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2 An act relating to insurance; amending s.  
3 627.021, F.S.; providing that the provisions of  
4 ch. 627, F.S., do not apply to commercial  
5 inland marine insurance; amending ss. 627.0651,  
6 627.410, F.S.; making conforming changes to  
7 requirements for filing underwriting rules and  
8 forms; amending s. 627.311, F.S.; revising the  
9 composition of the workers' compensation joint  
10 underwriting plan; prohibiting insurers from  
11 providing workers' compensation to certain  
12 employers; amending ss. 627.7013 and 627.7014,  
13 F.S.; providing findings relating to the  
14 moratorium on hurricane-related cancellations  
15 and nonrenewals of personal lines residential  
16 policies and condominium association policies,  
17 respectively; deleting provisions relating to  
18 accelerated exposure reduction plans; providing  
19 circumstances under which the sections are  
20 inoperative; delaying the future repeal date of  
21 the sections; amending s. 627.7295, F.S.,  
22 relating to minimum down payments for motor  
23 vehicle insurance; amending s. 627.351, F.S.;  
24 prohibiting further geographical expansion of  
25 Florida Windstorm Underwriting Association  
26 eligibility; creating s. 626.9543, F.S.;  
27 providing a short title; providing legislative  
28 intent and purpose; requiring the Department of  
29 Insurance to provide certain assistance to  
30 Holocaust victims; providing requirements for  
31 insurers relating to insurance claims from

1 beneficiaries, descendants, or heirs of  
2 Holocaust victims; limiting certain statutes of  
3 limitation under certain circumstances;  
4 requiring insurers to report certain  
5 information to the department; requiring the  
6 department to report to the Legislature;  
7 providing penalties; providing requirements for  
8 bringing certain causes of action; providing  
9 severability; providing an effective date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

13 Section 1. Subsection (2) of section 627.021, Florida  
14 Statutes, is amended to read:

15 627.021 Scope of this part.--

16 (2) This chapter does not apply to:

17 (a) Reinsurance, except joint reinsurance as provided  
18 in s. 627.311.19 (b) Insurance against loss of or damage to aircraft,  
20 their hulls, accessories, or equipment, or against liability,  
21 other than workers' compensation and employer's liability,  
22 arising out of the ownership, maintenance, or use of aircraft.23 (c) Insurance of vessels or craft, their cargoes,  
24 marine builders' risks, marine protection and indemnity, or  
25 other risks commonly insured under marine, ~~as distinguished~~  
26 ~~from inland marine,~~ insurance policies.27 (d) Commercial inland marine insurance.28 (e)~~(d)~~ Surplus lines insurance placed under the  
29 provisions of ss. 626.913-626.937.30 Section 2. Subsection (13) of section 627.0651,  
31 Florida Statutes, is amended to read:

1           627.0651 Making and use of rates for motor vehicle  
2 insurance.--

3           (13)(a) Underwriting rules not contained in rating  
4 manuals shall be filed for private passenger automobile  
5 insurance and homeowners' insurance.

6           (b) The submission of rates, rating schedules, and  
7 rating manuals to the department by a licensed rating  
8 organization of which an insurer is a member or subscriber  
9 will be sufficient compliance with this subsection for any  
10 insurer maintaining membership or subscribership in such  
11 organization, to the extent that the insurer uses the rates,  
12 rating schedules, and rating manuals of such organization.  
13 All such information shall be available for public inspection,  
14 upon receipt by the department, during usual business hours.

