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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2010	.	
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The Committee on General Government Appropriations (Dean)  
recommended the following:

**Senate Amendment (with title amendment)**

Between lines 1140 and 1141  
insert:

Section 7. Paragraphs (b), (c), and (d) of subsection (6)  
of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(b)1. All insurers authorized to write one or more subject  
lines of business in this state are subject to assessment by the  
corporation and, for the purposes of this subsection, are  
referred to collectively as "assessable insurers." Insurers



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

26 2.a. All revenues, assets, liabilities, losses, and  
27 expenses of the corporation are ~~shall be~~ divided into three  
28 separate accounts as follows:

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

38 (II) A commercial lines account for commercial residential  
39 and commercial nonresidential policies issued by the corporation  
40 or issued by the Residential Property and Casualty Joint  
41 Underwriting Association and renewed by the corporation which



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42 ~~that~~ provide coverage for basic property perils on risks which  
43 ~~that~~ are not located in areas eligible for coverage in the  
44 Florida Windstorm Underwriting Association as those areas were  
45 defined on January 1, 2002, and for ~~such~~ policies that do not  
46 provide coverage for the peril of wind on risks that are located  
47 in such areas; and

48 (III) A coastal high-risk account for personal residential  
49 policies and commercial residential and commercial  
50 nonresidential property policies issued by the corporation or  
51 transferred to the corporation which provides ~~that provide~~  
52 coverage for the peril of wind on risks that are located in  
53 areas eligible for coverage in the Florida Windstorm  
54 Underwriting Association as those areas were defined on January  
55 1, 2002. The corporation may offer policies that provide  
56 multiperil coverage and the corporation shall continue to offer  
57 policies that provide coverage only for the peril of wind for  
58 risks located in areas eligible for coverage in the coastal  
59 ~~high-risk~~ account. In issuing multiperil coverage, the  
60 corporation may use its approved policy forms and rates for the  
61 personal lines account. An applicant or insured who is eligible  
62 to purchase a multiperil policy from the corporation may  
63 purchase a multiperil policy from an authorized insurer without  
64 prejudice to the applicant's or insured's eligibility to  
65 prospectively purchase a policy that provides coverage only for  
66 the peril of wind from the corporation. An applicant or insured  
67 who is eligible for a corporation policy that provides coverage  
68 only for the peril of wind may elect to purchase or retain such  
69 policy and also purchase or retain coverage excluding wind from  
70 an authorized insurer without prejudice to the applicant's or



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71 insured's eligibility to prospectively purchase a policy that  
72 provides multiperil coverage from the corporation. It is the  
73 goal of the Legislature that there ~~would~~ be an overall average  
74 savings of 10 percent or more for a policyholder who currently  
75 has a wind-only policy with the corporation, and an ex-wind  
76 policy with a voluntary insurer or the corporation, and who ~~then~~  
77 obtains a multiperil policy from the corporation. It is the  
78 intent of the Legislature that the offer of multiperil coverage  
79 in the coastal ~~high-risk~~ account be made and implemented in a  
80 manner that does not adversely affect the tax-exempt status of  
81 the corporation or creditworthiness of or security for currently  
82 outstanding financing obligations or credit facilities of the  
83 coastal ~~high-risk~~ account, the personal lines account, or the  
84 commercial lines account. The coastal ~~high-risk~~ account must  
85 also include quota share primary insurance under subparagraph  
86 (c)2. The area eligible for coverage under the coastal ~~high-risk~~  
87 account also includes the area within Port Canaveral, which is  
88 bordered on the south by the City of Cape Canaveral, bordered on  
89 the west by the Banana River, and bordered on the north by  
90 Federal Government property.

91 b. The three separate accounts must be maintained as long  
92 as financing obligations entered into by the Florida Windstorm  
93 Underwriting Association or Residential Property and Casualty  
94 Joint Underwriting Association are outstanding, in accordance  
95 with the terms of the corresponding financing documents. If ~~When~~  
96 the financing obligations are no longer outstanding, in  
97 accordance with the terms of the corresponding financing  
98 documents, the corporation may use a single account for all  
99 revenues, assets, liabilities, losses, and expenses of the



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100 corporation. Consistent with ~~the requirement of~~ this  
101 subparagraph and prudent investment policies that minimize the  
102 cost of carrying debt, the board shall exercise its best efforts  
103 to retire existing debt or to obtain approval of necessary  
104 parties to amend the terms of existing debt, so as to structure  
105 the most efficient plan to consolidate the three separate  
106 accounts into a single account. ~~By February 1, 2007, the board~~  
107 ~~shall submit a report to the Financial Services Commission, the~~  
108 ~~President of the Senate, and the Speaker of the House of~~  
109 ~~Representatives which includes an analysis of consolidating the~~  
110 ~~accounts, the actions the board has taken to minimize the cost~~  
111 ~~of carrying debt, and its recommendations for executing the most~~  
112 ~~efficient plan.~~

113 c. Creditors of the Residential Property and Casualty Joint  
114 Underwriting Association and ~~of~~ the accounts specified in sub-  
115 sub-subparagraphs a.(I) and (II) may have a claim against, and  
116 recourse to, the accounts referred to in sub-sub-subparagraphs  
117 a.(I) and (II) and ~~shall~~ have no claim against, or recourse to,  
118 the account referred to in sub-sub-subparagraph a.(III).  
119 Creditors of the Florida Windstorm Underwriting Association  
120 ~~shall~~ have a claim against, and recourse to, the account  
121 referred to in sub-sub-subparagraph a.(III) and ~~shall~~ have no  
122 claim against, or recourse to, the accounts referred to in sub-  
123 sub-subparagraphs a.(I) and (II).

