-subparagraph i., the remaining projected
504 deficits in the personal lines account and in the commercial
505 lines account in a particular calendar year shall be recovered
506 through emergency assessments under sub-subparagraph d.



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507 ~~d.e.~~ Upon a determination by the board of governors that a
508 projected deficit in an account exceeds the amount that is
509 expected to ~~will~~ be recovered through regular assessments under
510 sub-subparagraph a., plus the amount that is expected to be
511 recovered through surcharges under sub-subparagraph i. ~~h.~~, the
512 board, after verification by the office, shall levy emergency
513 assessments for as many years as necessary to cover the
514 deficits, to be collected by assessable insurers and the
515 corporation and collected from assessable insureds upon issuance
516 or renewal of policies for subject lines of business, excluding
517 National Flood Insurance policies. The amount collected in a
518 particular year must be a uniform percentage of that year's
519 direct written premium for subject lines of business and all
520 accounts of the corporation, excluding National Flood Insurance
521 Program policy premiums, as annually determined by the board and
522 verified by the office. The office shall verify the arithmetic
523 calculations involved in the board's determination within 30
524 days after receipt of the information on which the determination
525 was based. The office shall notify assessable insurers and the
526 Florida Surplus Lines Service Office of the date on which
527 assessable insurers shall begin to collect and assessable
528 insureds shall begin to pay such assessment. The date may be not
529 less than 90 days after the date the corporation levies
530 emergency assessments pursuant to this sub-subparagraph.
531 Notwithstanding any other provision of law, the corporation and
532 each assessable insurer that writes subject lines of business
533 shall collect emergency assessments from its policyholders
534 without such obligation being affected by any credit,
535 limitation, exemption, or deferment. Emergency assessments



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536 levied by the corporation on assessable insureds shall be
537 collected by the surplus lines agent at the time the surplus
538 lines agent collects the surplus lines tax required by s.
539 626.932 and paid to the Florida Surplus Lines Service Office at
540 the time the surplus lines agent pays the surplus lines tax to
541 that office. The emergency assessments collected shall be
542 transferred directly to the corporation on a periodic basis as
543 determined by the corporation and held by the corporation solely
544 in the applicable account. The aggregate amount of emergency
545 assessments levied for an account under this sub-subparagraph in
546 any calendar year may be less than but not exceed the greater of
547 10 percent of the amount needed to cover the deficit, plus
548 interest, fees, commissions, required reserves, and other costs
549 associated with financing the original deficit, or 10 percent of
550 the aggregate statewide direct written premium for subject lines
551 of business and all accounts of the corporation for the prior
552 year, plus interest, fees, commissions, required reserves, and
553 other costs associated with financing the deficit.

554 ~~e.d.~~ The corporation may pledge the proceeds of
555 assessments, projected recoveries from the Florida Hurricane
556 Catastrophe Fund, other insurance and reinsurance recoverables,
557 policyholder surcharges and other surcharges, and other funds
558 available to the corporation as the source of revenue for and to
559 secure bonds issued under paragraph (q), bonds or other
560 indebtedness issued under subparagraph (c)3., or lines of credit
561 or other financing mechanisms issued or created under this
562 subsection, or to retire any other debt incurred as a result of
563 deficits or events giving rise to deficits, or in any other way
564 that the board determines will efficiently recover such



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565 deficits. The purpose of the lines of credit or other financing
566 mechanisms is to provide additional resources to assist the
567 corporation in covering claims and expenses attributable to a
568 catastrophe. As used in this subsection, the term "assessments"
569 includes regular assessments under sub-subparagraph a. or
570 subparagraph (q)1. and emergency assessments under sub-
571 subparagraph d. Emergency assessments collected under sub-
572 subparagraph d. are not part of an insurer's rates, are not
573 premium, and are not subject to premium tax, fees, or
574 commissions; however, failure to pay the emergency assessment
575 shall be treated as failure to pay premium. The emergency
576 assessments under sub-subparagraph d. ~~e.~~ shall continue as long
577 as any bonds issued or other indebtedness incurred with respect
578 to a deficit for which the assessment was imposed remain
579 outstanding, unless adequate provision has been made for the
580 payment of such bonds or other indebtedness pursuant to the
581 documents governing such bonds or indebtedness.

582 f.e. As used in this subsection for purposes of any deficit
583 incurred on or after January 25, 2007, the term "subject lines
584 of business" means insurance written by assessable insurers or
585 procured by assessable insureds for all property and casualty
586 lines of business in this state, but not including workers'
587 compensation or medical malpractice. As used in this sub-
588 subparagraph, the term "property and casualty lines of business"
589 includes all lines of business identified on Form 2, Exhibit of
590 Premiums and Losses, in the annual statement required of
591 authorized insurers under s. 624.424 and any rule adopted under
592 this section, except for those lines identified as accident and
593 health insurance and except for policies written under the



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594 National Flood Insurance Program or the Federal Crop Insurance
595 Program. For purposes of this sub-subparagraph, the term
596 "workers' compensation" includes both workers' compensation
597 insurance and excess workers' compensation insurance.

598 ~~g.f.~~ The Florida Surplus Lines Service Office shall
599 determine annually the aggregate statewide written premium in
600 subject lines of business procured by assessable insureds and
601 report that information to the corporation in a form and at a
602 time the corporation specifies to ensure that the corporation
603 can meet the requirements of this subsection and the
604 corporation's financing obligations.

605 ~~h.g.~~ The Florida Surplus Lines Service Office shall verify
606 the proper application by surplus lines agents of assessment
607 percentages for regular assessments and emergency assessments
608 levied under this subparagraph on assessable insureds and assist
609 the corporation in ensuring the accurate, timely collection and
610 payment of assessments by surplus lines agents as required by
611 the corporation.

