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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
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The Committee on Banking and Insurance (Brandes) recommended the following:

1 **Senate Substitute for Amendment (657704) (with title**
2 **amendment)**

3
4 Delete lines 615 - 980
5 and insert:

6 premium under subparagraph (n)1. for personal residential
7 properties that are not owner-occupied. If the risk is not able
8 to obtain such offer, the risk is eligible for a standard policy
9 including wind coverage or a basic policy including wind
10 coverage issued by the corporation; however, if the risk could



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11 not be insured under a standard policy including wind coverage
12 regardless of market conditions, the risk is eligible for a
13 basic policy including wind coverage unless rejected under
14 subparagraph 8. However, a policyholder removed from the
15 corporation through an assumption agreement remains eligible for
16 coverage from the corporation until the end of the assumption
17 period. The corporation shall determine the type of policy to be
18 provided on the basis of objective standards specified in the
19 underwriting manual and based on generally accepted underwriting
20 practices.

21 (I) If the risk accepts an offer of coverage through the
22 market assistance plan or through a mechanism established by the
23 corporation other than a plan established by s. 627.3518, before
24 a policy is issued to the risk by the corporation or during the
25 first 30 days of coverage by the corporation, and the producing
26 agent who submitted the application to the plan or to the
27 corporation is not currently appointed by the insurer, the
28 insurer shall:

29 (A) Pay to the producing agent of record of the policy for
30 the first year, an amount that is the greater of the insurer's
31 usual and customary commission for the type of policy written or
32 a fee equal to the usual and customary commission of the
33 corporation; or

34 (B) Offer to allow the producing agent of record of the
35 policy to continue servicing the policy for at least 1 year and
36 offer to pay the agent the greater of the insurer's or the
37 corporation's usual and customary commission for the type of
38 policy written.

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40 If the producing agent is unwilling or unable to accept
41 appointment, the new insurer shall pay the agent in accordance
42 with sub-sub-sub-subparagraph (A).

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

47 (A) Pay to the producing agent of record, for the first
48 year, an amount that is the greater of the insurer's usual and
49 customary commission for the type of policy written or a fee
50 equal to the usual and customary commission of the corporation;
51 or

52 (B) Offer to allow the producing agent of record to
53 continue servicing the policy for at least 1 year and offer to
54 pay the agent the greater of the insurer's or the corporation's
55 usual and customary commission for the type of policy written.
56

57 If the producing agent is unwilling or unable to accept
58 appointment, the new insurer shall pay the agent in accordance
59 with sub-sub-sub-subparagraph (A).

60 b. With respect to commercial lines residential risks, for
61 a new application to the corporation for coverage, if the risk
62 is offered coverage under a policy including wind coverage from
63 an authorized insurer at its approved rate, the risk is not
64 eligible for a policy issued by the corporation unless the
65 premium for coverage from the authorized insurer is more than 15
66 percent greater than the premium for comparable coverage from
67 the corporation. Whenever an offer of coverage for a commercial
68 lines residential risk is received for a policyholder of the



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69 corporation at renewal from an authorized insurer, if the offer
70 is equal to or less than the corporation's renewal premium for
71 comparable coverage, the risk is not eligible for coverage with
72 the corporation. If the risk is not able to obtain any such
73 offer, the risk is eligible for a policy including wind coverage
74 issued by the corporation. However, a policyholder removed from
75 the corporation through an assumption agreement remains eligible
76 for coverage from the corporation until the end of the
77 assumption period.

78 (I) If the risk accepts an offer of coverage through the
79 market assistance plan or through a mechanism established by the
80 corporation other than a plan established by s. 627.3518, before
81 a policy is issued to the risk by the corporation or during the
82 first 30 days of coverage by the corporation, and the producing
83 agent who submitted the application to the plan or the
84 corporation is not currently appointed by the insurer, the
85 insurer shall:

86 (A) Pay to the producing agent of record of the policy, for
87 the first year, an amount that is the greater of the insurer's
88 usual and customary commission for the type of policy written or
89 a fee equal to the usual and customary commission of the
90 corporation; or

91 (B) Offer to allow the producing agent of record of the
92 policy to continue servicing the policy for at least 1 year and
93 offer to pay the agent the greater of the insurer's or the
94 corporation's usual and customary commission for the type of
95 policy written.