15           ~~(c) The filing requirements of this subsection do not~~  
16 ~~apply to commercial inland marine risks.~~

17           Section 3. Subsection (4) of section 627.311, Florida  
18 Statutes, is amended to read:

19           627.311 Joint underwriters and joint reinsurers.--

20           (4)(a) Effective upon this act becoming a law, the  
21 department shall, after consultation with insurers, approve a  
22 joint underwriting plan of insurers which shall operate as a  
23 nonprofit entity. For the purposes of this subsection, the  
24 term "insurer" includes group self-insurance funds authorized  
25 by s. 624.4621, commercial self-insurance funds authorized by  
26 s. 624.462, assessable mutual insurers authorized under s.  
27 628.6011, and insurers licensed to write workers' compensation  
28 and employer's liability insurance in this state. The purpose  
29 of the plan is to provide workers' compensation and employer's  
30 liability insurance to applicants who are required by law to  
31 maintain workers' compensation and employer's liability

1 insurance and who are in good faith entitled to but who are  
2 unable to purchase such insurance through the voluntary  
3 market. The joint underwriting plan shall issue policies  
4 beginning January 1, 1994. The plan must have actuarially  
5 sound rates that assure that the plan is self-supporting.

6 (b) The operation of the plan is subject to the  
7 supervision of a 13-member board of governors. The board of  
8 governors shall be comprised of:

9 1. Five of the 20 domestic insurers, as defined in s.  
10 624.06(1), having the largest voluntary direct premiums  
11 written in this state for workers' compensation and employer's  
12 liability insurance, which shall be elected by those 20  
13 domestic insurers;

14 2. Five of the 20 foreign insurers as defined in s.  
15 624.06(2) having the largest voluntary direct premiums written  
16 in this state for workers' compensation and employer's  
17 liability insurance, which shall be elected by those 20  
18 foreign insurers;

19 3. One person, who shall serve as the chair, appointed  
20 by the Insurance Commissioner;

21 4. One person appointed by the largest property and  
22 casualty insurance agents' association in this state; and

23 5. The consumer advocate appointed under s. 627.0613  
24 or the consumer advocate's designee.~~5 domestic insurers, 1 of~~  
25 ~~whom shall be the assessable mutual insurer or other domestic~~  
26 ~~insurer which has the largest voluntary written premium for~~  
27 ~~workers' compensation and employer's liability insurance as of~~  
28 ~~December 31, 1993, 1 of whom shall be the commercial~~  
29 ~~self-insurance fund which has the largest voluntary written~~  
30 ~~premium for workers' compensation and employer's liability~~  
31 ~~insurance, as of December 31, 1993, and 3 of whom shall be the~~

1 ~~3 of the 5 group self-insurers' funds, authorized by s.~~  
2 ~~440.57, which have the largest voluntary written premium for~~  
3 ~~workers' compensation and employer's liability insurance, as~~  
4 ~~of December 31, 1993; and 5 of the 20 foreign insurers which~~  
5 ~~are defined in s. 624.06(2) with the largest voluntary written~~  
6 ~~premium in this state for workers' compensation and employer's~~  
7 ~~liability insurance, for the latest year for which data are~~  
8 ~~available, as selected by those 20 foreign insurers. If the~~  
9 ~~assessable mutual insurer or the commercial self-insurance~~  
10 ~~fund, described in this paragraph, decline to serve on, or~~  
11 ~~resign from, the board of governors, such position on the~~  
12 ~~board of governors shall be filled by appointment by a~~  
13 ~~committee comprised of the 10 assessable mutual insurers,~~  
14 ~~commercial self-insurance funds, and group self-insurers'~~  
15 ~~funds, authorized by s. 440.57, which have the largest~~  
16 ~~voluntary written premium for workers' compensation and~~  
17 ~~employer's liability insurance, as of December 31, 1993.~~

18  
19 Each board member shall serve 4-year terms and may serve  
20 consecutive terms.No board member shall be an insurer which  
21 provides service to the plan or which has an affiliate which  
22 provides services to the plan or which is serviced by a  
23 service company or third-party administrator which provides  
24 services to the plan or which has an affiliate which provides  
25 services to the plan. ~~The board of governors shall have a~~  
26 ~~chair, who shall be named by the Insurance Commissioner. The~~  
27 ~~board of governors shall include one representative appointed~~  
28 ~~by the largest property and casualty insurance agents'~~  
29 ~~association in this state. The consumer advocate appointed~~  
30 ~~under s. 627.0613 shall be a member of the board of governors.~~

31

1 The minutes, audits, and procedures of the board of governors  
2 are subject to chapter 119.

3 (c)~~(b)~~ The operation of the plan shall be governed by  
4 a plan of operation that is prepared at the direction of the  
5 board of governors. The plan of operation may be changed at  
6 any time by the board of governors or upon request of the  
7 department. The plan of operation and all changes thereto are  
8 subject to the approval of the department. The plan of  
9 operation shall:

10 1. Authorize the board to engage in the activities  
11 necessary to implement this subsection, including, but not  
12 limited to, borrowing money.