612 ~~i.h. If a deficit is incurred in any account~~ In 2008 or
613 thereafter, upon a determination by the board of governors that
614 an account has a projected deficit, the board shall levy a
615 Citizens policyholder surcharge against all policyholders of the
616 corporation.

617 (I) The surcharge shall be levied as a uniform percentage
618 of the premium for the policy of up to 15 percent of such
619 premium, which funds shall be used to offset the deficit.

620 (II) The surcharge is payable upon cancellation or
621 termination of the policy, upon renewal of the policy, or upon
622 issuance of a new policy by the corporation within the first 12



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623 months after the date of the levy or the period of time
624 necessary to fully collect the surcharge amount.

625 (III) The corporation may not levy any regular assessments
626 under paragraph (q) pursuant to sub-subparagraph a. or sub-
627 subparagraph b. with respect to a particular year's deficit
628 until the corporation has first levied the full amount of the
629 surcharge authorized by this sub-subparagraph.

630 (IV) The surcharge is not considered premium and is not
631 subject to commissions, fees, or premium taxes. However, failure
632 to pay the surcharge shall be treated as failure to pay premium.

633 ~~j.i.~~ If the amount of any assessments or surcharges
634 collected from corporation policyholders, assessable insurers or
635 their policyholders, or assessable insureds exceeds the amount
636 of the deficits, such excess amounts shall be remitted to and
637 retained by the corporation in a reserve to be used by the
638 corporation, as determined by the board of governors and
639 approved by the office, to pay claims or reduce any past,
640 present, or future plan-year deficits or to reduce outstanding
641 debt.

642 (c) The corporation's plan of operation:

643 1. Must provide for adoption of residential property and
644 casualty insurance policy forms and commercial residential and
645 nonresidential property insurance forms, which must be approved
646 by the office before use. The corporation shall adopt the
647 following policy forms:

648 a. Standard personal lines policy forms that are
649 comprehensive multiperil policies providing full coverage of a
650 residential property equivalent to the coverage provided in the
651 private insurance market under an HO-3, HO-4, or HO-6 policy.



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652 b. Basic personal lines policy forms that are policies
653 similar to an HO-8 policy or a dwelling fire policy that provide
654 coverage meeting the requirements of the secondary mortgage
655 market, but which is more limited than the coverage under a
656 standard policy.

657 c. Commercial lines residential and nonresidential policy
658 forms that are generally similar to the basic perils of full
659 coverage obtainable for commercial residential structures and
660 commercial nonresidential structures in the admitted voluntary
661 market.

662 d. Personal lines and commercial lines residential property
663 insurance forms that cover the peril of wind only. The forms are
664 applicable only to residential properties located in areas
665 eligible for coverage under the coastal account referred to in
666 sub-subparagraph (b)2.a.

667 e. Commercial lines nonresidential property insurance forms
668 that cover the peril of wind only. The forms are applicable only
669 to nonresidential properties located in areas eligible for
670 coverage under the coastal account referred to in sub-
671 subparagraph (b)2.a.

672 f. The corporation may adopt variations of the policy forms
673 listed in sub-subparagraphs a.-e. which contain more restrictive
674 coverage.

675 2. Must provide that the corporation adopt a program in
676 which the corporation and authorized insurers enter into quota
677 share primary insurance agreements for hurricane coverage, as
678 defined in s. 627.4025(2)(a), for eligible risks, and adopt
679 property insurance forms for eligible risks which cover the
680 peril of wind only.



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681 a. As used in this subsection, the term:

682 (I) "Quota share primary insurance" means an arrangement in
683 which the primary hurricane coverage of an eligible risk is
684 provided in specified percentages by the corporation and an
685 authorized insurer. The corporation and authorized insurer are
686 each solely responsible for a specified percentage of hurricane
687 coverage of an eligible risk as set forth in a quota share
688 primary insurance agreement between the corporation and an
689 authorized insurer and the insurance contract. The
690 responsibility of the corporation or authorized insurer to pay
691 its specified percentage of hurricane losses of an eligible
692 risk, as set forth in the agreement, may not be altered by the
693 inability of the other party to pay its specified percentage of
694 losses. Eligible risks that are provided hurricane coverage
695 through a quota share primary insurance arrangement must be
696 provided policy forms that set forth the obligations of the
697 corporation and authorized insurer under the arrangement,
698 clearly specify the percentages of quota share primary insurance
699 provided by the corporation and authorized insurer, and
700 conspicuously and clearly state that the authorized insurer and
701 the corporation may not be held responsible beyond their
702 specified percentage of coverage of hurricane losses.

703 (II) "Eligible risks" means personal lines residential and
704 commercial lines residential risks that meet the underwriting
705 criteria of the corporation and are located in areas that were
706 eligible for coverage by the Florida Windstorm Underwriting
707 Association on January 1, 2002.

708 b. The corporation may enter into quota share primary
709 insurance agreements with authorized insurers at corporation



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710 coverage levels of 90 percent and 50 percent.

711 c. If the corporation determines that additional coverage
712 levels are necessary to maximize participation in quota share
713 primary insurance agreements by authorized insurers, the
714 corporation may establish additional coverage levels. However,
715 the corporation's quota share primary insurance coverage level
716 may not exceed 90 percent.

717 d. Any quota share primary insurance agreement entered into
718 between an authorized insurer and the corporation must provide
719 for a uniform specified percentage of coverage of hurricane
720 losses, by county or territory as set forth by the corporation
721 board, for all eligible risks of the authorized insurer covered
722 under the agreement.

