

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Nelson offered the following:

2  
3 **Amendment (with directory and title amendments)**

4 Between lines 152 and 153, insert:

5 (b)1. All insurers authorized to write one or more subject  
6 lines of business in this state are subject to assessment by the  
7 corporation and, for the purposes of this subsection, are  
8 referred to collectively as "assessable insurers." Insurers  
9 writing one or more subject lines of business in this state  
10 pursuant to part VIII of chapter 626 are not assessable  
11 insurers, but insureds who procure one or more subject lines of  
12 business in this state pursuant to part VIII of chapter 626 are  
13 subject to assessment by the corporation and are referred to  
14 collectively as "assessable insureds." An insurer's assessment

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15 liability begins on the first day of the calendar year following  
16 the year in which the insurer was issued a certificate of  
17 authority to transact insurance for subject lines of business in  
18 this state and terminates 1 year after the end of the first  
19 calendar year during which the insurer no longer holds a  
20 certificate of authority to transact insurance for subject lines  
21 of business in this state.

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

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

34 (II) A commercial lines account for commercial residential  
35 and commercial nonresidential policies issued by the  
36 corporation, or issued by the Residential Property and Casualty  
37 Joint Underwriting Association and renewed by the corporation,  
38 which provides coverage for basic property perils on risks that  
39 are not located in areas eligible for coverage by the Florida  
40 Windstorm Underwriting Association as those areas were defined

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41 on January 1, 2002, and for policies that do not provide  
42 coverage for the peril of wind on risks that are located in such  
43 areas; and

44 (III) A coastal account for personal residential policies  
45 and commercial residential and commercial nonresidential  
46 property policies issued by the corporation, or transferred to  
47 the corporation, which provides coverage for the peril of wind  
48 on risks that are located in areas eligible for coverage by the  
49 Florida Windstorm Underwriting Association as those areas were  
50 defined on January 1, 2002. The corporation may offer policies  
51 that provide multiperil coverage and ~~the corporation~~ shall  
52 ~~continue to~~ offer policies that provide coverage only for the  
53 peril of wind for risks located in areas eligible for coverage  
54 in the coastal account. Effective July 1, 2014, the corporation  
55 shall cease offering new commercial residential policies  
56 providing multiperil coverage and shall instead continue to  
57 offer commercial residential wind-only policies, and may offer  
58 commercial residential policies excluding wind. The corporation  
59 may, however, continue to renew a commercial residential  
60 multiperil policy on a building that is insured by the  
61 corporation on June 30, 2014, under a multiperil policy. In  
62 issuing multiperil coverage, the corporation may use its  
63 approved policy forms and rates for the personal lines account.  
64 An applicant or insured who is eligible to purchase a multiperil  
65 policy from the corporation may purchase a multiperil policy  
66 from an authorized insurer without prejudice to the applicant's

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67 or insured's eligibility to prospectively purchase a policy that  
68 provides coverage only for the peril of wind from the  
69 corporation. An applicant or insured who is eligible for a  
70 corporation policy that provides coverage only for the peril of  
71 wind may elect to purchase or retain such policy and also  
72 purchase or retain coverage excluding wind from an authorized  
73 insurer without prejudice to the applicant's or insured's  
74 eligibility to prospectively purchase a policy that provides  
75 multiperil coverage from the corporation. It is the goal of the  
76 Legislature that there be an overall average savings of 10  
77 percent or more for a policyholder who currently has a wind-only  
78 policy with the corporation, and an ex-wind policy with a  
79 voluntary insurer or the corporation, and who obtains a  
80 multiperil policy from the corporation. It is the intent of the  
81 Legislature that the offer of multiperil coverage in the coastal  
82 account be made and implemented in a manner that does not  
83 adversely affect the tax-exempt status of the corporation or  
84 creditworthiness of or security for currently outstanding  
85 financing obligations or credit facilities of the coastal  
86 account, the personal lines account, or the commercial lines  
87 account. The coastal account must also include quota share  
88 primary insurance under subparagraph (c)2. The area eligible for  
89 coverage under the coastal account also includes the area within  
90 Port Canaveral, which is bordered on the south by the City of  
91 Cape Canaveral, bordered on the west by the Banana River, and  
92 bordered on the north by Federal Government property.