124 d. Revenues, assets, liabilities, losses, and expenses not  
125 attributable to particular accounts shall be prorated among the  
126 accounts.

127 e. The Legislature finds that the revenues of the  
128 corporation are revenues that are necessary to meet the



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129 requirements set forth in documents authorizing the issuance of  
130 bonds under this subsection.

131 f. No part of the income of the corporation may inure to  
132 the benefit of any private person.

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

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

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

154 c. Each assessable insurer's share of the amount being  
155 assessed under sub-subparagraph a. or sub-subparagraph b. must  
156 ~~shall~~ be in the proportion that the assessable insurer's direct  
157 written premium for the subject lines of business for the year



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

177 d. Upon a determination by the board of governors that a  
178 deficit in an account exceeds the amount that will be recovered  
179 through regular assessments under sub-subparagraph a. or sub-  
180 subparagraph b., plus the amount that is expected to be  
181 recovered through surcharges under sub-subparagraph i., ~~as to~~  
182 ~~the remaining projected deficit~~ the board shall levy, after  
183 verification by the office, emergency assessments, for as many  
184 years as necessary to cover the deficits, to be collected by  
185 assessable insurers and the corporation and collected from  
186 assessable insureds upon issuance or renewal of policies for



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187 subject lines of business, excluding National Flood Insurance  
188 policies. The amount of the emergency assessment collected in a  
189 particular year shall be a uniform percentage of that year's  
190 direct written premium for subject lines of business and all  
191 accounts of the corporation, excluding National Flood Insurance  
192 Program policy premiums, as annually determined by the board and  
193 verified by the office. The office shall verify the arithmetic  
194 calculations involved in the board's determination within 30  
195 days after receipt of the information on which the determination  
196 was based. Notwithstanding any other provision of law, the  
197 corporation and each assessable insurer that writes subject  
198 lines of business shall collect emergency assessments from its  
199 policyholders without such obligation being affected by any  
200 credit, limitation, exemption, or deferment. Emergency  
201 assessments levied by the corporation on assessable insureds  
202 shall be collected by the surplus lines agent at the time the  
203 surplus lines agent collects the surplus lines tax required by  
204 s. 626.932 and shall be paid to the Florida Surplus Lines  
205 Service Office at the time the surplus lines agent pays the  
206 surplus lines tax to the Florida Surplus Lines Service Office.  
207 The emergency assessments ~~so~~ collected shall be transferred  
208 directly to the corporation on a periodic basis as determined by  
209 the corporation and ~~shall be~~ held by the corporation solely in  
210 the applicable account. The aggregate amount of emergency  
211 assessments levied for an account under this sub-subparagraph in  
212 any calendar year may, at the discretion of the board of  
213 governors, be less than but may not exceed the greater of 10  
214 percent of the amount needed to cover the deficit, plus  
215 interest, fees, commissions, required reserves, and other costs





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216 associated with financing of the original deficit, or 10 percent  
217 of the aggregate statewide direct written premium for subject  
218 lines of business and for all accounts of the corporation for  
219 the prior year, plus interest, fees, commissions, required  
220 reserves, and other costs associated with financing the deficit.

221 e. The corporation may pledge the proceeds of assessments,  
222 projected recoveries from the Florida Hurricane Catastrophe  
223 Fund, other insurance and reinsurance recoverables, policyholder  
224 surcharges and other surcharges, and other funds available to  
225 the corporation as the source of revenue for and to secure bonds  
226 issued under paragraph (p), bonds or other indebtedness issued  
227 under subparagraph (c)3., or lines of credit or other financing  
228 mechanisms issued or created under this subsection, or to retire  
229 any other debt incurred as a result of deficits or events giving  
230 rise to deficits, or in any other way that the board determines  
231 will efficiently recover such deficits. The purpose of the lines  
232 of credit or other financing mechanisms is to provide additional  
233 resources to assist the corporation in covering claims and  
234 expenses attributable to a catastrophe. As used in this  
235 subsection, the term "assessments" includes regular assessments  
236 under sub-subparagraph a., sub-subparagraph b., or subparagraph  
237 (p)1. and emergency assessments under sub-subparagraph d.  
238 Emergency assessments collected under sub-subparagraph d. are  
239 not part of an insurer's rates, are not premium, and are not  
240 subject to premium tax, fees, or commissions; however, failure  
241 to pay the emergency assessment shall be treated as failure to  
242 pay premium. The emergency assessments under sub-subparagraph d.  
243 shall continue as long as any bonds issued or other indebtedness  
244 incurred with respect to a deficit for which the assessment was



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245 imposed remain outstanding, unless adequate provision has been  
246 made for the payment of such bonds or other indebtedness  
247 pursuant to the documents governing such bonds or other  
248 indebtedness.