723 e. Any quota share primary insurance agreement entered into
724 between an authorized insurer and the corporation is subject to
725 review and approval by the office. However, such agreement shall
726 be authorized only as to insurance contracts entered into
727 between an authorized insurer and an insured who is already
728 insured by the corporation for wind coverage.

729 f. For all eligible risks covered under quota share primary
730 insurance agreements, the exposure and coverage levels for both
731 the corporation and authorized insurers shall be reported by the
732 corporation to the Florida Hurricane Catastrophe Fund. For all
733 policies of eligible risks covered under such agreements, the
734 corporation and the authorized insurer must maintain complete
735 and accurate records for the purpose of exposure and loss
736 reimbursement audits as required by fund rules. The corporation
737 and the authorized insurer shall each maintain duplicate copies
738 of policy declaration pages and supporting claims documents.



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739 g. The corporation board shall establish in its plan of
740 operation standards for quota share agreements which ensure that
741 there is no discriminatory application among insurers as to the
742 terms of the agreements, pricing of the agreements, incentive
743 provisions if any, and consideration paid for servicing policies
744 or adjusting claims.

745 h. The quota share primary insurance agreement between the
746 corporation and an authorized insurer must set forth the
747 specific terms under which coverage is provided, including, but
748 not limited to, the sale and servicing of policies issued under
749 the agreement by the insurance agent of the authorized insurer
750 producing the business, the reporting of information concerning
751 eligible risks, the payment of premium to the corporation, and
752 arrangements for the adjustment and payment of hurricane claims
753 incurred on eligible risks by the claims adjuster and personnel
754 of the authorized insurer. Entering into a quota sharing
755 insurance agreement between the corporation and an authorized
756 insurer is voluntary and at the discretion of the authorized
757 insurer.

758 3.a. May provide that the corporation may employ or
759 otherwise contract with individuals or other entities to provide
760 administrative or professional services that may be appropriate
761 to effectuate the plan. The corporation may borrow funds by
762 issuing bonds or by incurring other indebtedness, and shall have
763 other powers reasonably necessary to effectuate the requirements
764 of this subsection, including, without limitation, the power to
765 issue bonds and incur other indebtedness in order to refinance
766 outstanding bonds or other indebtedness. The corporation may
767 seek judicial validation of its bonds or other indebtedness



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768 under chapter 75. The corporation may issue bonds or incur other
769 indebtedness, or have bonds issued on its behalf by a unit of
770 local government pursuant to subparagraph (q)2. in the absence
771 of a hurricane or other weather-related event, upon a
772 determination by the corporation, subject to approval by the
773 office, that such action would enable it to efficiently meet the
774 financial obligations of the corporation and that such
775 financings are reasonably necessary to effectuate the
776 requirements of this subsection. The corporation may take all
777 actions needed to facilitate tax-free status for such bonds or
778 indebtedness, including formation of trusts or other affiliated
779 entities. The corporation may pledge assessments, projected
780 recoveries from the Florida Hurricane Catastrophe Fund, other
781 reinsurance recoverables, policyholder surcharges ~~market~~
782 ~~equalization~~ and other surcharges, and other funds available to
783 the corporation as security for bonds or other indebtedness. In
784 recognition of s. 10, Art. I of the State Constitution,
785 prohibiting the impairment of obligations of contracts, it is
786 the intent of the Legislature that no action be taken whose
787 purpose is to impair any bond indenture or financing agreement
788 or any revenue source committed by contract to such bond or
789 other indebtedness.

790 b. To ensure that the corporation is operating in an
791 efficient and economic manner while providing quality service to
792 policyholders, applicants, and agents, the board shall
793 commission an independent third-party consultant having
794 expertise in insurance company management or insurance company
795 management consulting to prepare a report and make
796 recommendations on the relative costs and benefits of



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797 outsourcing various policy issuance and service functions to
798 private servicing carriers or entities performing similar
799 functions in the private market for a fee, rather than
800 performing such functions in-house. In making such
801 recommendations, the consultant shall consider how other
802 residual markets, both in this state and around the country,
803 outsource appropriate functions or use servicing carriers to
804 better match expenses with revenues that fluctuate based on a
805 widely varying policy count. The report must be completed by
806 July 1, 2012. Upon receiving the report, the board shall develop
807 a plan to implement the report and submit the plan for review,
808 modification, and approval to the Financial Services Commission.
809 Upon the commission's approval of the plan, the board shall
810 begin implementing the plan by January 1, 2013.

811 4. Must require that the corporation operate subject to the
812 supervision and approval of a board of governors consisting of
813 eight individuals who are residents of this state, from
814 different geographical areas of this state.

815 a. The Governor, the Chief Financial Officer, the President
816 of the Senate, and the Speaker of the House of Representatives
817 shall each appoint two members of the board. At least one of the
818 two members appointed by each appointing officer must have
819 demonstrated expertise in insurance and is deemed to be within
820 the scope of the exemption provided in s. 112.313(7)(b). The
821 Chief Financial Officer shall designate one of the appointees as
822 chair. All board members serve at the pleasure of the appointing
823 officer. All members of the board are subject to removal at will
824 by the officers who appointed them. All board members, including
825 the chair, must be appointed to serve for 3-year terms beginning



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826 annually on a date designated by the plan. However, for the
827 first term beginning on or after July 1, 2009, each appointing
828 officer shall appoint one member of the board for a 2-year term
829 and one member for a 3-year term. A board vacancy shall be
830 filled for the unexpired term by the appointing officer. The
831 Chief Financial Officer shall appoint a technical advisory group
832 to provide information and advice to the board in connection
833 with the board's duties under this subsection. The executive
834 director and senior managers of the corporation shall be engaged
835 by the board and serve at the pleasure of the board. Any
836 executive director appointed on or after July 1, 2006, is
837 subject to confirmation by the Senate. The executive director is
838 responsible for employing other staff as the corporation may
839 require, subject to review and concurrence by the board.