13 2. Develop criteria for eligibility for coverage by  
14 the plan, including, but not limited to, documented rejection  
15 by at least two insurers which reasonably assures that  
16 insureds covered under the plan are unable to acquire coverage  
17 in the voluntary market. Any insured may voluntarily elect to  
18 accept coverage from an insurer for a premium equal to or  
19 greater than the plan premium if the insurer writing the  
20 coverage adheres to the provisions of s. 627.171.

21 3. Require notice from the agent to the insured at the  
22 time of the application for coverage that the application is  
23 for coverage with the plan and that coverage may be available  
24 through an insurer, group self-insurers' fund, commercial  
25 self-insurance fund, or assessable mutual insurer through  
26 another agent at a lower cost.

27 4. Establish programs to encourage insurers to provide  
28 coverage to applicants of the plan in the voluntary market and  
29 to insureds of the plan, including, but not limited to:

30 a. Establishing procedures for an insurer to use in  
31 notifying the plan of the insurer's desire to provide coverage

1 to applicants to the plan or existing insureds of the plan and  
2 in describing the types of risks in which the insurer is  
3 interested. The description of the desired risks must be on a  
4 form developed by the plan.

5       b. Developing forms and procedures that provide an  
6 insurer with the information necessary to determine whether  
7 the insurer wants to write particular applicants to the plan  
8 or insureds of the plan.

9       c. Developing procedures for notice to the plan and  
10 the applicant to the plan or insured of the plan that an  
11 insurer will insure the applicant or the insured of the plan,  
12 and notice of the cost of the coverage offered; and developing  
13 procedures for the selection of an insuring entity by the  
14 applicant or insured of the plan.

15       d. Provide for a market-assistance plan to assist in  
16 the placement of employers. All applications for coverage in  
17 the plan received 45 days before the effective date for  
18 coverage shall be processed through the market-assistance  
19 plan. A market-assistance plan specifically designed to serve  
20 the needs of small good policyholders as defined by the board  
21 must be finalized by January 1, 1994.

22       5. Provide for policy and claims services to the  
23 insureds of the plan of the nature and quality provided for  
24 insureds in the voluntary market.

25       6. Provide for the review of applications for coverage  
26 with the plan for reasonableness and accuracy, using any  
27 available historic information regarding the insured.

28       7. Provide for procedures for auditing insureds of the  
29 plan which are based on reasonable business judgment and are  
30 designed to maximize the likelihood that the plan will collect  
31 the appropriate premiums.

1           8. Authorize the plan to terminate the coverage of and  
2 refuse future coverage for any insured that submits a  
3 fraudulent application to the plan or provides fraudulent or  
4 grossly erroneous records to the plan or to any service  
5 provider of the plan in conjunction with the activities of the  
6 plan.

7           9. Establish service standards for agents who submit  
8 business to the plan.

9           10. Establish criteria and procedures to prohibit any  
10 agent who does not adhere to the established service standards  
11 from placing business with the plan or receiving, directly or  
12 indirectly, any commissions for business placed with the plan.

13           11. Provide for the establishment of reasonable safety  
14 programs for all insureds in the plan. At the direction of the  
15 board, the Division of Safety shall provide inspection to  
16 insureds and applicants for coverage in the plan identified as  
17 high-risk insureds by the board or its designee.

18           12. Authorize the plan to terminate the coverage of  
19 and refuse future coverage to any insured who fails to pay  
20 premiums or surcharges when due; who, at the time of  
21 application, is delinquent in payments of workers'  
22 compensation or employer's liability insurance premiums or  
23 surcharges owed to an insurer, group self-insurers' fund,  
24 commercial self-insurance fund, or assessable mutual insurer  
25 licensed to write such coverage in this state; or who refuses  
26 to substantially comply with any safety programs recommended  
27 by the plan.