249 f. As used in this subsection for purposes of any deficit  
250 incurred on or after January 25, 2007, the term "subject lines  
251 of business" means insurance written by assessable insurers or  
252 procured by assessable insureds for all property and casualty  
253 lines of business in this state, but not including workers'  
254 compensation or medical malpractice. As used in the sub-  
255 subparagraph, the term "property and casualty lines of business"  
256 includes all lines of business identified on Form 2, Exhibit of  
257 Premiums and Losses, in the annual statement required of  
258 authorized insurers by s. 624.424 and any rule adopted under  
259 this section, except for those lines identified as accident and  
260 health insurance and except for policies written under the  
261 National Flood Insurance Program or the Federal Crop Insurance  
262 Program. For purposes of this sub-subparagraph, the term  
263 "workers' compensation" includes both workers' compensation  
264 insurance and excess workers' compensation insurance.

265 g. The Florida Surplus Lines Service Office shall determine  
266 annually the aggregate statewide written premium in subject  
267 lines of business procured by assessable insureds and shall  
268 report that information to the corporation in a form and at a  
269 time the corporation specifies to ensure that the corporation  
270 can meet the requirements of this subsection and the  
271 corporation's financing obligations.

272 h. The Florida Surplus Lines Service Office shall verify  
273 the proper application by surplus lines agents of assessment



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274 percentages for regular assessments and emergency assessments  
275 levied under this subparagraph on assessable insureds and shall  
276 assist the corporation in ensuring the accurate, timely  
277 collection and payment of assessments by surplus lines agents as  
278 required by the corporation.

279 i. If a deficit is incurred in any account in 2008 or  
280 thereafter, the board of governors shall levy a Citizens  
281 policyholder surcharge against all policyholders of the  
282 corporation for a 12-month period, which shall be collected at  
283 the time of issuance or renewal of a policy, as a uniform  
284 percentage of the premium for the policy of up to 15 percent of  
285 such premium, which funds shall be used to offset the deficit.  
286 Citizens policyholder surcharges under this sub-subparagraph are  
287 not considered premium and are not subject to commissions, fees,  
288 or premium taxes. However, failure to pay such surcharges shall  
289 be treated as failure to pay premium.

290 j. If the amount of any assessments or surcharges collected  
291 from corporation policyholders, assessable insurers or their  
292 policyholders, or assessable insureds exceeds the amount of the  
293 deficits, such excess amounts shall be remitted to and retained  
294 by the corporation in a reserve to be used by the corporation,  
295 as determined by the board of governors and approved by the  
296 office, to pay claims or reduce any past, present, or future  
297 plan-year deficits or to reduce outstanding debt.

298 (c) The plan of operation of the corporation:

299 1. Must provide for adoption of residential property and  
300 casualty insurance policy forms and commercial residential and  
301 nonresidential property insurance forms, which forms must be  
302 approved by the office prior to use. The corporation shall adopt



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303 the following policy forms:

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

308 b. Basic personal lines policy forms that are policies  
309 similar to an HO-8 policy or a dwelling fire policy that provide  
310 coverage meeting the requirements of the secondary mortgage  
311 market, but which coverage is more limited than the coverage  
312 under a standard policy.

313 c. Commercial lines residential and nonresidential policy  
314 forms that are generally similar to the basic perils of full  
315 coverage obtainable for commercial residential structures and  
316 commercial nonresidential structures in the admitted voluntary  
317 market.

318 d. Personal lines and commercial lines residential property  
319 insurance forms that cover the peril of wind only. The forms are  
320 applicable only to residential properties located in areas  
321 eligible for coverage under the coastal ~~high-risk~~ account  
322 referred to in sub-subparagraph (b)2.a.

323 e. Commercial lines nonresidential property insurance forms  
324 that cover the peril of wind only. The forms are applicable only  
325 to nonresidential properties located in areas eligible for  
326 coverage under the coastal ~~high-risk~~ account referred to in sub-  
327 subparagraph (b)2.a.

328 f. The corporation may adopt variations of the policy forms  
329 listed in sub-subparagraphs a.-e. that contain more restrictive  
330 coverage.

