

Bill No. SB 4-A

Barcode 684358

CHAMBER ACTION

Senate

House

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Senator Fasano moved the following amendment:

Senate Amendment

On page 129, line 28, through
page 138, line 14, delete those lines

and insert:

5. Must provide a procedure relating to producing agents ~~for determining the eligibility of a risk for coverage,~~
as follows:

a. Subject to the provisions of s. 627.3517, with respect to personal lines residential risks: ~~if the risk is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, the risk is not eligible for any policy issued by the corporation. If the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could~~

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1 ~~not be insured under a standard policy including wind coverage~~
 2 ~~regardless of market conditions, the risk shall be eligible~~
 3 ~~for a basic policy including wind coverage unless rejected~~
 4 ~~under subparagraph 8. The corporation shall determine the type~~
 5 ~~of policy to be provided on the basis of objective standards~~
 6 ~~specified in the underwriting manual and based on generally~~
 7 ~~accepted underwriting practices.~~

8 (I) If the risk accepts an offer of coverage through
 9 the market assistance plan or an offer of coverage through a
 10 mechanism established by the corporation before a policy is
 11 issued to the risk by the corporation or during the first 30
 12 days of coverage by the corporation, and the producing agent
 13 who submitted the application to the plan or to the
 14 corporation is not currently appointed by the insurer, the
 15 insurer shall:

16 (A) Pay to the producing agent of record of the
 17 policy, for the first year, an amount that is the greater of
 18 the insurer's usual and customary commission for the type of
 19 policy written or a fee equal to the usual and customary
 20 commission of the corporation; or

21 (B) Offer to allow the producing agent of record of
 22 the policy to continue servicing the policy for a period of
 23 not less than 1 year and offer to pay the agent the greater of
 24 the insurer's or the corporation's usual and customary
 25 commission for the type of policy written.

26
 27 If the producing agent is unwilling or unable to accept
 28 appointment, the new insurer shall pay the agent in accordance
 29 with sub-sub-sub-subparagraph (A).

30 (II) When the corporation enters into a contractual
 31 agreement for a take-out plan, the producing agent of record

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1 of the corporation policy is entitled to retain any unearned
2 commission on the policy, and the insurer shall:

3 (A) Pay to the producing agent of record of the
4 corporation policy, for the first year, an amount that is the
5 greater of the insurer's usual and customary commission for
6 the type of policy written or a fee equal to the usual and
7 customary commission of the corporation; or

8 (B) Offer to allow the producing agent of record of
9 the corporation policy to continue servicing the policy for a
10 period of not less than 1 year and offer to pay the agent the
11 greater of the insurer's or the corporation's usual and
12 customary commission for the type of policy written.

13
14 If the producing agent is unwilling or unable to accept
15 appointment, the new insurer shall pay the agent in accordance
16 with sub-sub-sub-subparagraph (A).

17 b. With respect to commercial lines ~~residential~~
18 ~~risks; if the risk is offered coverage under a policy~~
19 ~~including wind coverage from an authorized insurer at its~~
20 ~~approved rate, the risk is not eligible for any policy issued~~
21 ~~by the corporation. If the risk is not able to obtain any such~~
22 ~~offer, the risk is eligible for a policy including wind~~
23 ~~coverage issued by the corporation.~~

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

31 (A) Pay to the producing agent of record of the

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1 policy, for the first year, an amount that is the greater of
 2 the insurer's usual and customary commission for the type of
 3 policy written or a fee equal to the usual and customary
 4 commission of the corporation; or

5 (B) Offer to allow the producing agent of record of
 6 the policy to continue servicing the policy for a period of
 7 not less than 1 year and offer to pay the agent the greater of
 8 the insurer's or the corporation's usual and customary
 9 commission for the type of policy written.

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

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

18 (A) Pay to the producing agent of record of the
 19 corporation policy, for the first year, an amount that is the
 20 greater of the insurer's usual and customary commission for
 21 the type of policy written or a fee equal to the usual and
 22 customary commission of the corporation; or

23 (B) Offer to allow the producing agent of record of
 24 the corporation policy to continue servicing the policy for a
 25 period of not less than 1 year and offer to pay the agent the
 26 greater of the insurer's or the corporation's usual and
 27 customary commission for the type of policy written.

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

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1 6. Must provide by July 1, 2007, that an application
2 for coverage for a new policy is subject to a waiting period
3 of 10 days before coverage is effective, during which time the
4 corporation shall make such application available for review
5 by general lines agents and authorized property and casualty
6 insurers. The board may approve exceptions that allow for
7 coverage to be effective before the end of the 10-day waiting
8 period, for coverage issued in conjunction with a real estate
9 closing, and for such other exceptions as the board determines
10 are necessary to prevent lapses in coverage.

11 7. Must include rules for classifications of risks and
12 rates therefor.

13 8. Must provide that if premium and investment income
14 for an account attributable to a particular calendar year are
15 in excess of projected losses and expenses for the account
16 attributable to that year, such excess shall be held in
17 surplus in the account. Such surplus shall be available to
18 defray deficits in that account as to future years and shall
19 be used for that purpose prior to assessing assessable
20 insurers and assessable insureds as to any calendar year.

21 9. Must provide objective criteria and procedures to
22 be uniformly applied for all applicants in determining whether
23 an individual risk is so hazardous as to be uninsurable. In
24 making this determination and in establishing the criteria and
25 procedures, the following shall be considered:

26 a. Whether the likelihood of a loss for the individual
27 risk is substantially higher than for other risks of the same
28 class; and

29 b. Whether the uncertainty associated with the
30 individual risk is such that an appropriate premium cannot be
31 determined.