840 b. The board shall create a Market Accountability Advisory
841 Committee to assist the corporation in developing awareness of
842 its rates and its customer and agent service levels in
843 relationship to the voluntary market insurers writing similar
844 coverage.

845 (I) The members of the advisory committee consist of the
846 following 11 persons, one of whom must be elected chair by the
847 members of the committee: four representatives, one appointed by
848 the Florida Association of Insurance Agents, one by the Florida
849 Association of Insurance and Financial Advisors, one by the
850 Professional Insurance Agents of Florida, and one by the Latin
851 American Association of Insurance Agencies; three
852 representatives appointed by the insurers with the three highest
853 voluntary market share of residential property insurance
854 business in the state; one representative from the Office of



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855 Insurance Regulation; one consumer appointed by the board who is
856 insured by the corporation at the time of appointment to the
857 committee; one representative appointed by the Florida
858 Association of Realtors; and one representative appointed by the
859 Florida Bankers Association. All members shall be appointed to
860 3-year terms and may serve for consecutive terms.

861 (II) The committee shall report to the corporation at each
862 board meeting on insurance market issues which may include rates
863 and rate competition with the voluntary market; service,
864 including policy issuance, claims processing, and general
865 responsiveness to policyholders, applicants, and agents; and
866 matters relating to depopulation.

867 5. Must provide a procedure for determining the eligibility
868 of a risk for coverage, as follows:

869 a. Subject to s. 627.3517, with respect to personal lines
870 residential risks, if the risk is offered coverage from an
871 authorized insurer at the insurer's approved rate under a
872 standard policy including wind coverage or, if consistent with
873 the insurer's underwriting rules as filed with the office, a
874 basic policy including wind coverage, for a new application to
875 the corporation for coverage, the risk is not eligible for any
876 policy issued by the corporation unless the premium for coverage
877 from the authorized insurer is more than 15 percent greater than
878 the premium for comparable coverage from the corporation. If the
879 risk is not able to obtain such offer, the risk is eligible for
880 a standard policy including wind coverage or a basic policy
881 including wind coverage issued by the corporation; however, if
882 the risk could not be insured under a standard policy including
883 wind coverage regardless of market conditions, the risk is



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884 eligible for a basic policy including wind coverage unless
885 rejected under subparagraph 8. However, a policyholder of the
886 corporation or a policyholder removed from the corporation
887 through an assumption agreement until the end of the assumption
888 period remains eligible for coverage from the corporation
889 regardless of any offer of coverage from an authorized insurer
890 or surplus lines insurer. The corporation shall determine the
891 type of policy to be provided on the basis of objective
892 standards specified in the underwriting manual and based on
893 generally accepted underwriting practices.

894 (I) If the risk accepts an offer of coverage through the
895 market assistance plan or through a mechanism established by the
896 corporation before a policy is issued to the risk by the
897 corporation or during the first 30 days of coverage by the
898 corporation, and the producing agent who submitted the
899 application to the plan or to the corporation is not currently
900 appointed by the insurer, the insurer shall:

901 (A) Pay to the producing agent of record of the policy for
902 the first year, an amount that is the greater of the insurer's
903 usual and customary commission for the type of policy written or
904 a fee equal to the usual and customary commission of the
905 corporation; or

906 (B) Offer to allow the producing agent of record of the
907 policy to continue servicing the policy for at least 1 year and
908 offer to pay the agent the greater of the insurer's or the
909 corporation's usual and customary commission for the type of
910 policy written.

911
912 If the producing agent is unwilling or unable to accept



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913 appointment, the new insurer shall pay the agent in accordance
914 with sub-sub-sub-subparagraph (A).

915 (II) If the corporation enters into a contractual agreement
916 for a take-out plan, the producing agent of record of the
917 corporation policy is entitled to retain any unearned commission
918 on the policy, and the insurer shall:

919 (A) Pay to the producing agent of record, for the first
920 year, an amount that is the greater of the insurer's usual and
921 customary commission for the type of policy written or a fee
922 equal to the usual and customary commission of the corporation;
923 or

924 (B) Offer to allow the producing agent of record to
925 continue servicing the policy for at least 1 year and offer to
926 pay the agent the greater of the insurer's or the corporation's
927 usual and customary commission for the type of policy written.

928
929 If the producing agent is unwilling or unable to accept
930 appointment, the new insurer shall pay the agent in accordance
931 with sub-sub-sub-subparagraph (A).

932 b. With respect to commercial lines residential risks, for
933 a new application to the corporation for coverage, if the risk
934 is offered coverage under a policy including wind coverage from
935 an authorized insurer at its approved rate, the risk is not
936 eligible for a policy issued by the corporation unless the
937 premium for coverage from the authorized insurer is more than 15
938 percent greater than the premium for comparable coverage from
939 the corporation. If the risk is not able to obtain any such
940 offer, the risk is eligible for a policy including wind coverage
941 issued by the corporation. However, a policyholder of the



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942 corporation or a policyholder removed from the corporation
943 through an assumption agreement until the end of the assumption
944 period remains eligible for coverage from the corporation
945 regardless of an offer of coverage from an authorized insurer or
946 surplus lines insurer.