331 2.a. Must provide that the corporation adopt a program in



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332 which the corporation and authorized insurers enter into quota  
333 share primary insurance agreements for hurricane coverage, as  
334 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
335 property insurance forms for eligible risks which cover the  
336 peril of wind only. As used in this subsection, the term:

337 (I) "Quota share primary insurance" means an arrangement in  
338 which the primary hurricane coverage of an eligible risk is  
339 provided in specified percentages by the corporation and an  
340 authorized insurer. The corporation and authorized insurer are  
341 each solely responsible for a specified percentage of hurricane  
342 coverage of an eligible risk as set forth in a quota share  
343 primary insurance agreement between the corporation and an  
344 authorized insurer and the insurance contract. The  
345 responsibility of the corporation or authorized insurer to pay  
346 its specified percentage of hurricane losses of an eligible  
347 risk, as set forth in the quota share primary insurance  
348 agreement, may not be altered by the inability of the other  
349 party to the agreement to pay its specified percentage of  
350 hurricane losses. Eligible risks that are provided hurricane  
351 coverage through a quota share primary insurance arrangement  
352 must be provided policy forms that set forth the obligations of  
353 the corporation and authorized insurer under the arrangement,  
354 clearly specify the percentages of quota share primary insurance  
355 provided by the corporation and authorized insurer, and  
356 conspicuously and clearly state that neither the authorized  
357 insurer nor the corporation may be held responsible beyond its  
358 specified percentage of coverage of hurricane losses.

359 (II) "Eligible risks" means personal lines residential and  
360 commercial lines residential risks that meet the underwriting



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361 criteria of the corporation and are located in areas that were  
362 eligible for coverage by the Florida Windstorm Underwriting  
363 Association on January 1, 2002.

364 b. The corporation may enter into quota share primary  
365 insurance agreements with authorized insurers at corporation  
366 coverage levels of 90 percent and 50 percent.

367 c. If the corporation determines that additional coverage  
368 levels are necessary to maximize participation in quota share  
369 primary insurance agreements by authorized insurers, the  
370 corporation may establish additional coverage levels. However,  
371 the corporation's quota share primary insurance coverage level  
372 may not exceed 90 percent.

373 d. Any quota share primary insurance agreement entered into  
374 between an authorized insurer and the corporation must provide  
375 for a uniform specified percentage of coverage of hurricane  
376 losses, by county or territory as set forth by the corporation  
377 board, for all eligible risks of the authorized insurer covered  
378 under the quota share primary insurance agreement.

379 e. Any quota share primary insurance agreement entered into  
380 between an authorized insurer and the corporation is subject to  
381 review and approval by the office. However, such agreement shall  
382 be authorized only as to insurance contracts entered into  
383 between an authorized insurer and an insured who is already  
384 insured by the corporation for wind coverage.

385 f. For all eligible risks covered under quota share primary  
386 insurance agreements, the exposure and coverage levels for both  
387 the corporation and authorized insurers shall be reported by the  
388 corporation to the Florida Hurricane Catastrophe Fund. For all  
389 policies of eligible risks covered under quota share primary



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390 insurance agreements, the corporation and the authorized insurer  
391 shall maintain complete and accurate records for the purpose of  
392 exposure and loss reimbursement audits as required by Florida  
393 Hurricane Catastrophe Fund rules. The corporation and the  
394 authorized insurer shall each maintain duplicate copies of  
395 policy declaration pages and supporting claims documents.

396 g. The corporation board shall establish in its plan of  
397 operation standards for quota share agreements which ensure that  
398 there is no discriminatory application among insurers as to the  
399 terms of quota share agreements, pricing of quota share  
400 agreements, incentive provisions if any, and consideration paid  
401 for servicing policies or adjusting claims.

402 h. The quota share primary insurance agreement between the  
403 corporation and an authorized insurer must set forth the  
404 specific terms under which coverage is provided, including, but  
405 not limited to, the sale and servicing of policies issued under  
406 the agreement by the insurance agent of the authorized insurer  
407 producing the business, the reporting of information concerning  
408 eligible risks, the payment of premium to the corporation, and  
409 arrangements for the adjustment and payment of hurricane claims  
410 incurred on eligible risks by the claims adjuster and personnel  
411 of the authorized insurer. Entering into a quota sharing  
412 insurance agreement between the corporation and an authorized  
413 insurer shall be voluntary and at the discretion of the  
414 authorized insurer.

415 3. May provide that the corporation may employ or otherwise  
416 contract with individuals or other entities to provide  
417 administrative or professional services that may be appropriate  
418 to effectuate the plan. The corporation shall have the power to



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419 borrow funds, by issuing bonds or by incurring other  
420 indebtedness, and shall have other powers reasonably necessary  
421 to effectuate the requirements of this subsection, including,  
422 without limitation, the power to issue bonds and incur other  
423 indebtedness in order to refinance outstanding bonds or other  
424 indebtedness. The corporation may, but is not required to, seek  
425 judicial validation of its bonds or other indebtedness under  
426 chapter 75. The corporation may issue bonds or incur other  
427 indebtedness, or have bonds issued on its behalf by a unit of  
428 local government pursuant to subparagraph (p)2., in the absence  
429 of a hurricane or other weather-related event, upon a  
430 determination by the corporation, subject to approval by the  
431 office, that such action would enable it to efficiently meet the  
432 financial obligations of the corporation and that such  
433 financings are reasonably necessary to effectuate the  
434 requirements of this subsection. The corporation is authorized  
435 to take all actions needed to facilitate tax-free status for any  
436 such bonds or indebtedness, including formation of trusts or  
437 other affiliated entities. The corporation shall have the  
438 authority to pledge assessments, projected recoveries from the  
439 Florida Hurricane Catastrophe Fund, other reinsurance  
440 recoverables, market equalization and other surcharges, and  
441 other funds available to the corporation as security for bonds  
442 or other indebtedness. In recognition of s. 10, Art. I of the  
443 State Constitution, prohibiting the impairment of obligations of  
444 contracts, it is the intent of the Legislature that no action be  
445 taken whose purpose is to impair any bond indenture or financing  
446 agreement or any revenue source committed by contract to such  
447 bond or other indebtedness.





