

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Commerce Committee  
 2 Representative Esposito offered the following:

**Amendment**

Remove lines 1353-1733 and insert:

6 (A) That has a financial strength rating of "A-" or higher  
 7 from A.M. Best Company;

8 (B) That has a personal lines residential risk program  
 9 that is managed by a Florida resident surplus lines broker; and

10 (C) That offers coverage to applicants for new coverage  
 11 from the corporation or current policyholders of the corporation  
 12 through a take-out plan approved by the office.

13 (III) "Primary residence" means the dwelling that is the  
 14 policyholder's primary home or is a rental property that is the  
 15 primary home of the tenant, and which the policyholder or tenant  
 16 occupies for more than 9 months of each year.

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17        ~~(IV)-(I)~~ "Quota share primary insurance" means an  
18 arrangement in which the primary hurricane coverage of an  
19 eligible risk is provided in specified percentages by the  
20 corporation and an authorized insurer. The corporation and  
21 authorized insurer are each solely responsible for a specified  
22 percentage of hurricane coverage of an eligible risk as set  
23 forth in a quota share primary insurance agreement between the  
24 corporation and an authorized insurer and the insurance  
25 contract. The responsibility of the corporation or authorized  
26 insurer to pay its specified percentage of hurricane losses of  
27 an eligible risk, as set forth in the agreement, may not be  
28 altered by the inability of the other party to pay its specified  
29 percentage of losses. Eligible risks that are provided hurricane  
30 coverage through a quota share primary insurance arrangement  
31 must be provided policy forms that set forth the obligations of  
32 the corporation and authorized insurer under the arrangement,  
33 clearly specify the percentages of quota share primary insurance  
34 provided by the corporation and authorized insurer, and  
35 conspicuously and clearly state that the authorized insurer and  
36 the corporation may not be held responsible beyond their  
37 specified percentage of coverage of hurricane losses.

38        (II) "Eligible risks" means personal lines residential and  
39 commercial lines residential risks that meet the underwriting  
40 criteria of the corporation and are located in areas that were

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41 eligible for coverage by the Florida Windstorm Underwriting  
42 Association on January 1, 2002.

43 b. The corporation may enter into quota share primary  
44 insurance agreements with authorized insurers at corporation  
45 coverage levels of 90 percent and 50 percent.

46 c. If the corporation determines that additional coverage  
47 levels are necessary to maximize participation in quota share  
48 primary insurance agreements by authorized insurers, the  
49 corporation may establish additional coverage levels. However,  
50 the corporation's quota share primary insurance coverage level  
51 may not exceed 90 percent.

52 d. Any quota share primary insurance agreement entered  
53 into between an authorized insurer and the corporation must  
54 provide for a uniform specified percentage of coverage of  
55 hurricane losses, by county or territory as set forth by the  
56 corporation board, for all eligible risks of the authorized  
57 insurer covered under the agreement.

58 e. Any quota share primary insurance agreement entered  
59 into between an authorized insurer and the corporation is  
60 subject to review and approval by the office. However, such  
61 agreement shall be authorized only as to insurance contracts  
62 entered into between an authorized insurer and an insured who is  
63 already insured by the corporation for wind coverage.

64 f. For all eligible risks covered under quota share  
65 primary insurance agreements, the exposure and coverage levels

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66 for both the corporation and authorized insurers shall be  
67 reported by the corporation to the Florida Hurricane Catastrophe  
68 Fund. For all policies of eligible risks covered under such  
69 agreements, the corporation and the authorized insurer must  
70 maintain complete and accurate records for the purpose of  
71 exposure and loss reimbursement audits as required by fund  
72 rules. The corporation and the authorized insurer shall each  
73 maintain duplicate copies of policy declaration pages and  
74 supporting claims documents.

75 g. The corporation board shall establish in its plan of  
76 operation standards for quota share agreements which ensure that  
77 there is no discriminatory application among insurers as to the  
78 terms of the agreements, pricing of the agreements, incentive  
79 provisions if any, and consideration paid for servicing policies  
80 or adjusting claims.

81 h. The quota share primary insurance agreement between the  
82 corporation and an authorized insurer must set forth the  
83 specific terms under which coverage is provided, including, but  
84 not limited to, the sale and servicing of policies issued under  
85 the agreement by the insurance agent of the authorized insurer  
86 producing the business, the reporting of information concerning  
87 eligible risks, the payment of premium to the corporation, and  
88 arrangements for the adjustment and payment of hurricane claims  
89 incurred on eligible risks by the claims adjuster and personnel  
90 of the authorized insurer. Entering into a quota sharing

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91 insurance agreement between the corporation and an authorized  
92 insurer is voluntary and at the discretion of the authorized  
93 insurer.