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

107           c. Creditors of the Residential Property and Casualty  
108 Joint Underwriting Association and the accounts specified in  
109 sub-sub-subparagraphs a.(I) and (II) may have a claim against,  
110 and recourse to, those accounts and no claim against, or  
111 recourse to, the account referred to in sub-sub-subparagraph  
112 a.(III). Creditors of the Florida Windstorm Underwriting  
113 Association have a claim against, and recourse to, the account  
114 referred to in sub-sub-subparagraph a.(III) and no claim  
115 against, or recourse to, the accounts referred to in sub-sub-  
116 subparagraphs a.(I) and (II).

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117 d. Revenues, assets, liabilities, losses, and expenses not  
118 attributable to particular accounts shall be prorated among the  
119 accounts.

120 e. The Legislature finds that the revenues of the  
121 corporation are revenues that are necessary to meet the  
122 requirements set forth in documents authorizing the issuance of  
123 bonds under this subsection.

124 f. The income of the corporation may not inure to the  
125 benefit of any private person.

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

127 a. After accounting for the Citizens policyholder  
128 surcharge imposed under sub-subparagraph i., if the remaining  
129 projected deficit incurred in the coastal account in a  
130 particular calendar year:

131 (I) Is not greater than 2 percent of the aggregate  
132 statewide direct written premium for the subject lines of  
133 business for the prior calendar year, the entire deficit shall  
134 be recovered through regular assessments of assessable insurers  
135 under paragraph (q) and assessable insureds.

136 (II) Exceeds 2 percent of the aggregate statewide direct  
137 written premium for the subject lines of business for the prior  
138 calendar year, the corporation shall levy regular assessments on  
139 assessable insurers under paragraph (q) and on assessable  
140 insureds in an amount equal to the greater of 2 percent of the  
141 projected deficit or 2 percent of the aggregate statewide direct  
142 written premium for the subject lines of business for the prior

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143 calendar year. Any remaining projected deficit shall be  
144 recovered through emergency assessments under sub-subparagraph  
145 d.

146       b. Each assessable insurer's share of the amount being  
147 assessed under sub-subparagraph a. must be in the proportion  
148 that the assessable insurer's direct written premium for the  
149 subject lines of business for the year preceding the assessment  
150 bears to the aggregate statewide direct written premium for the  
151 subject lines of business for that year. The assessment  
152 percentage applicable to each assessable insured is the ratio of  
153 the amount being assessed under sub-subparagraph a. to the  
154 aggregate statewide direct written premium for the subject lines  
155 of business for the prior year. Assessments levied by the  
156 corporation on assessable insurers under sub-subparagraph a.  
157 must be paid as required by the corporation's plan of operation  
158 and paragraph (q). Assessments levied by the corporation on  
159 assessable insureds under sub-subparagraph a. shall be collected  
160 by the surplus lines agent at the time the surplus lines agent  
161 collects the surplus lines tax required by s. 626.932, and paid  
162 to the Florida Surplus Lines Service Office at the time the  
163 surplus lines agent pays the surplus lines tax to that office.  
164 Upon receipt of regular assessments from surplus lines agents,  
165 the Florida Surplus Lines Service Office shall transfer the  
166 assessments directly to the corporation as determined by the  
167 corporation.

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168 c. After accounting for the Citizens policyholder  
169 surcharge imposed under sub-subparagraph i., the remaining  
170 projected deficits in the personal lines account and in the  
171 commercial lines account in a particular calendar year shall be  
172 recovered through emergency assessments under sub-subparagraph  
173 d.

174 d. Upon a determination by the board of governors that a  
175 projected deficit in an account exceeds the amount that is  
176 expected to be recovered through regular assessments under sub-  
177 subparagraph a., plus the amount that is expected to be  
178 recovered through surcharges under sub-subparagraph i., the  
179 board, after verification by the office, shall levy emergency  
180 assessments for as many years as necessary to cover the  
181 deficits, to be collected by assessable insurers and the  
182 corporation and collected from assessable insureds upon issuance  
183 or renewal of policies for subject lines of business, excluding  
184 National Flood Insurance policies. The amount collected in a  
185 particular year must be a uniform percentage of that year's  
186 direct written premium for subject lines of business and all  
187 accounts of the corporation, excluding National Flood Insurance  
188 Program policy premiums, as annually determined by the board and  
189 verified by the office. The office shall verify the arithmetic  
190 calculations involved in the board's determination within 30  
191 days after receipt of the information on which the determination  
192 was based. The office shall notify assessable insurers and the  
193 Florida Surplus Lines Service Office of the date on which