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448           4.a. Must require that the corporation operate subject to  
449 the supervision and approval of a board of governors consisting  
450 of eight individuals who are residents of this state, from  
451 different geographical areas of this state. The Governor, the  
452 Chief Financial Officer, the President of the Senate, and the  
453 Speaker of the House of Representatives shall each appoint two  
454 members of the board. At least one of the two members appointed  
455 by each appointing officer must have demonstrated expertise in  
456 insurance, and is deemed to be within the scope of the exemption  
457 provided in s. 112.313(7) (b). The Chief Financial Officer shall  
458 designate one of the appointees as chair. All board members  
459 serve at the pleasure of the appointing officer. All members of  
460 the board of governors are subject to removal at will by the  
461 officers who appointed them. All board members, including the  
462 chair, must be appointed to serve for 3-year terms beginning  
463 annually on a date designated by the plan. However, for the  
464 first term beginning on or after July 1, 2009, each appointing  
465 officer shall appoint one member of the board for a 2-year term  
466 and one member for a 3-year term. Any board vacancy shall be  
467 filled for the unexpired term by the appointing officer. The  
468 Chief Financial Officer shall appoint a technical advisory group  
469 to provide information and advice to the board of governors in  
470 connection with the board's duties under this subsection. The  
471 executive director and senior managers of the corporation shall  
472 be engaged by the board and serve at the pleasure of the board.  
473 Any executive director appointed on or after July 1, 2006, is  
474 subject to confirmation by the Senate. The executive director is  
475 responsible for employing other staff as the corporation may  
476 require, subject to review and concurrence by the board.



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477           b. The board shall create a Market Accountability Advisory  
478 Committee to assist the corporation in developing awareness of  
479 its rates and its customer and agent service levels in  
480 relationship to the voluntary market insurers writing similar  
481 coverage. The members of the advisory committee shall consist of  
482 the following 11 persons, one of whom must be elected chair by  
483 the members of the committee: four representatives, one  
484 appointed by the Florida Association of Insurance Agents, one by  
485 the Florida Association of Insurance and Financial Advisors, one  
486 by the Professional Insurance Agents of Florida, and one by the  
487 Latin American Association of Insurance Agencies; three  
488 representatives appointed by the insurers with the three highest  
489 voluntary market share of residential property insurance  
490 business in the state; one representative from the Office of  
491 Insurance Regulation; one consumer appointed by the board who is  
492 insured by the corporation at the time of appointment to the  
493 committee; one representative appointed by the Florida  
494 Association of Realtors; and one representative appointed by the  
495 Florida Bankers Association. All members must serve for 3-year  
496 terms and may serve for consecutive terms. The committee shall  
497 report to the corporation at each board meeting on insurance  
498 market issues which may include rates and rate competition with  
499 the voluntary market; service, including policy issuance, claims  
500 processing, and general responsiveness to policyholders,  
501 applicants, and agents; and matters relating to depopulation.

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

504           a. Subject to the provisions of s. 627.3517, with respect  
505 to personal lines residential risks, if the risk is offered



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506 coverage from an authorized insurer at the insurer's approved  
507 rate under either a standard policy including wind coverage or,  
508 if consistent with the insurer's underwriting rules as filed  
509 with the office, a basic policy including wind coverage, for a  
510 new application to the corporation for coverage, the risk is not  
511 eligible for any policy issued by the corporation unless the  
512 premium for coverage from the authorized insurer is more than 15  
513 percent greater than the premium for comparable coverage from  
514 the corporation. If the risk is not able to obtain any such  
515 offer, the risk is eligible for either a standard policy  
516 including wind coverage or a basic policy including wind  
517 coverage issued by the corporation; however, if the risk could  
518 not be insured under a standard policy including wind coverage  
519 regardless of market conditions, the risk shall be eligible for  
520 a basic policy including wind coverage unless rejected under  
521 subparagraph 8. However, with regard to a policyholder of the  
522 corporation or a policyholder removed from the corporation  
523 through an assumption agreement until the end of the assumption  
524 period, the policyholder remains eligible for coverage from the  
525 corporation regardless of any offer of coverage from an  
526 authorized insurer or surplus lines insurer. The corporation  
527 shall determine the type of policy to be provided on the basis  
528 of objective standards specified in the underwriting manual and  
529 based on generally accepted underwriting practices.