947 (I) If the risk accepts an offer of coverage through the
948 market assistance plan or through a mechanism established by the
949 corporation before a policy is issued to the risk by the
950 corporation or during the first 30 days of coverage by the
951 corporation, and the producing agent who submitted the
952 application to the plan or the corporation is not currently
953 appointed by the insurer, the insurer shall:

954 (A) Pay to the producing agent of record of the policy, for
955 the first year, an amount that is the greater of the insurer's
956 usual and customary commission for the type of policy written or
957 a fee equal to the usual and customary commission of the
958 corporation; or

959 (B) Offer to allow the producing agent of record of the
960 policy to continue servicing the policy for at least 1 year and
961 offer to pay the agent the greater of the insurer's or the
962 corporation's usual and customary commission for the type of
963 policy written.

964
965 If the producing agent is unwilling or unable to accept
966 appointment, the new insurer shall pay the agent in accordance
967 with sub-sub-sub-subparagraph (A).

968 (II) If the corporation enters into a contractual agreement
969 for a take-out plan, the producing agent of record of the
970 corporation policy is entitled to retain any unearned commission



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971 on the policy, and the insurer shall:

972 (A) Pay to the producing agent of record, for the first
973 year, an amount that is the greater of the insurer's usual and
974 customary commission for the type of policy written or a fee
975 equal to the usual and customary commission of the corporation;
976 or

977 (B) Offer to allow the producing agent of record to
978 continue servicing the policy for at least 1 year and offer to
979 pay the agent the greater of the insurer's or the corporation's
980 usual and customary commission for the type of policy written.

981
982 If the producing agent is unwilling or unable to accept
983 appointment, the new insurer shall pay the agent in accordance
984 with sub-sub-sub-subparagraph (A).

985 c. For purposes of determining comparable coverage under
986 sub-subparagraphs a. and b., the comparison must be based on
987 those forms and coverages that are reasonably comparable. The
988 corporation may rely on a determination of comparable coverage
989 and premium made by the producing agent who submits the
990 application to the corporation, made in the agent's capacity as
991 the corporation's agent. A comparison may be made solely of the
992 premium with respect to the main building or structure only on
993 the following basis: the same coverage A or other building
994 limits; the same percentage hurricane deductible that applies on
995 an annual basis or that applies to each hurricane for commercial
996 residential property; the same percentage of ordinance and law
997 coverage, if the same limit is offered by both the corporation
998 and the authorized insurer; the same mitigation credits, to the
999 extent the same types of credits are offered both by the



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1000 corporation and the authorized insurer; the same method for loss
1001 payment, such as replacement cost or actual cash value, if the
1002 same method is offered both by the corporation and the
1003 authorized insurer in accordance with underwriting rules; and
1004 any other form or coverage that is reasonably comparable as
1005 determined by the board. If an application is submitted to the
1006 corporation for wind-only coverage in the coastal account, the
1007 premium for the corporation's wind-only policy plus the premium
1008 for the ex-wind policy that is offered by an authorized insurer
1009 to the applicant must be compared to the premium for multiperil
1010 coverage offered by an authorized insurer, subject to the
1011 standards for comparison specified in this subparagraph. If the
1012 corporation or the applicant requests from the authorized
1013 insurer a breakdown of the premium of the offer by types of
1014 coverage so that a comparison may be made by the corporation or
1015 its agent and the authorized insurer refuses or is unable to
1016 provide such information, the corporation may treat the offer as
1017 not being an offer of coverage from an authorized insurer at the
1018 insurer's approved rate.

1019 6. Must include rules for classifications of risks and
1020 rates.

1021 7. Must provide that if premium and investment income for
1022 an account attributable to a particular calendar year are in
1023 excess of projected losses and expenses for the account
1024 attributable to that year, such excess shall be held in surplus
1025 in the account. Such surplus must be available to defray
1026 deficits in that account as to future years and used for that
1027 purpose before assessing assessable insurers and assessable
1028 insureds as to any calendar year.



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1029 8. Must provide objective criteria and procedures to be
1030 uniformly applied to all applicants in determining whether an
1031 individual risk is so hazardous as to be uninsurable. In making
1032 this determination and in establishing the criteria and
1033 procedures, the following must be considered:

1034 a. Whether the likelihood of a loss for the individual risk
1035 is substantially higher than for other risks of the same class;
1036 and

1037 b. Whether the uncertainty associated with the individual
1038 risk is such that an appropriate premium cannot be determined.

1039

1040 The acceptance or rejection of a risk by the corporation shall
1041 be construed as the private placement of insurance, and the
1042 provisions of chapter 120 do not apply.

1043 9. Must provide that the corporation make its best efforts
1044 to procure catastrophe reinsurance at reasonable rates, to cover
1045 its projected 100-year probable maximum loss as determined by
1046 the board of governors.

1047 10. Must ensure that the policies issued by the corporation
1048 ~~must~~ provide that if the corporation or the market assistance
1049 plan obtains an offer from an authorized insurer to cover the
1050 risk at its approved rates, the risk is no longer eligible for
1051 renewal through the corporation, except as otherwise provided in
1052 this subsection.

1053 11. Must ensure that corporation policies and applications
1054 ~~must~~ include a notice that the corporation policy could, under
1055 this section, be replaced with a policy issued by an authorized
1056 insurer which does not provide coverage identical to the
1057 coverage provided by the corporation. The notice must also



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1058 specify that acceptance of corporation coverage creates a
1059 conclusive presumption that the applicant or policyholder is
1060 aware of this potential.

1061 12. May establish, subject to approval by the office,
1062 different eligibility requirements and operational procedures
1063 for any line or type of coverage for any specified county or
1064 area if the board determines that such changes are justified due
1065 to the voluntary market being sufficiently stable and
1066 competitive in such area or for such line or type of coverage
1067 and that consumers who, in good faith, are unable to obtain
1068 insurance through the voluntary market through ordinary methods
1069 continue to have access to coverage from the corporation. If
1070 coverage is sought in connection with a real property transfer,
1071 the requirements and procedures may not provide an effective
1072 date of coverage later than the date of the closing of the
1073 transfer as established by the transferor, the transferee, and,
1074 if applicable, the lender.

