

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	_____	(Y/N)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

1 Committee/Subcommittee hearing PCB: Insurance & Banking
2 Subcommittee

3 Representative Hager offered the following:

Amendment (with title amendment)

6 Remove lines 34-37 and insert:

7 Section 2. Subsections (11), (15), and (17) of section
8 626.854, Florida Statutes are amended and subsections (17) and
9 (18) to said section are added to read:

10 626.854 "Public adjuster" defined; prohibitions.—The
11 Legislature finds that it is necessary for the protection of the
12 public to regulate public insurance adjusters and to prevent the
13 unauthorized practice of law.

14 (11) (a) If a public adjuster enters into a contract with
15 an insured or claimant to reopen a claim or file a supplemental
16 claim that seeks additional payments for a claim that has been
17 previously paid in part or in full or settled by the insurer,
18 the public adjuster may not charge, agree to, or accept from any
19 source ~~any~~ compensation, payment, commission, fee, or any other

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20 thing of value based on a previous settlement or previous claim
21 payments by the insurer for the same cause of loss. The charge,
22 compensation, payment, commission, fee, or any other thing of
23 value must be based only on the claim payments or settlement
24 obtained through the work of the public adjuster after entering
25 into the contract with the insured or claimant. Compensation for
26 the reopened or supplemental claim may not exceed 20 percent of
27 the reopened or supplemental claim payment. In no event shall
28 the ~~The~~ contracts described in this paragraph exceed ~~are not~~
29 ~~subject to~~ the limitations in paragraph (b).

30 (b) A public adjuster may not charge, agree to, or accept
31 from any source ~~any~~ compensation, payment, commission, fee, or
32 any other thing of value in excess of:

33 1. Ten percent of the amount of insurance claim payments
34 made by the insurer for claims based on events that are the
35 subject of a declaration of a state of emergency by the
36 Governor. ~~This provision applies to claims made during the year~~
37 ~~after the declaration of emergency. After that year, the~~
38 ~~limitations in subparagraph 2. apply.~~

39 2. Fifteen ~~Twenty~~ percent of the amount of insurance claim
40 payments made by the insurer for claims that are not based on
41 events that are the subject of a declaration of a state of
42 emergency by the Governor.

43 (c) Any maneuver, shift, or device through which the
44 limits on compensation set forth in this subsection are exceeded
45 is a violation of this chapter punishable as provided under s.
46 626.8698.

47 (15) ~~A public adjuster must ensure prompt notice of~~

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48 ~~property loss claims submitted to an insurer by or through a~~
49 ~~public adjuster or on which a public adjuster represents the~~
50 ~~insured at the time the claim or notice of loss is submitted to~~
51 ~~the insurer.~~ The public adjuster must ensure that prompt notice
52 is given of the claim to the insurer, the public adjuster's
53 contract is provided to the insurer, the property is available
54 for inspection of the loss or damage by the insurer, and the
55 insurer is given an opportunity to interview the insured
56 directly about the loss and claim. The insurer must be allowed
57 to obtain necessary information to investigate and respond to
58 the claim.

59 (a) The insurer may not exclude the public adjuster from
60 its in-person meetings with the insured. The insurer shall meet
61 or communicate with the public adjuster in an effort to reach
62 agreement as to the scope of the covered loss under the
63 insurance policy. The public adjuster shall meet or communicate
64 with the insurer in an effort to reach agreement as to the scope
65 of the covered loss under the insurance policy. This section
66 does not impair the terms and conditions of the insurance policy
67 in effect at the time the claim is filed.

68 (b) A public adjuster may not restrict or prevent an
69 insurer, company employee adjuster, independent adjuster,
70 attorney, investigator, or other person acting on behalf of the
71 insurer from having reasonable access at reasonable times to ~~an~~
72 any insured or claimant or to the insured property that is the
73 subject of a claim.