530 (I) If the risk accepts an offer of coverage through the  
531 market assistance plan or an offer of coverage through a  
532 mechanism established by the corporation before a policy is  
533 issued to the risk by the corporation or during the first 30  
534 days of coverage by the corporation, and the producing agent who



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535 submitted the application to the plan or to the corporation is  
536 not currently appointed by the insurer, the insurer shall:

537 (A) Pay to the producing agent of record of the policy, for  
538 the first year, an amount that is the greater of the insurer's  
539 usual and customary commission for the type of policy written or  
540 a fee equal to the usual and customary commission of the  
541 corporation; or

542 (B) Offer to allow the producing agent of record of the  
543 policy to continue servicing the policy for a period of not less  
544 than 1 year and offer to pay the agent the greater of the  
545 insurer's or the corporation's usual and customary commission  
546 for the type of policy written.

547  
548 If the producing agent is unwilling or unable to accept  
549 appointment, the new insurer shall pay the agent in accordance  
550 with sub-sub-sub-subparagraph (A).

551 (II) When the corporation enters into a contractual  
552 agreement for a take-out plan, the producing agent of record of  
553 the corporation policy is entitled to retain any unearned  
554 commission on the policy, and the insurer shall:

555 (A) Pay to the producing agent of record of the corporation  
556 policy, for the first year, an amount that is the greater of the  
557 insurer's usual and customary commission for the type of policy  
558 written or a fee equal to the usual and customary commission of  
559 the corporation; or

560 (B) Offer to allow the producing agent of record of the  
561 corporation policy to continue servicing the policy for a period  
562 of not less than 1 year and offer to pay the agent the greater  
563 of the insurer's or the corporation's usual and customary



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564 commission for the type of policy written.

565

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

569       b. With respect to commercial lines residential risks, for  
570 a new application to the corporation for coverage, if the risk  
571 is offered coverage under a policy including wind coverage from  
572 an authorized insurer at its approved rate, the risk is not  
573 eligible for any policy issued by the corporation unless the  
574 premium for coverage from the authorized insurer is more than 15  
575 percent greater than the premium for comparable coverage from  
576 the corporation. If the risk is not able to obtain any such  
577 offer, the risk is eligible for a policy including wind coverage  
578 issued by the corporation. However, with regard to a  
579 policyholder of the corporation or a policyholder removed from  
580 the corporation through an assumption agreement until the end of  
581 the assumption period, the policyholder remains eligible for  
582 coverage from the corporation regardless of any offer of  
583 coverage from an authorized insurer or surplus lines insurer.

584       (I) If the risk accepts an offer of coverage through the  
585 market assistance plan or an offer of coverage through a  
586 mechanism established by the corporation before a policy is  
587 issued to the risk by the corporation or during the first 30  
588 days of coverage by the corporation, and the producing agent who  
589 submitted the application to the plan or the corporation is not  
590 currently appointed by the insurer, the insurer shall:

591       (A) Pay to the producing agent of record of the policy, for  
592 the first year, an amount that is the greater of the insurer's



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593 usual and customary commission for the type of policy written or  
594 a fee equal to the usual and customary commission of the  
595 corporation; or

596 (B) Offer to allow the producing agent of record of the  
597 policy to continue servicing the policy for a period of not less  
598 than 1 year and offer to pay the agent the greater of the  
599 insurer's or the corporation's usual and customary commission  
600 for the type of policy written.

601  
602 If the producing agent is unwilling or unable to accept  
603 appointment, the new insurer shall pay the agent in accordance  
604 with sub-sub-sub-subparagraph (A).

605 (II) When the corporation enters into a contractual  
606 agreement for a take-out plan, the producing agent of record of  
607 the corporation policy is entitled to retain any unearned  
608 commission on the policy, and the insurer shall:

609 (A) Pay to the producing agent of record of the corporation  
610 policy, for the first year, an amount that is the greater of the  
611 insurer's usual and customary commission for the type of policy  
612 written or a fee equal to the usual and customary commission of  
613 the corporation; or

614 (B) Offer to allow the producing agent of record of the  
615 corporation policy to continue servicing the policy for a period  
616 of not less than 1 year and offer to pay the agent the greater  
617 of the insurer's or the corporation's usual and customary  
618 commission for the type of policy written.

619  
620 If the producing agent is unwilling or unable to accept  
621 appointment, the new insurer shall pay the agent in accordance



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622 with sub-sub-sub-subparagraph (A).

623 c. For purposes of determining comparable coverage under  
624 sub-subparagraphs a. and b., the comparison shall be based on  
625 those forms and coverages that are reasonably comparable. The  
626 corporation may rely on a determination of comparable coverage  
627 and premium made by the producing agent who submits the  
628 application to the corporation, made in the agent's capacity as  
629 the corporation's agent. A comparison may be made solely of the  
630 premium with respect to the main building or structure only on  
631 the following basis: the same coverage A or other building  
632 limits; the same percentage hurricane deductible that applies on  
633 an annual basis or that applies to each hurricane for commercial  
634 residential property; the same percentage of ordinance and law  
635 coverage, if the same limit is offered by both the corporation  
636 and the authorized insurer; the same mitigation credits, to the  
637 extent the same types of credits are offered both by the  
638 corporation and the authorized insurer; the same method for loss  
639 payment, such as replacement cost or actual cash value, if the  
640 same method is offered both by the corporation and the  
641 authorized insurer in accordance with underwriting rules; and  
642 any other form or coverage that is reasonably comparable as  
643 determined by the board. If an application is submitted to the  
644 corporation for wind-only coverage in the coastal ~~high-risk~~  
645 account, the premium for the corporation's wind-only policy plus  
646 the premium for the ex-wind policy that is offered by an  
647 authorized insurer to the applicant shall be compared to the  
648 premium for multiperil coverage offered by an authorized  
649 insurer, subject to the standards for comparison specified in  
650 this subparagraph. If the corporation or the applicant requests



