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LEGISLATIVE ACTION

Senate

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House

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Floor: 17/AD/2R

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04/11/2013 04:23 PM

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Senator Simmons moved the following:

Senate Amendment (with title amendment)

Between lines 2744 and 2745

insert:

Section 15. Section 627.352, Florida Statutes, is created
to read:

627.352 Catastrophe Risk Capital Access Facility.-

(1) LEGISLATIVE FINDINGS AND INTENT.-The Legislature finds
and declares that:

(a) A growing and competitive private sector market for
residential property insurance is in the public interest.

(b) The global market for catastrophe risk has expanded
dramatically, resulting in the availability of billions of



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14 dollars in additional risk capital for insurers and new and
15 innovative alternative risk-transfer mechanisms.

16 (c) Having access to additional risk capital and risk-
17 transfer mechanisms provides an opportunity for property
18 insurers in this state to expand their capacity to write
19 additional business and diversify their catastrophe risk, which
20 will serve the public interest of fostering private sector
21 market growth.

22 (d) Despite an expansion in the amount of available global
23 risk capital, state property insurers in general, and smaller
24 state property insurers in particular, face challenges accessing
25 global markets if the relatively small amount of risk finance
26 required by any one company is not economically viable in the
27 larger global market.

28 (e) It is the intent of the Legislature to establish a
29 self-regulating mechanism to facilitate the access of property
30 insurers generally, and smaller property insurers in particular,
31 to global risk capital markets and risk transfer mechanisms for
32 property risks in this state.

33 (2) FACILITY CREATED.—A nonprofit association, to be known
34 as the Catastrophe Risk Capital Access Facility, is hereby
35 created.

36 (a) The facility must operate pursuant to a plan of
37 operation adopted by the governing board, except that the
38 initial plan of operation shall be recommended by the initial
39 governing board and adopted by the office after consultation
40 with potential participating insurers and other interested
41 parties.

42 (b) The facility is not intended to be, and may not



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43 function as, an insurer, reinsurer, or other risk-bearing
44 entity, and is not a state agency, board, or commission.

45 (3) MEMBERSHIP.—An insurer holding a certificate of
46 authority to transact property insurance in this state is
47 eligible to become a member of the facility. To become a member,
48 an insurer must file a declaration of intent with the office by
49 September 30, 2013.

50 (4) INITIAL GOVERNING BOARD.—

51 (a) Each insurer that timely files a declaration under
52 subsection (3) is a member of the initial governing board of the
53 facility and has a vote proportional to its share of direct
54 premium for property insurance written in this state as of
55 December 31, 2012. At a minimum, three insurers must file a
56 declaration of intent to constitute an initial governing board
57 and activate the facility.

58 (b) The initial governing board must hold its first meeting
59 at a time and place specified by the office. At the first
60 meeting, the initial governing board must elect one of its
61 members to serve as chair.

62 (c) The initial governing board must submit a recommended
63 plan of operation to the office by December 1, 2013. The initial
64 governing board may retain staff or professionals to assist in
65 the preparation of the proposed plan of operation.

66 (d) The functions of the initial governing board terminate
67 upon the election of a governing board as provided in the plan
68 of operation.

69 (5) GOVERNING BOARD.—Beginning on the effective date of the
70 plan of operation, the facility shall operate under a seven-
71 member governing board composed of representatives of member



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72 insurers, appointed as specified in the plan of operation.

73 (6) PLAN OF OPERATION.—The plan of operation:

74 (a) Must specify the following functions of the facility:

75 1. Aggregating the demand of members for risk finance for
76 state property risks from global capital markets.

77 2. Designing and executing risk-transfer tools such as
78 insurance-linked securities and other appropriate instruments
79 for state property risks for members; using special purpose
80 vehicles or onshore or offshore protected cells, as appropriate,
81 to increase members' access to risk capital for state property
82 risks; and making use of any other financial instruments or
83 reinsurance or pooling arrangements that may develop in the
84 market.

85 3. Identifying and coordinating appropriate risk-transfer
86 products and opportunities for state property risks, initially
87 targeting layers of coverage below, alongside, and above the
88 coverage provided by the Florida Hurricane Catastrophe Fund.

89 4. Establishing and maintaining regular and ongoing contact
90 with global risk capital market participants, institutions, and
91 investors in order to identify opportunities that satisfy and
92 coordinate with insurer demand for additional risk capital for
93 state property risks.

94 (b) Must provide that in conducting its affairs, the
95 facility may not:

96 1. Take a position in, or provide financial support for,
97 any risk-transfer transaction.

98 2. Be a guarantor of premium or make any other financial
99 guarantees to a member.

100 3. Enter into any contract on the part of the state or



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101 create any state contractual obligations.
102 4. Impose or levy any taxes, assessments, or similar
103 charges.
104 (c) Must provide for funding the expenses of the facility,
105 including an initial charge that applies to all members and
106 subsequent charges to members on a pro rata basis.
107 (d) Must provide additional annual enrollment periods for
108 eligible insurers to become members of the facility.
109 (e) Must provide for the election and terms of the
110 governing board.
111 (f) May provide for the appointment or retention of staff
112 and professionals as the governing board deems appropriate.
113 (g) Must require the facility to submit a biennial report
114 and annual independent audits to the members of the Financial
115 Services Commission and the presiding officers of the
116 Legislature by December 31 of each even-numbered year beginning
117 in 2014.
118 (7) IMMUNITY FROM LIABILITY.—No liability on the part of,
119 and no cause of action of any nature, may arise against the
120 facility or its agents or employees, the governing board, or the
121 department or office or their representatives for any action
122 taken by them in the performance of their powers and duties
123 under this section.

124
125 ===== T I T L E A M E N D M E N T =====

126 And the title is amended as follows:

127 Delete line 101

128 and insert:

129 program components; providing for expiration; creating



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130 s. 627.352, F.S.; creating the Catastrophe Risk
131 Capital Access Facility to facilitate insurer access
132 to global risk capital markets and risk-transfer
133 mechanisms; providing legislative findings and intent;
134 providing that the facility may not operate as an
135 insurer, reinsurer, or other risk-bearing entity, and
136 is not a state agency, board, or commission; providing
137 for membership; providing for an initial governing
138 board which must submit a proposed plan of operation
139 to the Office of Insurance Regulation by a certain
140 date; providing for termination of the initial board;
141 providing for a permanent board; specifying provisions
142 that must be addressed by the plan of operation;
143 providing immunity from liability for the board;
144 amending