1075 13. Must provide that, with respect to the coastal account,
1076 any assessable insurer with a surplus as to policyholders of \$25
1077 million or less writing 25 percent or more of its total
1078 countrywide property insurance premiums in this state may
1079 petition the office, within the first 90 days of each calendar
1080 year, to qualify as a limited apportionment company. A regular
1081 assessment levied by the corporation on a limited apportionment
1082 company for a deficit incurred by the corporation for the
1083 coastal account may be paid to the corporation on a monthly
1084 basis as the assessments are collected by the limited
1085 apportionment company from its insureds ~~pursuant to s. 627.3512,~~
1086 but a limited apportionment company must begin collecting the



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1087 regular assessments not later than 90 days after the regular
1088 assessments are levied by the corporation, and the regular
1089 assessments ~~assessment~~ must be paid in full within 15 ~~12~~ months
1090 after being levied by the corporation. A limited apportionment
1091 company shall collect from its policyholders any emergency
1092 assessment imposed under sub-subparagraph (b)3.d. The plan must
1093 provide that, if the office determines that any regular
1094 assessment will result in an impairment of the surplus of a
1095 limited apportionment company, the office may direct that all or
1096 part of such assessment be deferred as provided in subparagraph
1097 (q)4. However, an emergency assessment to be collected from
1098 policyholders under sub-subparagraph (b)3.d. may not be limited
1099 or deferred.

1100 14. Must provide that the corporation appoint as its
1101 licensed agents only those agents who also hold an appointment
1102 as defined in s. 626.015(3) with an insurer who at the time of
1103 the agent's initial appointment by the corporation is authorized
1104 to write and is actually writing personal lines residential
1105 property coverage, commercial residential property coverage, or
1106 commercial nonresidential property coverage within the state.

1107 15. Must provide a premium payment plan option to its
1108 policyholders which, at a minimum, allows for quarterly and
1109 semiannual payment of premiums. A monthly payment plan may, but
1110 is not required to, be offered.

1111 16. Must limit coverage on mobile homes or manufactured
1112 homes built before 1994 to actual cash value of the dwelling
1113 rather than replacement costs of the dwelling.

1114 17. May provide such limits of coverage as the board
1115 determines, consistent with the requirements of this subsection.



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1116 18. May require commercial property to meet specified
1117 hurricane mitigation construction features as a condition of
1118 eligibility for coverage.

1119 19. Must provide that new or renewal policies issued by the
1120 corporation on or after January 1, 2012, which cover sinkhole
1121 loss do not include coverage for any loss to appurtenant
1122 structures, driveways, sidewalks, decks, or patios that are
1123 directly or indirectly caused by sinkhole activity. The
1124 corporation shall exclude such coverage using a notice of
1125 coverage change, which may be included with the policy renewal,
1126 and not by issuance of a notice of nonrenewal of the excluded
1127 coverage upon renewal of the current policy.

1128 20. As of January 1, 2012, must require that the agent
1129 obtain from an applicant for coverage from the corporation an
1130 acknowledgement signed by the applicant, which includes, at a
1131 minimum, the following statement:

1132

1133 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE AND ASSESSMENT LIABILITY:

1134

1135 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
1136 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
1137 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
1138 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
1139 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
1140 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
1141 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
1142 LEGISLATURE.

1143 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1144 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER



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1145 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1146 FLORIDA LEGISLATURE.

1147 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1148 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1149 STATE OF FLORIDA.

1150
1151 a. The corporation shall maintain, in electronic format or
1152 otherwise, a copy of the applicant's signed acknowledgement and
1153 provide a copy of the statement to the policyholder as part of
1154 the first renewal after the effective date of this subparagraph.

1155 b. The signed acknowledgement form creates a conclusive
1156 presumption that the policyholder understood and accepted his or
1157 her potential surcharge and assessment liability as a
1158 policyholder of the corporation.

1159 (q)1. The corporation shall certify to the office its needs
1160 for annual assessments as to a particular calendar year, and for
1161 any interim assessments that it deems to be necessary to sustain
1162 operations as to a particular year pending the receipt of annual
1163 assessments. Upon verification, the office shall approve such
1164 certification, and the corporation shall levy such annual or
1165 interim assessments. Such assessments shall be prorated as
1166 provided in paragraph (b). The corporation shall take all
1167 reasonable and prudent steps necessary to collect the amount of
1168 assessments ~~assessment~~ due from each assessable insurer,
1169 including, if prudent, filing suit to collect the assessments,
1170 and the office may provide such assistance to the corporation it
1171 deems appropriate ~~such assessment~~. If the corporation is unable
1172 to collect an assessment from any assessable insurer, the
1173 uncollected assessments shall be levied as an additional



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1174 assessment against the assessable insurers and any assessable
1175 insurer required to pay an additional assessment as a result of
1176 such failure to pay shall have a cause of action against such
1177 nonpaying assessable insurer. Assessments shall be included as
1178 an appropriate factor in the making of rates. The failure of a
1179 surplus lines agent to collect and remit any regular or
1180 emergency assessment levied by the corporation is considered to
1181 be a violation of s. 626.936 and subjects the surplus lines
1182 agent to the penalties provided in that section.