96
97 If the producing agent is unwilling or unable to accept



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

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

104 (A) Pay to the producing agent of record, for the first
105 year, an amount that is the greater of the insurer's usual and
106 customary commission for the type of policy written or a fee
107 equal to the usual and customary commission of the corporation;
108 or

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

113

114 If the producing agent is unwilling or unable to accept
115 appointment, the new insurer shall pay the agent in accordance
116 with sub-sub-sub-subparagraph (A).

117 c. For purposes of determining comparable coverage under
118 sub-subparagraphs a. and b., the comparison must be based on
119 those forms and coverages that are reasonably comparable. The
120 corporation may rely on a determination of comparable coverage
121 and premium made by the producing agent who submits the
122 application to the corporation, made in the agent's capacity as
123 the corporation's agent. A comparison may be made solely of the
124 premium with respect to the main building or structure only on
125 the following basis: the same coverage A or other building
126 limits; the same percentage hurricane deductible that applies on



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127 an annual basis or that applies to each hurricane for commercial
128 residential property; the same percentage of ordinance and law
129 coverage, if the same limit is offered by both the corporation
130 and the authorized insurer; the same mitigation credits, to the
131 extent the same types of credits are offered both by the
132 corporation and the authorized insurer; the same method for loss
133 payment, such as replacement cost or actual cash value, if the
134 same method is offered both by the corporation and the
135 authorized insurer in accordance with underwriting rules; and
136 any other form or coverage that is reasonably comparable as
137 determined by the board. If an application is submitted to the
138 corporation for wind-only coverage in the coastal account, the
139 premium for the corporation's wind-only policy plus the premium
140 for the ex-wind policy that is offered by an authorized insurer
141 to the applicant must be compared to the premium for multiperil
142 coverage offered by an authorized insurer, subject to the
143 standards for comparison specified in this subparagraph. If the
144 corporation or the applicant requests from the authorized
145 insurer a breakdown of the premium of the offer by types of
146 coverage so that a comparison may be made by the corporation or
147 its agent and the authorized insurer refuses or is unable to
148 provide such information, the corporation may treat the offer as
149 not being an offer of coverage from an authorized insurer at the
150 insurer's approved rate.

151 6. Must include rules for classifications of risks and
152 rates.

153 7. Must provide that if premium and investment income for
154 an account attributable to a particular calendar year are in
155 excess of projected losses and expenses for the account



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156 attributable to that year, such excess shall be held in surplus
157 in the account. Such surplus must be available to defray
158 deficits in that account as to future years and used for that
159 purpose before assessing assessable insurers and assessable
160 insureds as to any calendar year.

161 8. Must provide objective criteria and procedures to be
162 uniformly applied to all applicants in determining whether an
163 individual risk is so hazardous as to be uninsurable. In making
164 this determination and in establishing the criteria and
165 procedures, the following must be considered:

166 a. Whether the likelihood of a loss for the individual risk
167 is substantially higher than for other risks of the same class;
168 and

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

171

172 The acceptance or rejection of a risk by the corporation shall
173 be construed as the private placement of insurance, and ~~the~~
174 ~~provisions of~~ chapter 120 does ~~de~~ not apply.

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

179 10. The policies issued by the corporation must provide
180 that if the corporation or the market assistance plan obtains an
181 offer from an authorized insurer to cover the risk at its
182 approved rates, the risk is no longer eligible for renewal
183 through the corporation, except as otherwise provided in this
184 subsection.



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185 11. Corporation policies and applications must include a
186 notice that the corporation policy could, under this section, be
187 replaced with a policy issued by an authorized insurer which
188 does not provide coverage identical to the coverage provided by
189 the corporation. The notice must also specify that acceptance of
190 corporation coverage creates a conclusive presumption that the
191 applicant or policyholder is aware of this potential.