28           13. Authorize the board of governors to provide the  
29 services required by the plan through staff employed by the  
30 plan, through reasonably compensated service providers who  
31 contract with the plan to provide services as specified by the



1 board of governors, or through a combination of employees and  
2 service providers.

3 14. Provide for service standards for service  
4 providers, methods of determining adherence to those service  
5 standards, incentives and disincentives for service, and  
6 procedures for terminating contracts for service providers  
7 that fail to adhere to service standards.

8 15. Provide procedures for selecting service providers  
9 and standards for qualification as a service provider that  
10 reasonably assure that any service provider selected will  
11 continue to operate as an ongoing concern and is capable of  
12 providing the specified services in the manner required.

13 16. Provide for reasonable accounting and  
14 data-reporting practices.

15 17. Provide for annual review of costs associated with  
16 the administration and servicing of the policies issued by the  
17 plan to determine alternatives by which costs can be reduced.

18 18. Authorize the acquisition of such excess insurance  
19 or reinsurance as is consistent with the purposes of the plan.

20 19. Provide for an annual report to the department on  
21 a date specified by the department and containing such  
22 information as the department reasonably requires.

23 20. Establish multiple rating plans for various  
24 classifications of risk which reflect risk of loss, hazard  
25 grade, actual losses, size of premium, and compliance with  
26 loss control. At least one of such plans must be a  
27 preferred-rating plan to accommodate small-premium  
28 policyholders with good experience as defined in  
29 sub-subparagraph 22.a.

30 21. Establish agent commission schedules.

31 22. Establish three subplans as follows:

1           a. Subplan "A" must include those insureds whose  
2 annual premium does not exceed \$2,500 and who have neither  
3 incurred any lost-time claims nor incurred medical-only claims  
4 exceeding 50 percent of their premium for the immediate 2  
5 years.

6           b. Subplan "B" must include insureds that are  
7 employers identified by the board of governors as high-risk  
8 employers due solely to the nature of the operations being  
9 performed by those insureds and for whom no market exists in  
10 the voluntary market, and whose experience modifications are  
11 less than 1.00.

12           c. Subplan "C" must include all other insureds within  
13 the plan.

14           (d)~~(c)~~ The plan must be funded through actuarially  
15 sound premiums charged to insureds of the plan. The plan may  
16 issue assessable policies only to those insureds in subplan  
17 "C." Those assessable policies must be clearly identified as  
18 assessable by containing, in contrasting color and in not less  
19 than 10-point type, the following statements: "This is an  
20 assessable policy. If the plan is unable to pay its  
21 obligations, policyholders will be required to contribute on a  
22 pro rata earned premium basis the money necessary to meet any  
23 assessment levied." The plan may issue assessable policies  
24 with differing terms and conditions to different groups within  
25 the plan when a reasonable basis exists for the  
26 differentiation. The plan may offer rating, dividend plans,  
27 and other plans to encourage loss prevention programs.

28           (e)~~(d)~~ The plan shall establish and use its rates and  
29 rating plans, and the plan may establish and use changes in  
30 rating plans at any time, but no more frequently than two  
31 times per any rating class for any calendar year. By December

1 1, 1993, and December 1 of each year thereafter, the board  
2 shall establish and use actuarially sound rates for use by the  
3 plan to assure that the plan is self-funding while those rates  
4 are in effect. Such rates and rating plans must be filed with  
5 the department within 30 calendar days after their effective  
6 dates, and shall be considered a "use and file" filing. Any  
7 disapproval by the department must have an effective date that  
8 is at least 60 days from the date of disapproval of the rates  
9 and rating plan and must have prospective effect only. The  
10 plan may not be subject to any order by the department to  
11 return to policyholders any portion of the rates disapproved  
12 by the department. The department may not disapprove any rates  
13 or rating plans unless it demonstrates that such rates and  
14 rating plans are excessive, inadequate, or unfairly  
15 discriminatory.