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651 from the authorized insurer a breakdown of the premium of the  
652 offer by types of coverage so that a comparison may be made by  
653 the corporation or its agent and the authorized insurer refuses  
654 or is unable to provide such information, the corporation may  
655 treat the offer as not being an offer of coverage from an  
656 authorized insurer at the insurer's approved rate.

657 6. Must include rules for classifications of risks and  
658 rates therefor.

659 7. Must provide that if premium and investment income for  
660 an account attributable to a particular calendar year are in  
661 excess of projected losses and expenses for the account  
662 attributable to that year, such excess shall be held in surplus  
663 in the account. Such surplus shall be available to defray  
664 deficits in that account as to future years and shall be used  
665 for that purpose prior to assessing assessable insurers and  
666 assessable insureds as to any calendar year.

667 8. Must provide objective criteria and procedures to be  
668 uniformly applied for all applicants in determining whether an  
669 individual risk is so hazardous as to be uninsurable. In making  
670 this determination and in establishing the criteria and  
671 procedures, the following shall be considered:

672 a. Whether the likelihood of a loss for the individual risk  
673 is substantially higher than for other risks of the same class;  
674 and

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

677

678 The acceptance or rejection of a risk by the corporation shall  
679 be construed as the private placement of insurance, and the





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680 provisions of chapter 120 shall not apply.

681 9. Must provide that the corporation shall make its best  
682 efforts to procure catastrophe reinsurance at reasonable rates,  
683 to cover its projected 100-year probable maximum loss as  
684 determined by the board of governors.

685 10. The policies issued by the corporation must provide  
686 that, if the corporation or the market assistance plan obtains  
687 an offer from an authorized insurer to cover the risk at its  
688 approved rates, the risk is no longer eligible for renewal  
689 through the corporation, except as otherwise provided in this  
690 subsection.

691 11. Corporation policies and applications must include a  
692 notice that the corporation policy could, under this section, be  
693 replaced with a policy issued by an authorized insurer that does  
694 not provide coverage identical to the coverage provided by the  
695 corporation. The notice shall also specify that acceptance of  
696 corporation coverage creates a conclusive presumption that the  
697 applicant or policyholder is aware of this potential.

698 12. May establish, subject to approval by the office,  
699 different eligibility requirements and operational procedures  
700 for any line or type of coverage for any specified county or  
701 area if the board determines that such changes to the  
702 eligibility requirements and operational procedures are  
703 justified due to the voluntary market being sufficiently stable  
704 and competitive in such area or for such line or type of  
705 coverage and that consumers who, in good faith, are unable to  
706 obtain insurance through the voluntary market through ordinary  
707 methods would continue to have access to coverage from the  
708 corporation. When coverage is sought in connection with a real



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709 property transfer, such requirements and procedures shall not  
710 provide for an effective date of coverage later than the date of  
711 the closing of the transfer as established by the transferor,  
712 the transferee, and, if applicable, the lender.

713 13. Must provide that, with respect to the coastal ~~high-~~  
714 ~~risk~~ account, any assessable insurer with a surplus as to  
715 policyholders of \$25 million or less writing 25 percent or more  
716 of its total countrywide property insurance premiums in this  
717 state may petition the office, within the first 90 days of each  
718 calendar year, to qualify as a limited apportionment company. A  
719 regular assessment levied by the corporation on a limited  
720 apportionment company for a deficit incurred by the corporation  
721 for the coastal ~~high-risk~~ account in 2006 or thereafter may be  
722 paid to the corporation on a monthly basis as the assessments  
723 are collected by the limited apportionment company from its  
724 insureds pursuant to s. 627.3512, but the regular assessment  
725 must be paid in full within 12 months after being levied by the  
726 corporation. A limited apportionment company shall collect from  
727 its policyholders any emergency assessment imposed under sub-  
728 subparagraph (b)3.d. The plan shall provide that, if the office  
729 determines that any regular assessment will result in an  
730 impairment of the surplus of a limited apportionment company,  
731 the office may direct that all or part of such assessment be  
732 deferred as provided in subparagraph (p)4. However, there shall  
733 be no limitation or deferment of an emergency assessment to be  
734 collected from policyholders under sub-subparagraph (b)3.d.