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194 assessable insurers shall begin to collect and assessable  
195 insureds shall begin to pay such assessment. The date may be not  
196 less than 90 days after the date the corporation levies  
197 emergency assessments pursuant to this sub-subparagraph.  
198 Notwithstanding any other provision of law, the corporation and  
199 each assessable insurer that writes subject lines of business  
200 shall collect emergency assessments from its policyholders  
201 without such obligation being affected by any credit,  
202 limitation, exemption, or deferment. Emergency assessments  
203 levied by the corporation on assessable insureds shall be  
204 collected by the surplus lines agent at the time the surplus  
205 lines agent collects the surplus lines tax required by s.  
206 626.932 and paid to the Florida Surplus Lines Service Office at  
207 the time the surplus lines agent pays the surplus lines tax to  
208 that office. The emergency assessments collected shall be  
209 transferred directly to the corporation on a periodic basis as  
210 determined by the corporation and held by the corporation solely  
211 in the applicable account. The aggregate amount of emergency  
212 assessments levied for an account under this sub-subparagraph in  
213 any calendar year may be less than but not exceed the greater of  
214 10 percent of the amount needed to cover the deficit, plus  
215 interest, fees, commissions, required reserves, and other costs  
216 associated with financing the original deficit, or 10 percent of  
217 the aggregate statewide direct written premium for subject lines  
218 of business and all accounts of the corporation for the prior

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219 year, plus interest, fees, commissions, required reserves, and  
220 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 (q), 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. or subparagraph (q)1. and emergency  
237 assessments under sub-subparagraph d. Emergency assessments  
238 collected under sub-subparagraph d. are not part of an insurer's  
239 rates, are not premium, and are not subject to premium tax,  
240 fees, or commissions; however, failure to pay the emergency  
241 assessment shall be treated as failure to pay premium. The  
242 emergency assessments under sub-subparagraph d. shall continue  
243 as long as any bonds issued or other indebtedness incurred with  
244 respect to a deficit for which the assessment was imposed remain

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

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

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

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271 h. The Florida Surplus Lines Service Office shall verify  
272 the proper application by surplus lines agents of assessment  
273 percentages for regular assessments and emergency assessments  
274 levied under this subparagraph on assessable insureds and assist  
275 the corporation in ensuring the accurate, timely collection and  
276 payment of assessments by surplus lines agents as required by  
277 the corporation.

278 i. In 2008 or thereafter, upon a determination by the  
279 board of governors that an account has a projected deficit, the  
280 board shall levy a Citizens policyholder surcharge against all  
281 policyholders of the corporation.

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

285 (II) The surcharge is payable upon cancellation or  
286 termination of the policy, upon renewal of the policy, or upon  
287 issuance of a new policy by the corporation within the first 12  
288 months after the date of the levy or the period of time  
289 necessary to fully collect the surcharge amount.

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

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

298 j. If the amount of any assessments or surcharges  
299 collected from corporation policyholders, assessable insurers or  
300 their policyholders, or assessable insureds exceeds the amount  
301 of the deficits, such excess amounts shall be remitted to and  
302 retained by the corporation in a reserve to be used by the  
303 corporation, as determined by the board of governors and  
304 approved by the office, to pay claims or reduce any past,  
305 present, or future plan-year deficits or to reduce outstanding  
306 debt.

307  
308 -----

**D I R E C T O R Y A M E N D M E N T**

309 Remove lines 12-13 and insert:

310 Section 1. Paragraphs (a) and (b) of subsection (6) of  
311 section 627.351, Florida Statutes, are amended to read:  
312

313  
314 -----

**T I T L E A M E N D M E N T**

315 Remove line 8 and insert:

316 conditions; prohibiting the corporation from offering  
317 new commercial residential policies providing  
318 multiperil coverage after a specified date and  
319 requiring the corporation to offer commercial  
320

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321 residential wind-only policies; providing an effective  
322 date.

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