16 (f)~~(e)~~ No later than June 1 of each year, the plan  
17 shall obtain an independent actuarial certification of the  
18 results of the operations of the plan for prior years, and  
19 shall furnish a copy of the certification to the department.  
20 If, after the effective date of the plan, the projected  
21 ultimate incurred losses and expenses and dividends for prior  
22 years exceed collected premiums, accrued net investment  
23 income, and prior assessments for prior years, the  
24 certification is subject to review and approval by the  
25 department before it becomes final.

26 (g)~~(f)~~ Whenever a deficit exists, the plan shall,  
27 within 90 days, provide the department with a program to  
28 eliminate the deficit within a reasonable time. The deficit  
29 may be funded both through increased premiums charged to  
30 insureds of the plan for subsequent years and through  
31

1 assessments on insureds in the plan if the plan uses  
2 assessable policies.

3 (h)~~(g)~~ Any premium or assessments collected by the  
4 plan in excess of the amount necessary to fund projected  
5 ultimate incurred losses and expenses of the plan and not paid  
6 to insureds of the plan in conjunction with loss prevention or  
7 dividend programs shall be retained by the plan for future  
8 use.

9 (i)~~(h)~~ The decisions of the board of governors do not  
10 constitute final agency action and are not subject to chapter  
11 120.

12 (j)~~(i)~~ Policies for insureds shall be issued by the  
13 plan.

14 (k)~~(j)~~ The plan created under this subsection is  
15 liable only for payment for losses arising under policies  
16 issued by the plan with dates of accidents occurring on or  
17 after January 1, 1994.

18 (l)~~(k)~~ Plan losses are the sole and exclusive  
19 responsibility of the plan, and payment for such losses must  
20 be funded in accordance with this subsection and must not  
21 come, directly or indirectly, from insurers or any guaranty  
22 association for such insurers.

23 (m)~~(l)~~ Each joint underwriting plan or association  
24 created under this section is not a state agency, board, or  
25 commission. However, for the purposes of s. 199.183(1) only,  
26 the joint underwriting plan is a political subdivision of the  
27 state and is exempt from the corporate income tax.

28 (n)~~(m)~~ Each joint underwriting plan or association may  
29 elect to pay premium taxes on the premiums received on its  
30 behalf or may elect to have the member insurers to whom the  
31 premiums are allocated pay the premium taxes if the member

1 insurer had written the policy. The joint underwriting plan or  
2 association shall notify the member insurers and the  
3 Department of Revenue by January 15 of each year of its  
4 election for the same year. As used in this paragraph, the  
5 term "premiums received" means the consideration for  
6 insurance, by whatever name called, but does not include any  
7 policy assessment or surcharge received by the joint  
8 underwriting association as a result of apportioning losses or  
9 deficits of the association pursuant to this section.

10 (o)~~(n)~~ Effective midnight, December 31, 1993, the  
11 Florida Workers' Compensation Insurance Plan, administered by  
12 the National Council on Compensation Insurance, shall  
13 terminate, except with respect to workers' compensation  
14 policies issued pursuant to such Florida Workers' Compensation  
15 Insurance Plan with inception dates on or before December 31,  
16 1993.

17 (p)~~(o)~~ Neither the plan nor any member of the board of  
18 governors is liable for monetary damages to any person for any  
19 statement, vote, decision, or failure to act, regarding the  
20 management or policies of the plan, unless:

21 1. The member breached or failed to perform her or his  
22 duties as a member; and

23 2. The member's breach of, or failure to perform,  
24 duties constitutes:

25 a. A violation of the criminal law, unless the member  
26 had reasonable cause to believe her or his conduct was  
27 unlawful. A judgment or other final adjudication against a  
28 member in any criminal proceeding for violation of the  
29 criminal law estops that member from contesting the fact that  
30 her or his breach, or failure to perform, constitutes a  
31 violation of the criminal law; but does not estop the member