74 (c) A public adjuster may not act or fail to reasonably
75 act in any manner that obstructs or prevents an insurer or

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76 insurer's adjuster from timely conducting an inspection of any
77 part of the insured property for which there is a claim for loss
78 or damage. The public adjuster representing the insureds may be
79 present for the insurer's inspection, but if the unavailability
80 of the public adjuster otherwise delays the insurer's timely
81 inspection of the property, the public adjuster or the insureds
82 must allow the insurer to have access to the property without
83 the participation or presence of the public adjuster or insureds
84 in order to facilitate the insurer's prompt inspection of the
85 loss or damage.

86 (17) A public adjuster, public adjuster apprentice, or any
87 person acting on behalf of a public adjuster or apprentice may
88 not enter into a contract or accept a power of attorney which
89 vests in the public adjuster, public adjuster apprentice, or any
90 person acting on behalf of a public adjuster or apprentice the
91 effective authority to choose the persons, entities or companies
92 that will perform repair work.

93 (18) A public adjuster shall not acquire any interest in
94 salvaged property, except with the written consent and
95 permission of the insured through a signed affidavit.

96 ~~(17)~~ (19) The provisions of subsections (5) ~~-(16)~~ (18) apply
97 only to residential property insurance policies and condominium
98 unit owner policies as defined in s. 718.111(11).

99 Section 3. Paragraph (a) of subsection (6) of section
100 627.351, Florida Statutes, is amended and paragraph (gg) of said
101 subsection is added to read:

102 627.351 Insurance risk apportionment plans.-

103 (6) CITIZENS PROPERTY INSURANCE CORPORATION.-

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104 (a) The public purpose of this subsection is to ensure
105 that there is an orderly market for property insurance for
106 residents and businesses of this state.

107 1. The Legislature finds that private insurers are
108 unwilling or unable to provide affordable property insurance
109 coverage in this state to the extent sought and needed. The
110 absence of affordable property insurance threatens the public
111 health, safety, and welfare and likewise threatens the economic
112 health of the state. The state therefore has a compelling public
113 interest and a public purpose to assist in assuring that
114 property in the state is insured and that it is insured at
115 affordable rates so as to facilitate the remediation,
116 reconstruction, and replacement of damaged or destroyed property
117 in order to reduce or avoid the negative effects otherwise
118 resulting to the public health, safety, and welfare, to the
119 economy of the state, and to the revenues of the state and local
120 governments which are needed to provide for the public welfare.
121 It is necessary, therefore, to provide affordable property
122 insurance to applicants who are in good faith entitled to
123 procure insurance through the voluntary market but are unable to
124 do so. The Legislature intends, therefore, that affordable
125 property insurance be provided and that it continue to be
126 provided, as long as necessary, through Citizens Property
127 Insurance Corporation, a government entity that is an integral
128 part of the state, and that is not a private insurance company.
129 To that end, the corporation shall strive to increase the
130 availability of affordable property insurance in this state,
131 while achieving efficiencies and economies, and while providing

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132 service to policyholders, applicants, and agents which is no
133 less than the quality generally provided in the voluntary
134 market, for the achievement of the foregoing public purposes.
135 Because it is essential for this government entity to have the
136 maximum financial resources to pay claims following a
137 catastrophic hurricane, it is the intent of the Legislature that
138 the corporation continue to be an integral part of the state and
139 that the income of the corporation be exempt from federal income
140 taxation and that interest on the debt obligations issued by the
141 corporation be exempt from federal income taxation.

142 2. The Residential Property and Casualty Joint
143 Underwriting Association originally created by this statute
144 shall be known as the Citizens Property Insurance Corporation.
145 The corporation shall provide insurance for residential and
146 commercial property, for applicants who are entitled, but, in
147 good faith, are unable to procure insurance through the
148 voluntary market. The corporation shall operate pursuant to a
149 plan of operation approved by order of the Financial Services
150 Commission. The plan is subject to continuous review by the
151 commission. The commission may, by order, withdraw approval of
152 all or part of a plan if the commission determines that
153 conditions have changed since approval was granted and that the
154 purposes of the plan require changes in the plan. For the
155 purposes of this subsection, residential coverage includes both
156 personal lines residential coverage, which consists of the type
157 of coverage provided by homeowner's, mobile home owner's,
158 dwelling, tenant's, condominium unit owner's, and similar
159 policies; and commercial lines residential coverage, which

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160 consists of the type of coverage provided by condominium
161 association, apartment building, and similar policies.