1183 2. The governing body of any unit of local government, any
1184 residents of which are insured by the corporation, may issue
1185 bonds as defined in s. 125.013 or s. 166.101 from time to time
1186 to fund an assistance program, in conjunction with the
1187 corporation, for the purpose of defraying deficits of the
1188 corporation. In order to avoid needless and indiscriminate
1189 proliferation, duplication, and fragmentation of such assistance
1190 programs, any unit of local government, any residents of which
1191 are insured by the corporation, may provide for the payment of
1192 losses, regardless of whether or not the losses occurred within
1193 or outside of the territorial jurisdiction of the local
1194 government. Revenue bonds under this subparagraph may not be
1195 issued until validated pursuant to chapter 75, unless a state of
1196 emergency is declared by executive order or proclamation of the
1197 Governor pursuant to s. 252.36 making such findings as are
1198 necessary to determine that it is in the best interests of, and
1199 necessary for, the protection of the public health, safety, and
1200 general welfare of residents of this state and declaring it an
1201 essential public purpose to permit certain municipalities or
1202 counties to issue such bonds as will permit relief to claimants



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1203 and policyholders of the corporation. Any such unit of local
1204 government may enter into such contracts with the corporation
1205 and with any other entity created pursuant to this subsection as
1206 are necessary to carry out this paragraph. Any bonds issued
1207 under this subparagraph shall be payable from and secured by
1208 moneys received by the corporation from emergency assessments
1209 under sub-subparagraph (b)3.d., and assigned and pledged to or
1210 on behalf of the unit of local government for the benefit of the
1211 holders of such bonds. The funds, credit, property, and taxing
1212 power of the state or of the unit of local government shall not
1213 be pledged for the payment of such bonds.

1214 3.a. The corporation shall adopt one or more programs
1215 subject to approval by the office for the reduction of both new
1216 and renewal writings in the corporation. Beginning January 1,
1217 2008, any program the corporation adopts for the payment of
1218 bonuses to an insurer for each risk the insurer removes from the
1219 corporation shall comply with s. 627.3511(2) and may not exceed
1220 the amount referenced in s. 627.3511(2) for each risk removed.
1221 The corporation may consider any prudent and not unfairly
1222 discriminatory approach to reducing corporation writings, and
1223 may adopt a credit against assessment liability or other
1224 liability that provides an incentive for insurers to take risks
1225 out of the corporation and to keep risks out of the corporation
1226 by maintaining or increasing voluntary writings in counties or
1227 areas in which corporation risks are highly concentrated and a
1228 program to provide a formula under which an insurer voluntarily
1229 taking risks out of the corporation by maintaining or increasing
1230 voluntary writings will be relieved wholly or partially from
1231 assessments under sub-subparagraphs (b)3.a. and b. However, any



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1232 "take-out bonus" or payment to an insurer must be conditioned on
1233 the property being insured for at least 5 years by the insurer,
1234 unless canceled or nonrenewed by the policyholder. If the policy
1235 is canceled or nonrenewed by the policyholder before the end of
1236 the 5-year period, the amount of the take-out bonus must be
1237 prorated for the time period the policy was insured. When the
1238 corporation enters into a contractual agreement for a take-out
1239 plan, the producing agent of record of the corporation policy is
1240 entitled to retain any unearned commission on such policy, and
1241 the insurer shall either:

1242 (I) Pay to the producing agent of record of the policy, for
1243 the first year, an amount which is the greater of the insurer's
1244 usual and customary commission for the type of policy written or
1245 a policy fee equal to the usual and customary commission of the
1246 corporation; or

1247 (II) Offer to allow the producing agent of record of the
1248 policy to continue servicing the policy for a period of not less
1249 than 1 year and offer to pay the agent the insurer's usual and
1250 customary commission for the type of policy written. If the
1251 producing agent is unwilling or unable to accept appointment by
1252 the new insurer, the new insurer shall pay the agent in
1253 accordance with sub-sub-subparagraph (I).

1254 b. Any credit or exemption from regular assessments adopted
1255 under this subparagraph shall last no longer than the 3 years
1256 following the cancellation or expiration of the policy by the
1257 corporation. With the approval of the office, the board may
1258 extend such credits for an additional year if the insurer
1259 guarantees an additional year of renewability for all policies
1260 removed from the corporation, or for 2 additional years if the



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1261 insurer guarantees 2 additional years of renewability for all
1262 policies so removed.

1263 c. There shall be no credit, limitation, exemption, or
1264 deferment from emergency assessments to be collected from
1265 policyholders pursuant to sub-subparagraph (b)3.d.

1266 4. The plan shall provide for the deferment, in whole or in
1267 part, of the assessment of an assessable insurer, other than an
1268 emergency assessment collected from policyholders pursuant to
1269 sub-subparagraph (b)3.d., if the office finds that payment of
1270 the assessment would endanger or impair the solvency of the
1271 insurer. In the event an assessment against an assessable
1272 insurer is deferred in whole or in part, the amount by which
1273 such assessment is deferred may be assessed against the other
1274 assessable insurers in a manner consistent with the basis for
1275 assessments set forth in paragraph (b).

1276 5. Effective July 1, 2007, in order to evaluate the costs
1277 and benefits of approved take-out plans, if the corporation pays
1278 a bonus or other payment to an insurer for an approved take-out
1279 plan, it shall maintain a record of the address or such other
1280 identifying information on the property or risk removed in order
1281 to track if and when the property or risk is later insured by
1282 the corporation.

1283 6. Any policy taken out, assumed, or removed from the
1284 corporation is, as of the effective date of the take-out,
1285 assumption, or removal, direct insurance issued by the insurer
1286 and not by the corporation, even if the corporation continues to
1287 service the policies. This subparagraph applies to policies of
1288 the corporation and not policies taken out, assumed, or removed
1289 from any other entity.