1 from establishing that she or he had reasonable cause to  
2 believe that her or his conduct was lawful or had no  
3 reasonable cause to believe that her or his conduct was  
4 unlawful;

5         b. A transaction from which the member derived an  
6 improper personal benefit, either directly or indirectly; or

7         c. Recklessness or any act or omission that was  
8 committed in bad faith or with malicious purpose or in a  
9 manner exhibiting wanton and willful disregard of human  
10 rights, safety, or property. For purposes of this  
11 sub-subparagraph, the term "recklessness" means the acting, or  
12 omission to act, in conscious disregard of a risk:

13             (I) Known, or so obvious that it should have been  
14 known, to the member; and

15             (II) Known to the member, or so obvious that it should  
16 have been known, to be so great as to make it highly probable  
17 that harm would follow from such act or omission.

18         ~~(q)~~ ~~(p)~~ The provisions of this subsection shall be  
19 reviewed by the Legislature before July 1, 1996.

20         (r) No insurer shall provide workers' compensation and  
21 employer's liability insurance to any person who is delinquent  
22 in the payment of premiums, assessments, penalties, or  
23 surcharges owed to the plan.

24         Section 4. Subsection (1) of section 627.410, Florida  
25 Statutes, is amended to read:

26             627.410 Filing, approval of forms.--

27             (1) No basic insurance policy or annuity contract  
28 form, or application form where written application is  
29 required and is to be made a part of the policy or contract,  
30 or group certificates issued under a master contract delivered  
31 in this state, or printed rider or endorsement form or form of

1 renewal certificate, shall be delivered or issued for delivery  
2 in this state, unless the form has been filed with the  
3 department at its offices in Tallahassee by or in behalf of  
4 the insurer which proposes to use such form and has been  
5 approved by the department. This provision does not apply to  
6 surety bonds or to ~~specialy rated inland marine risks, nor to~~  
7 policies, riders, endorsements, or forms of unique character  
8 which are designed for and used with relation to insurance  
9 upon a particular subject (other than as to health insurance),  
10 or which relate to the manner of distribution of benefits or  
11 to the reservation of rights and benefits under life or health  
12 insurance policies and are used at the request of the  
13 individual policyholder, contract holder, or  
14 certificateholder. As to group insurance policies effectuated  
15 and delivered outside this state but covering persons resident  
16 in this state, the group certificates to be delivered or  
17 issued for delivery in this state shall be filed with the  
18 department for information purposes only.

19 Section 5. Paragraph (c) is added to subsection (1) of  
20 section 627.7013, Florida Statutes, and subsection (2) of said  
21 section is amended, to read:

22 627.7013 Orderly markets for personal lines  
23 residential property insurance.--

24 (1) FINDINGS AND PURPOSE.--

25 (a) The Legislature finds that personal lines  
26 residential property insurers, as a condition of doing  
27 business in this state, have a responsibility to contribute to  
28 an orderly market for personal lines residential property  
29 insurance and that there is a compelling state interest in  
30 maintaining an orderly market for personal lines residential  
31 property insurance. The Legislature further finds that

1 Hurricane Andrew, which caused over \$15 billion of insured  
2 losses in South Florida, has reinforced the need of consumers  
3 to have reliable homeowner's insurance coverage; however, the  
4 enormous monetary impact to insurers of Hurricane Andrew  
5 claims has prompted insurers to propose substantial  
6 cancellation or nonrenewal of their homeowner's insurance  
7 policyholders. The Legislature further finds that the massive  
8 cancellations and nonrenewals announced, proposed, or  
9 contemplated by certain insurers constitute a significant  
10 danger to the public health, safety, and welfare, and  
11 destabilize the insurance market. In furtherance of the  
12 overwhelming public necessity for an orderly market for  
13 property insurance, the Legislature, in chapter 93-401, Laws  
14 of Florida, imposed, for a limited time, a moratorium on  
15 cancellation or nonrenewal of personal lines residential  
16 property insurance policies. The Legislature further finds  
17 that upon expiration of the moratorium, additional actions are  
18 required to maintain an orderly market for personal lines  
19 residential property insurance in this state. The purposes of  
20 this section are to provide for a phaseout of the moratorium  
21 and to require advance planning and approval for programs of  
22 exposure reduction.