94 3. May provide that the corporation may employ or  
95 otherwise contract with individuals or other entities to provide  
96 administrative or professional services that may be appropriate  
97 to effectuate the plan. The corporation may borrow funds by  
98 issuing bonds or by incurring other indebtedness, and shall have  
99 other powers reasonably necessary to effectuate the requirements  
100 of this subsection, including, without limitation, the power to  
101 issue bonds and incur other indebtedness in order to refinance  
102 outstanding bonds or other indebtedness. The corporation may  
103 seek judicial validation of its bonds or other indebtedness  
104 under chapter 75. The corporation may issue bonds or incur other  
105 indebtedness, or have bonds issued on its behalf by a unit of  
106 local government pursuant to subparagraph (q)2. in the absence  
107 of a hurricane or other weather-related event, upon a  
108 determination by the corporation, subject to approval by the  
109 office, that such action would enable it to efficiently meet the  
110 financial obligations of the corporation and that such  
111 financings are reasonably necessary to effectuate the  
112 requirements of this subsection. The corporation may take all  
113 actions needed to facilitate tax-free status for such bonds or  
114 indebtedness, including formation of trusts or other affiliated  
115 entities. The corporation may pledge assessments, projected

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116 recoveries from the Florida Hurricane Catastrophe Fund, other  
117 reinsurance recoverables, policyholder surcharges and other  
118 surcharges, and other funds available to the corporation as  
119 security for bonds or other indebtedness. In recognition of s.  
120 10, Art. I of the State Constitution, prohibiting the impairment  
121 of obligations of contracts, it is the intent of the Legislature  
122 that no action be taken whose purpose is to impair any bond  
123 indenture or financing agreement or any revenue source committed  
124 by contract to such bond or other indebtedness.

125 4. Must require that the corporation operate subject to  
126 the supervision and approval of a board of governors consisting  
127 of nine individuals who are residents of this state and who are  
128 from different geographical areas of the state, one of whom is  
129 appointed by the Governor and serves solely to advocate on  
130 behalf of the consumer. The appointment of a consumer  
131 representative by the Governor is deemed to be within the scope  
132 of the exemption provided in s. 112.313(7) (b) and is in addition  
133 to the appointments authorized under sub-subparagraph a.

134 a. The Governor, the Chief Financial Officer, the  
135 President of the Senate, and the Speaker of the House of  
136 Representatives shall each appoint two members of the board. At  
137 least one of the two members appointed by each appointing  
138 officer must have demonstrated expertise in insurance and be  
139 deemed to be within the scope of the exemption provided in s.  
140 112.313(7) (b). The Chief Financial Officer shall designate one

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141 of the appointees as chair. All board members serve at the  
142 pleasure of the appointing officer. All members of the board are  
143 subject to removal at will by the officers who appointed them.  
144 All board members, including the chair, must be appointed to  
145 serve for 3-year terms beginning annually on a date designated  
146 by the plan. However, for the first term beginning on or after  
147 July 1, 2009, each appointing officer shall appoint one member  
148 of the board for a 2-year term and one member for a 3-year term.  
149 A board vacancy shall be filled for the unexpired term by the  
150 appointing officer. The Chief Financial Officer shall appoint a  
151 technical advisory group to provide information and advice to  
152 the board in connection with the board's duties under this  
153 subsection. The executive director and senior managers of the  
154 corporation shall be engaged by the board and serve at the  
155 pleasure of the board. Any executive director appointed on or  
156 after July 1, 2006, is subject to confirmation by the Senate.  
157 The executive director is responsible for employing other staff  
158 as the corporation may require, subject to review and  
159 concurrence by the board.

160       b. The board shall create a Market Accountability Advisory  
161 Committee to assist the corporation in developing awareness of  
162 its rates and its customer and agent service levels in  
163 relationship to the voluntary market insurers writing similar  
164 coverage.

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165 (I) The members of the advisory committee consist of the  
166 following 11 persons, one of whom must be elected chair by the  
167 members of the committee: four representatives, one appointed by  
168 the Florida Association of Insurance Agents, one by the Florida  
169 Association of Insurance and Financial Advisors, one by the  
170 Professional Insurance Agents of Florida, and one by the Latin  
171 American Association of Insurance Agencies; three  
172 representatives appointed by the insurers with the three highest  
173 voluntary market share of residential property insurance  
174 business in the state; one representative from the Office of  
175 Insurance Regulation; one consumer appointed by the board who is  
176 insured by the corporation at the time of appointment to the  
177 committee; one representative appointed by the Florida  
178 Association of Realtors; and one representative appointed by the  
179 Florida Bankers Association. All members shall be appointed to  
180 3-year terms and may serve for consecutive terms.