192 12. May establish, subject to approval by the office,
193 different eligibility requirements and operational procedures
194 for any line or type of coverage for any specified county or
195 area if the board determines that such changes are justified due
196 to the voluntary market being sufficiently stable and
197 competitive in such area or for such line or type of coverage
198 and that consumers who, in good faith, are unable to obtain
199 insurance through the voluntary market through ordinary methods
200 continue to have access to coverage from the corporation. If
201 coverage is sought in connection with a real property transfer,
202 the requirements and procedures may not provide an effective
203 date of coverage later than the date of the closing of the
204 transfer as established by the transferor, the transferee, and,
205 if applicable, the lender.

206 13. Must provide that, with respect to the coastal account,
207 any assessable insurer with a surplus as to policyholders of \$25
208 million or less writing 25 percent or more of its total
209 countrywide property insurance premiums in this state may
210 petition the office, within the first 90 days of each calendar
211 year, to qualify as a limited apportionment company. A regular
212 assessment levied by the corporation on a limited apportionment
213 company for a deficit incurred by the corporation for the



214 coastal account may be paid to the corporation on a monthly
215 basis as the assessments are collected by the limited
216 apportionment company from its insureds, but a limited
217 apportionment company must begin collecting the regular
218 assessments not later than 90 days after the regular assessments
219 are levied by the corporation, and the regular assessments must
220 be paid in full within 15 months after being levied by the
221 corporation. A limited apportionment company shall collect from
222 its policyholders any emergency assessment imposed under sub-
223 subparagraph (b)3.d. The plan must provide that, if the office
224 determines that any regular assessment will result in an
225 impairment of the surplus of a limited apportionment company,
226 the office may direct that all or part of such assessment be
227 deferred as provided in subparagraph (q)4. However, an emergency
228 assessment to be collected from policyholders under sub-
229 subparagraph (b)3.d. may not be limited or deferred.

230 14. Must provide that the corporation appoint as its
231 licensed agents only those agents who throughout such
232 appointments also hold an appointment as defined in s. 626.015
233 by an insurer who is authorized to write and is actually writing
234 or renewing personal lines residential property coverage,
235 commercial residential property coverage, or commercial
236 nonresidential property coverage within this ~~the~~ state.

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

241 16. Must limit coverage on mobile homes or manufactured
242 homes built before 1994 to actual cash value of the dwelling



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243 rather than replacement costs of the dwelling.

244 17. Must provide coverage for manufactured or mobile home
245 dwellings. Such coverage must also include the following
246 attached structures:

247 a. Screened enclosures that are aluminum framed or screened
248 enclosures that are not covered by the same or substantially the
249 same materials as those of the primary dwelling;

250 b. Carports that are aluminum or carports that are not
251 covered by the same or substantially the same materials as those
252 of the primary dwelling; and

253 c. Patios that have a roof covering that is constructed of
254 materials that are not the same or substantially the same
255 materials as those of the primary dwelling.

256
257 The corporation shall make available a policy for mobile homes
258 or manufactured homes for a minimum insured value of at least
259 \$3,000.

260 18. May provide such limits of coverage as the board
261 determines, consistent with the requirements of this subsection.

262 19. May require commercial property to meet specified
263 hurricane mitigation construction features as a condition of
264 eligibility for coverage.

265 20. Must provide that new or renewal policies issued by the
266 corporation on or after January 1, 2012, which cover sinkhole
267 loss do not include coverage for any loss to appurtenant
268 structures, driveways, sidewalks, decks, or patios that are
269 directly or indirectly caused by sinkhole activity. The
270 corporation shall exclude such coverage using a notice of
271 coverage change, which may be included with the policy renewal,



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272 and not by issuance of a notice of nonrenewal of the excluded
273 coverage upon renewal of the current policy.

274 21. As of January 1, 2012, must require that the agent
275 obtain from an applicant for coverage from the corporation an
276 acknowledgment signed by the applicant, which includes, at a
277 minimum, the following statement:

278
279 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
280 AND ASSESSMENT LIABILITY:
281

282 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
283 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
284 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
285 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
286 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
287 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
288 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
289 LEGISLATURE.