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1290 (w) Notwithstanding any other provision of law:
1291 1. The pledge or sale of, the lien upon, and the security
1292 interest in any rights, revenues, or other assets of the
1293 corporation created or purported to be created pursuant to any
1294 financing documents to secure any bonds or other indebtedness of
1295 the corporation shall be and remain valid and enforceable,
1296 notwithstanding the commencement of and during the continuation
1297 of, and after, any rehabilitation, insolvency, liquidation,
1298 bankruptcy, receivership, conservatorship, reorganization, or
1299 similar proceeding against the corporation under the laws of
1300 this state.
1301 2. The ~~No such~~ proceeding does not shall relieve the
1302 corporation of its obligation, or otherwise affect its ability
1303 to perform its obligation, to continue to collect, or levy and
1304 collect, assessments, policyholder surcharges ~~market~~
1305 ~~equalization~~ or other surcharges under sub-subparagraph (b)3.i.
1306 ~~subparagraph (c)10.~~, or any other rights, revenues, or other
1307 assets of the corporation pledged pursuant to any financing
1308 documents.
1309 3. Each such pledge or sale of, lien upon, and security
1310 interest in, including the priority of such pledge, lien, or
1311 security interest, any such assessments, policyholder surcharges
1312 ~~market equalization~~ or other surcharges, or other rights,
1313 revenues, or other assets which are collected, or levied and
1314 collected, after the commencement of and during the pendency of,
1315 or after, any such proceeding shall continue unaffected by such
1316 proceeding. As used in this subsection, the term "financing
1317 documents" means any agreement or agreements, instrument or
1318 instruments, or other document or documents now existing or



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1319 hereafter created evidencing any bonds or other indebtedness of
1320 the corporation or pursuant to which any such bonds or other
1321 indebtedness has been or may be issued and pursuant to which any
1322 rights, revenues, or other assets of the corporation are pledged
1323 or sold to secure the repayment of such bonds or indebtedness,
1324 together with the payment of interest on such bonds or such
1325 indebtedness, or the payment of any other obligation or
1326 financial product, as defined in the plan of operation of the
1327 corporation related to such bonds or indebtedness.

1328 4. Any such pledge or sale of assessments, revenues,
1329 contract rights, or other rights or assets of the corporation
1330 shall constitute a lien and security interest, or sale, as the
1331 case may be, that is immediately effective and attaches to such
1332 assessments, revenues, or contract rights or other rights or
1333 assets, whether or not imposed or collected at the time the
1334 pledge or sale is made. Any such pledge or sale is effective,
1335 valid, binding, and enforceable against the corporation or other
1336 entity making such pledge or sale, and valid and binding against
1337 and superior to any competing claims or obligations owed to any
1338 other person or entity, including policyholders in this state,
1339 asserting rights in any such assessments, revenues, or contract
1340 rights or other rights or assets to the extent set forth in and
1341 in accordance with the terms of the pledge or sale contained in
1342 the applicable financing documents, whether or not any such
1343 person or entity has notice of such pledge or sale and without
1344 the need for any physical delivery, recordation, filing, or
1345 other action.

1346 5. As long as the corporation has any bonds outstanding,
1347 the corporation may not file a voluntary petition under chapter



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1348 9 of the federal Bankruptcy Code or such corresponding chapter
1349 or sections as may be in effect, from time to time, and a public
1350 officer or any organization, entity, or other person may not
1351 authorize the corporation to be or become a debtor under chapter
1352 9 of the federal Bankruptcy Code or such corresponding chapter
1353 or sections as may be in effect, from time to time, during any
1354 such period.

1355 6. If ordered by a court of competent jurisdiction, the
1356 corporation may assume policies or otherwise provide coverage
1357 for policyholders of an insurer placed in liquidation under
1358 chapter 631, under such forms, rates, terms, and conditions as
1359 the corporation deems appropriate, subject to approval by the
1360 office.

1361 Section 3. Except as otherwise expressly provided in this
1362 act, this act shall take effect upon becoming law.

1363
1364 ===== T I T L E A M E N D M E N T =====

1365 And the title is amended as follows:

1366 Delete everything before the enacting clause
1367 and insert:

1368 A bill to be entitled
1369 An act relating to property insurance; amending s.
1370 215.555, F.S.; revising the definition of "retention";
1371 providing for calculation of an insurer's
1372 reimbursement premium and retention under the
1373 reimbursement contract; revising coverage levels
1374 available under the reimbursement contract; revising
1375 aggregate coverage limits; providing for the phase-in
1376 of changes to coverage levels and limits; amending s.



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1377 627.351, F.S.; conforming cross-references; reducing
1378 to 2 percent from 6 percent the amount of the
1379 projected deficit in the coastal account for the prior
1380 calendar year which is recovered through regular
1381 assessments; requiring that remaining projected
1382 deficits in personal and commercial lines accounts be
1383 recovered through emergency assessments after
1384 accounting for the Citizens policyholder surcharge;
1385 requiring the Office of Insurance Regulation of the
1386 Financial Services Commission to notify assessable
1387 insurers and the Florida Surplus Lines Service Office
1388 of the dates assessable insurers shall collect and pay
1389 emergency assessments; removing reference to
1390 recoupment of residual market deficit assessments;
1391 requiring the board of governors to make a
1392 determination that an account has a projected deficit
1393 before it levies a Citizens policy holder surcharge;
1394 requiring that a limited apportionment company begin
1395 collecting regular assessments within 90 days and pay
1396 in full within 15 months after the assessment is
1397 levied; authorizing the Office of Insurance Regulation
1398 to assist the Citizens Property Insurance Corporation
1399 in the collection of assessments; replacing the term
1400 "market equalization surcharge" with the term
1401 "policyholder surcharge"; providing effective dates.