181 (II) The committee shall report to the corporation at each  
182 board meeting on insurance market issues which may include rates  
183 and rate competition with the voluntary market; service,  
184 including policy issuance, claims processing, and general  
185 responsiveness to policyholders, applicants, and agents; and  
186 matters relating to depopulation.

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

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189 a. Subject to s. 627.3517, with respect to personal lines  
190 residential risks that are primary residences, if the risk is  
191 offered coverage from an authorized insurer at the insurer's  
192 approved rate under a standard policy including wind coverage  
193 or, if consistent with the insurer's underwriting rules as filed  
194 with the office, a basic policy including wind coverage, for a  
195 new application to the corporation for coverage, the risk is not  
196 eligible for any policy issued by the corporation unless the  
197 premium for coverage from the authorized insurer is more than 20  
198 percent greater than the premium for comparable coverage from  
199 the corporation. Whenever an offer of coverage for a personal  
200 lines residential risk that is a primary residence is received  
201 for a policyholder of the corporation at renewal from an  
202 authorized insurer, if the offer is equal to or less than the  
203 corporation's renewal premium for comparable coverage, the risk  
204 is not eligible for coverage with the corporation for policies  
205 that renew before April 1, 2023; for policies that renew on or  
206 after that date, the risk is not eligible for coverage with the  
207 corporation unless the premium for coverage from the authorized  
208 insurer is more than 20 percent greater than the corporation's  
209 renewal premium for comparable coverage. If the risk is not able  
210 to obtain such offer, the risk is eligible for a standard policy  
211 including wind coverage or a basic policy including wind  
212 coverage issued by the corporation; however, if the risk could  
213 not be insured under a standard policy including wind coverage

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214 regardless of market conditions, the risk is eligible for a  
215 basic policy including wind coverage unless rejected under  
216 subparagraph 8. The corporation shall determine the type of  
217 policy to be provided on the basis of objective standards  
218 specified in the underwriting manual and based on generally  
219 accepted underwriting practices. A policyholder removed from the  
220 corporation through an assumption agreement does not remain  
221 eligible for coverage from the corporation after the end of the  
222 policy term. However, any policy removed from the corporation  
223 through an assumption agreement remains on the corporation's  
224 policy forms through the end of the policy term. This sub-  
225 subparagraph applies only to risks that are primary residences.

226 (I) If the risk accepts an offer of coverage through the  
227 market assistance plan or through a mechanism established by the  
228 corporation other than a plan established by s. 627.3518, before  
229 a policy is issued to the risk by the corporation or during the  
230 first 30 days of coverage by the corporation, and the producing  
231 agent who submitted the application to the plan or to the  
232 corporation is not currently appointed by the insurer, the  
233 insurer shall:

234 (A) Pay to the producing agent of record of the policy for  
235 the first year, an amount that is the greater of the insurer's  
236 usual and customary commission for the type of policy written or  
237 a fee equal to the usual and customary commission of the  
238 corporation; or

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239 (B) Offer to allow the producing agent of record of the  
240 policy to continue servicing the policy for at least 1 year and  
241 offer to pay the agent the greater of the insurer's or the  
242 corporation's usual and customary commission for the type of  
243 policy written.

244  
245 If the producing agent is unwilling or unable to accept  
246 appointment, the new insurer shall pay the agent in accordance  
247 with sub-sub-sub-subparagraph (A).

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

252 (A) Pay to the producing agent of record, for the first  
253 year, an amount that is the greater of the insurer's usual and  
254 customary commission for the type of policy written or a fee  
255 equal to the usual and customary commission of the corporation;  
256 or

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

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

265       b. With respect to commercial lines residential risks, for  
266 a new application to the corporation for coverage, if the risk  
267 is offered coverage under a policy including wind coverage from  
268 an authorized insurer at its approved rate, the risk is not  
269 eligible for a policy issued by the corporation unless the  
270 premium for coverage from the authorized insurer is more than 20  
271 percent greater than the premium for comparable coverage from  
272 the corporation. Whenever an offer of coverage for a commercial  
273 lines residential risk is received for a policyholder of the  
274 corporation at renewal from an authorized insurer, the risk is  
275 not eligible for coverage with the corporation unless the  
276 premium for coverage from the authorized insurer is more than 20  
277 percent greater than the corporation's renewal premium for  
278 comparable coverage. If the risk is not able to obtain any such  
279 offer, the risk is eligible for a policy including wind coverage  
280 issued by the corporation. A policyholder removed from the  
281 corporation through an assumption agreement remains eligible for  
282 coverage from the corporation until the end of the policy term.  
283 However, any policy removed from the corporation through an  
284 assumption agreement remains on the corporation's policy forms  
285 through the end of the policy term.