290 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
291 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
292 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
293 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
294 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
295 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
296 ARE REGULATED AND APPROVED BY THE STATE.

297 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
298 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
299 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
300 FLORIDA LEGISLATURE.



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301 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
302 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
303 STATE OF FLORIDA.

304
305 a. The corporation shall maintain, in electronic format or
306 otherwise, a copy of the applicant's signed acknowledgment and
307 provide a copy of the statement to the policyholder as part of
308 the first renewal after the effective date of this subparagraph.

309 b. The signed acknowledgment form creates a conclusive
310 presumption that the policyholder understood and accepted his or
311 her potential surcharge and assessment liability as a
312 policyholder of the corporation.

313 22. The corporation shall pay a producing agent of record a
314 reasonable commission not to exceed the average of commissions
315 paid in the preceding year by the 20 admitted insurers writing
316 the greatest market share of property insurance in this state.

317 (n)1. Rates for coverage provided by the corporation must
318 be actuarially sound and subject to s. 627.062, except as
319 otherwise provided in this paragraph. The corporation shall file
320 its recommended rates with the office at least annually. The
321 corporation shall provide any additional information regarding
322 the rates which the office requires. The office shall consider
323 the recommendations of the board and issue a final order
324 establishing the rates for the corporation within 45 days after
325 the recommended rates are filed. The corporation may not pursue
326 an administrative challenge or judicial review of the final
327 order of the office.

328 2. In addition to the rates otherwise determined pursuant
329 to this paragraph, the corporation shall impose and collect an



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330 amount equal to the premium tax provided in s. 624.509 to
331 augment the financial resources of the corporation.

332 3. ~~After~~ The public hurricane loss-projection model under
333 s. 627.06281, if ~~has been~~ found to be accurate and reliable by
334 the Florida Commission on Hurricane Loss Projection Methodology,
335 ~~the model~~ shall be considered when establishing the windstorm
336 portion of the corporation's rates. The corporation may use the
337 public model results in combination with the results of private
338 models to calculate rates for the windstorm portion of the
339 corporation's rates. This subparagraph does not require or allow
340 the corporation to adopt rates lower than the rates otherwise
341 required or allowed by this paragraph.

342 4. The rate filings for the corporation which were approved
343 by the office and took effect January 1, 2007, are rescinded,
344 except for those rates that were lowered. As soon as possible,
345 the corporation shall begin using the lower rates that were in
346 effect on December 31, 2006, and provide refunds to
347 policyholders who paid higher rates as a result of that rate
348 filing. The rates in effect on December 31, 2006, remain in
349 effect for the 2007 and 2008 calendar years except for any rate
350 change that results in a lower rate. The next rate change that
351 may increase rates shall take effect pursuant to a new rate
352 filing recommended by the corporation and established by the
353 office, subject to this paragraph.

354 5. Beginning on July 15, 2009, and annually thereafter, the
355 corporation must make a recommended actuarially sound rate
356 filing for each personal and commercial line of business it
357 writes, to be effective no earlier than January 1, 2010.

358 6. Beginning on or after January 1, 2022 ~~January 1, 2010,~~



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359 and notwithstanding the board's recommended rates and the
360 office's final order regarding the corporation's filed rates
361 under subparagraph 1., the corporation shall annually implement
362 a rate increase which, except for sinkhole coverage, does not
363 exceed 10 percent for any single policy renewed ~~issued~~ by the
364 corporation covering an owner-occupied personal residential
365 property that has a dwelling replacement cost less than \$700,000
366 or that is a single condominium unit that has a combined
367 dwelling and contents replacement cost less than \$700,000,
368 excluding coverage changes and surcharges, if the policy was
369 initially issued by the corporation and the dwelling was
370 determined by the corporation to be owner-occupied before July
371 1, 2021.

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

374 And the title is amended as follows:

375 Delete lines 14 - 16.