735 14. Must provide that the corporation appoint as its  
736 licensed agents only those agents who also hold an appointment  
737 as defined in s. 626.015(3) with an insurer who at the time of



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738 the agent's initial appointment by the corporation is authorized  
739 to write and is actually writing personal lines residential  
740 property coverage, commercial residential property coverage, or  
741 commercial nonresidential property coverage within the state.

742 15. Must provide, by July 1, 2007, a premium payment plan  
743 option to its policyholders which allows at a minimum for  
744 quarterly and semiannual payment of premiums. A monthly payment  
745 plan may, but is not required to, be offered.

746 16. Must limit coverage on mobile homes or manufactured  
747 homes built prior to 1994 to actual cash value of the dwelling  
748 rather than replacement costs of the dwelling.

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

751 18. May require commercial property to meet specified  
752 hurricane mitigation construction features as a condition of  
753 eligibility for coverage.

754 (d)1. All prospective employees for senior management  
755 positions, as defined by the plan of operation, are subject to  
756 background checks as a prerequisite for employment. The office  
757 shall conduct background checks on such prospective employees  
758 pursuant to ss. 624.34, 624.404(3), and 628.261.

759 2. On or before July 1 of each year, employees of the  
760 corporation are required to sign and submit a statement  
761 attesting that they do not have a conflict of interest, as  
762 defined in part III of chapter 112. As a condition of  
763 employment, all prospective employees are required to sign and  
764 submit to the corporation a conflict-of-interest statement.

765 3. Senior managers and members of the board of governors  
766 are subject to ~~the provisions of~~ part III of chapter 112,



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767 including, but not limited to, the code of ethics and public  
768 disclosure and reporting of financial interests, pursuant to s.  
769 112.3145. Notwithstanding s. 112.3143(2), a board member may not  
770 vote on any measure that would inure to his or her special  
771 private gain or loss; that he or she knows would inure to the  
772 special private gain or loss of any principal by whom he or she  
773 is retained or to the parent organization or subsidiary of a  
774 corporate principal by which he or she is retained, other than  
775 an agency as defined in s. 112.312; or that he or she knows  
776 would inure to the special private gain or loss of a relative or  
777 business associate of the public officer. Before the vote is  
778 taken, such member shall publicly state to the assembly the  
779 nature of the his or her interest in the matter from which he or  
780 she is abstaining from voting and, within 15 days after the vote  
781 occurs, disclose the nature of his or her interest as a public  
782 record in a memorandum filed with the person responsible for  
783 recording the minutes of the meeting, who shall incorporate the  
784 memorandum in the minutes. Senior managers and board members are  
785 also required to file such disclosures with the Commission on  
786 Ethics and the Office of Insurance Regulation. The executive  
787 director of the corporation or ~~his or her~~ designee shall notify  
788 each existing and newly appointed and ~~existing~~ appointed member  
789 of the board of governors and senior managers of their duty to  
790 comply with the reporting requirements of part III of chapter  
791 112. At least quarterly, the executive director or ~~his or her~~  
792 designee shall submit to the Commission on Ethics a list of  
793 names of the senior managers and members of the board of  
794 governors who are subject to the public disclosure requirements  
795 under s. 112.3145.



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796 4. Notwithstanding s. 112.3148 or s. 112.3149, or any other  
797 provision of law, an employee or board member may not knowingly  
798 accept, directly or indirectly, any gift or expenditure from a  
799 person or entity, or an employee or representative of such  
800 person or entity, that has a contractual relationship with the  
801 corporation or who is under consideration for a contract. An  
802 employee or board member who fails to comply with subparagraph  
803 3. or this subparagraph is subject to penalties provided under  
804 ss. 112.317 and 112.3173.

805 5. Any senior manager of the corporation who is employed on  
806 or after January 1, 2007, regardless of the date of hire, who  
807 subsequently retires or terminates employment is prohibited from  
808 representing another person or entity before the corporation for  
809 2 years after retirement or termination of employment from the  
810 corporation.

811 6. Any senior manager of the corporation who is employed on  
812 or after January 1, 2007, regardless of the date of hire, who  
813 subsequently retires or terminates employment is prohibited from  
814 having any employment or contractual relationship for 2 years  
815 with an insurer that has entered into a take-out bonus agreement  
816 with the corporation.

817 Section 8. The Division of Statutory Revision is directed  
818 to prepare a reviser's bill for introduction at the next regular  
819 session of the Legislature to change the term "high-risk  
820 account" to "coastal account" to conform the Florida Statutes to  
821 the amendment to s. 627.351(6)(b)2.a.(III), Florida Statutes,  
822 made by the this act.

823  
824 ===== T I T L E A M E N D M E N T =====



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825 And the title is amended as follows:

826 Delete line 89

827 and insert:

828 Temporary Increase in Coverage Limits; amending s.  
829 627.351, F.S.; renaming the "high-risk account" as the  
830 "coastal account"; providing that members of the  
831 Citizens Property Insurance Corporation Board of  
832 Governors are not prohibited from practicing in a  
833 certain profession if not prohibited by law or  
834 ordinance; prohibiting board members from voting on  
835 certain measures; providing a directive to the  
836 Division of Statutory Revision; amending s.