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286 (I) If the risk accepts an offer of coverage through the  
287 market assistance plan or through a mechanism established by the  
288 corporation other than a plan established by s. 627.3518, before  
289 a policy is issued to the risk by the corporation or during the  
290 first 30 days of coverage by the corporation, and the producing  
291 agent who submitted the application to the plan or the  
292 corporation is not currently appointed by the insurer, the  
293 insurer shall:

294 (A) Pay to the producing agent of record of the policy,  
295 for the first year, an amount that is the greater of the  
296 insurer's usual and customary commission for the type of policy  
297 written or a fee equal to the usual and customary commission of  
298 the corporation; or

299 (B) Offer to allow the producing agent of record of the  
300 policy to continue servicing the policy for at least 1 year and  
301 offer to pay the agent the greater of the insurer's or the  
302 corporation's usual and customary commission for the type of  
303 policy written.

304  
305 If the producing agent is unwilling or unable to accept  
306 appointment, the new insurer shall pay the agent in accordance  
307 with sub-sub-sub-subparagraph (A).

308 (II) If the corporation enters into a contractual  
309 agreement for a take-out plan, the producing agent of record of

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310 the corporation policy is entitled to retain any unearned  
311 commission on the policy, and the insurer shall:

312 (A) Pay to the producing agent of record, for the first  
313 year, an amount that is the greater of the insurer's usual and  
314 customary commission for the type of policy written or a fee  
315 equal to the usual and customary commission of the corporation;  
316 or

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

321  
322 If the producing agent is unwilling or unable to accept  
323 appointment, the new insurer shall pay the agent in accordance  
324 with sub-sub-sub-subparagraph (A).

325 c. For purposes of determining comparable coverage under  
326 sub-subparagraphs a. and b., the comparison must be based on  
327 those forms and coverages that are reasonably comparable. The  
328 corporation may rely on a determination of comparable coverage  
329 and premium made by the producing agent who submits the  
330 application to the corporation, made in the agent's capacity as  
331 the corporation's agent. For purposes of comparing the premium  
332 for comparable coverage under sub-subparagraphs a. and b.,  
333 premium includes any surcharge or assessment that is actually  
334 applied to such policy. A comparison may be made solely of the

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335 premium with respect to the main building or structure only on  
336 the following basis: the same Coverage A or other building  
337 limits; the same percentage hurricane deductible that applies on  
338 an annual basis or that applies to each hurricane for commercial  
339 residential property; the same percentage of ordinance and law  
340 coverage, if the same limit is offered by both the corporation  
341 and the authorized insurer; the same mitigation credits, to the  
342 extent the same types of credits are offered both by the  
343 corporation and the authorized insurer; the same method for loss  
344 payment, such as replacement cost or actual cash value, if the  
345 same method is offered both by the corporation and the  
346 authorized insurer in accordance with underwriting rules; and  
347 any other form or coverage that is reasonably comparable as  
348 determined by the board. If an application is submitted to the  
349 corporation for wind-only coverage on a risk that is located in  
350 an area eligible for coverage by the Florida Windstorm  
351 Underwriting Association, as that area was defined on January 1,  
352 2002, the premium for the corporation's wind-only policy plus  
353 the premium for the ex-wind policy that is offered by an  
354 authorized insurer to the applicant must be compared to the  
355 premium for multiperil coverage offered by an authorized  
356 insurer, subject to the standards for comparison specified in  
357 this subparagraph. If the corporation or the applicant requests  
358 from the authorized insurer a breakdown of the premium of the  
359 offer by types of coverage so that a comparison may be made by

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360 the corporation or its agent and the authorized insurer refuses  
361 or is unable to provide such information, the corporation may  
362 treat the offer as not being an offer of coverage from an  
363 authorized insurer at the insurer's approved rate. However,  
364 notwithstanding any other provision of law, this sub-  
365 subparagraph does not apply to a policy that does not cover a  
366 primary residence.

367 d. If the risk could not be insured under a standard