162 3. Effective January 1, 2009, a personal lines residential
163 structure that has a dwelling replacement cost of \$2 million or
164 more, or a single condominium unit that has a combined dwelling
165 and contents replacement cost of \$2 million or more is not
166 eligible for coverage by the corporation. Such dwellings insured
167 by the corporation on December 31, 2008, may continue to be
168 covered by the corporation until the end of the policy term.
169 However, such dwellings may reapply and obtain coverage if the
170 property owner provides the corporation with a sworn affidavit
171 from one or more insurance agents, on a form provided by the
172 corporation, stating that the agents have made their best
173 efforts to obtain coverage and that the property has been
174 rejected for coverage by at least one authorized insurer and at
175 least three surplus lines insurers. If such conditions are met,
176 the dwelling may be insured by the corporation for up to 3
177 years, after which time the dwelling is ineligible for coverage.
178 The office shall approve The method used by the corporation for
179 valuing the dwelling replacement cost for the purposes of this
180 subparagraph. If a policyholder is insured by the corporation
181 before ~~prior to~~ being determined to be ineligible pursuant to
182 this subparagraph and such policyholder files a lawsuit
183 challenging the determination, the policyholder may remain
184 insured by the corporation until the conclusion of the
185 litigation.

186 4. It is the intent of the Legislature that policyholders,
187 applicants, and agents of the corporation receive service and

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188 treatment of the highest possible level but never less than that
189 generally provided in the voluntary market. It is also intended
190 that the corporation be held to service standards no less than
191 those applied to insurers in the voluntary market by the office
192 with respect to responsiveness, timeliness, customer courtesy,
193 and overall dealings with policyholders, applicants, or agents
194 of the corporation.

195 5. Effective January 1, 2009, a personal lines residential
196 structure that is located in the "wind-borne debris region," as
197 defined in s. 1609.2, International Building Code (2006), and
198 that has an insured value on the structure of \$750,000 or more
199 is not eligible for coverage by the corporation unless the
200 structure has opening protections as required under the Florida
201 Building Code for a newly constructed residential structure in
202 that area. A residential structure is ~~shall be~~ deemed to comply
203 with this subparagraph if it has shutters or opening protections
204 on all openings and if such opening protections complied with
205 the Florida Building Code at the time they were installed.

206 ~~6. For any claim filed under any policy of the~~
207 ~~corporation, a public adjuster may not charge, agree to, or~~
208 ~~accept any compensation, payment, commission, fee, or other~~
209 ~~thing of value greater than 10 percent of the additional amount~~
210 ~~actually paid over the amount that was originally offered by the~~
211 ~~corporation for any one claim.~~

212 -----
213
214 **T I T L E A M E N D M E N T**

215 Remove line 5 and insert:

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216 filing; amending 626.854, F.S.; revising the
217 restrictions on public adjuster compensation, payment,
218 commission, fee, or any other thing of value;
219 providing for penalties; deleting a requirement the
220 public adjuster must ensure prompt notice of property
221 loss claims; requiring the public adjuster ensure that
222 prompt notice is given of the claim to the insurer;
223 requiring a public adjuster to meet or communicate
224 with the insurer for a specified reason; prohibiting a
225 public adjuster, a public adjuster apprentice, or any
226 person acting on behalf of a public adjuster or
227 apprentice to enter into a contract or accept a power
228 of attorney relating to repair work; prohibiting a
229 public adjuster from acquiring any interest in
230 salvaged property; providing an exception, amending s.
231 627.351, F.S.; deleting a provision that limits the
232 amount that a public adjuster may charge, agree to, or
233 accept as compensation with respect to a claim filed
234 under a policy of the corporation; requiring the