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

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

11. Must provide that in the event of regular deficit assessments under sub-subparagraph (b)3.a. or sub-subparagraph (b)3.b., in the personal lines account, the commercial lines residential account, or the high-risk account, the corporation shall levy upon corporation policyholders in its next rate filing, or by a separate rate filing solely for this purpose, a Citizens policyholder surcharge arising from a regular assessment in such account in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for subject lines of business for the prior calendar year. For purposes of calculating the Citizens policyholder surcharge to be levied under this subparagraph, the total amount of the regular assessment to which this surcharge is related shall be determined as set forth in subparagraph (b)3., without deducting the estimated Citizens policyholder surcharge. Citizens policyholder surcharges under this subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

~~12. The policies issued by the corporation must provide that, if the corporation or the market assistance plan obtains an offer from an authorized insurer to cover the risk~~

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1 ~~at its approved rates, the risk is no longer eligible for~~
2 ~~renewal through the corporation.~~

3 ~~12.13.~~ Corporation policies and applications must
4 include a notice that the corporation policy could, under this
5 section, be replaced with a policy issued by an authorized
6 insurer that does not provide coverage identical to the
7 coverage provided by the corporation. The notice shall also
8 specify that acceptance of corporation coverage creates a
9 conclusive presumption that the applicant or policyholder is
10 aware of this potential.

11 ~~13.14.~~ May establish, subject to approval by the
12 office, different eligibility requirements and operational
13 procedures for any line or type of coverage for any specified
14 county or area if the board determines that such changes to
15 the eligibility requirements and operational procedures are
16 justified due to the voluntary market being sufficiently
17 stable and competitive in such area or for such line or type
18 of coverage and that consumers who, in good faith, are unable
19 to obtain insurance through the voluntary market through
20 ordinary methods would continue to have access to coverage
21 from the corporation. When coverage is sought in connection
22 with a real property transfer, such requirements and
23 procedures shall not provide for an effective date of coverage
24 later than the date of the closing of the transfer as
25 established by the transferor, the transferee, and, if
26 applicable, the lender.

27 ~~14.15.~~ Must provide that, with respect to the
28 high-risk account, any assessable insurer with a surplus as to
29 policyholders of \$25 million or less writing 25 percent or
30 more of its total countrywide property insurance premiums in
31 this state may petition the office, within the first 90 days

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1 of each calendar year, to qualify as a limited apportionment
 2 company. A regular assessment levied by the corporation on a
 3 limited apportionment company for a deficit incurred by the
 4 corporation for the high-risk account in 2006 or thereafter
 5 may be paid to the corporation on a monthly basis as the
 6 assessments are collected by the limited apportionment company
 7 from its insureds pursuant to s. 627.3512, but the regular
 8 assessment must be paid in full within 12 months after being
 9 levied by the corporation. A limited apportionment company
 10 shall collect from its policyholders any emergency assessment
 11 imposed under sub-subparagraph (b)3.d. The plan shall provide
 12 that, if the office determines that any regular assessment
 13 will result in an impairment of the surplus of a limited
 14 apportionment company, the office may direct that all or part
 15 of such assessment be deferred as provided in subparagraph
 16 (g)4. However, there shall be no limitation or deferment of an
 17 emergency assessment to be collected from policyholders under
 18 sub-subparagraph (b)3.d.

19 ~~15.16.~~ Must provide that the corporation appoint as
 20 its licensed agents only those agents who also hold an
 21 appointment as defined in s. 626.015(3) with an insurer who at
 22 the time of the agent's initial appointment by the corporation
 23 is authorized to write and is actually writing personal lines
 24 residential property coverage, commercial residential property
 25 coverage, or commercial nonresidential property coverage
 26 within the state.

27 ~~16.17.~~ Must provide, by July 1, 2007, a premium
 28 payment plan option to its policyholders which allows for
 29 quarterly and semiannual payment of premiums.

30 ~~17.18.~~ Must provide, effective June 1, 2007, that the
 31 corporation contract with each insurer providing the non-wind

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1 coverage for risks insured by the corporation in the high-risk
 2 account, requiring that the insurer provide claims adjusting
 3 services for the wind coverage provided by the corporation for
 4 such risks. An insurer is required to enter into this contract
 5 as a condition of providing non-wind coverage for a risk that
 6 is insured by the corporation in the high-risk account unless
 7 the board finds, after a hearing, that the insurer is not
 8 capable of providing adjusting services at an acceptable level
 9 of quality to corporation policyholders. The terms and
 10 conditions of such contracts must be substantially the same as
 11 the contracts that the corporation executed with insurers
 12 under the "adjust-your-own" program in 2006, except as may be
 13 mutually agreed to by the parties and except for such changes
 14 that the board determines are necessary to ensure that claims
 15 are adjusted appropriately. The corporation shall provide a
 16 process for neutral arbitration of any dispute between the
 17 corporation and the insurer regarding the terms of the
 18 contract. The corporation shall review and monitor the
 19 performance of insurers under these contracts.

20 ~~18.19.~~ Must limit coverage on mobile homes or
 21 manufactured homes built prior to 1994 to actual cash value of
 22 the dwelling rather than replacement costs of the dwelling.

23 19. May provide such limits of coverage as the board
 24 determines, consistent with the requirements of this
 25 subsection.

26 20. May require commercial property to meet specified
 27 hurricane mitigation construction features as a condition of
 28 eligibility for coverage.

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