23 (b) The Legislature finds, as of the beginning of the  
24 1996 Regular Session of the Legislature, that:

25 1. The conditions described in paragraph (a) remain  
26 applicable to the property insurance market in this state in  
27 1996 and are likely to remain applicable for several years  
28 thereafter.

29 2. The Residential Property and Casualty Joint  
30 Underwriting Association, a residual market mechanism created  
31 to alleviate temporary unavailability of property insurance



1 coverage, remains the primary or exclusive source of new  
2 property insurance coverage in significant portions of the  
3 state.

4 3. Recent enactments intended to restore a  
5 competitive, private sector property insurance market,  
6 including creation and enhancement of the Florida Hurricane  
7 Catastrophe Fund, incentives for depopulation of the  
8 Residential Property and Casualty Joint Underwriting  
9 Association, incentives for hurricane loss mitigation and  
10 prevention, creation of the Florida Commission on Hurricane  
11 Loss Projection Methodology, and revisions of laws relating to  
12 rates and coverages, are beginning to have their intended  
13 effects; however, the market instability that persists could  
14 frustrate these efforts to restore the market.

15 4. The moratorium completion provided in this section  
16 is the least intrusive method for maintaining an orderly  
17 market, insofar as it applies only to hurricane-related  
18 cancellations and nonrenewals of personal lines residential  
19 policies that were in force on the effective date, and insofar  
20 as it allows an insurer annually to nonrenew up to 5 percent  
21 of the total number of such policies as of the effective date.

22 (c) The Legislature finds, as of January 1, 1998,  
23 that:

24 1. The conditions described in paragraphs (a) and (b)  
25 remain applicable to the property insurance market in this  
26 state in 1998 and are likely to remain applicable for several  
27 years thereafter.

28 2. The general instability of the market is reflected  
29 by the following facts:

30 a. In spite of depopulation efforts under which  
31 approximately 600,000 policies have been transferred from the

1 Residential Property and Casualty Joint Underwriting  
2 Association to the voluntary market, the joint underwriting  
3 association, with approximately 500,000 policies in force,  
4 remains the primary or exclusive source of new property  
5 insurance coverage in significant portions of the state.

6 b. The Florida Windstorm Underwriting Association is  
7 growing rapidly, with more than 400,000 policies in force,  
8 approximately half of which were initially issued in 1997.

9 3. A further extension of the operation of this  
10 section until June 1, 2001, will provide an opportunity for  
11 the market to stabilize and for continuation of residual  
12 market depopulation efforts.

13 (2) MORATORIUM COMPLETION.--

14 (a) As used in this subsection, the term "total number  
15 of policies" means the number of an insurer's policies of a  
16 specified type that were in force on June 1, 1996, or the date  
17 on which this section became law, whichever was later.

18 (b) The following restrictions apply only to  
19 cancellation or nonrenewal of personal lines residential  
20 property insurance policies that were in force on June 1,  
21 1996, or the date on which this section became law, whichever  
22 was later.

23 1. In any 12-month period, an insurer may not cancel  
24 or nonrenew more than 5 percent of such insurer's total number  
25 of homeowner's policies, 5 percent of such insurer's total  
26 number of mobile home owner's policies, or 5 percent of such  
27 insurer's total number of personal lines residential policies  
28 of all types and classes in the state for the purpose of  
29 reducing the insurer's exposure to hurricane claims and may  
30 not, with respect to any county, cancel or nonrenew more than  
31 10 percent of its total number of homeowner's policies, 10

1 percent of its total number of mobile home owner's policies,  
2 or 10 percent of its total number of personal lines  
3 residential policies of all types and classes in the county  
4 for the purpose of reducing the insurer's exposure to  
5 hurricane claims. This subparagraph does not prohibit any  
6 cancellations or nonrenewals of such policies for any other  
7 lawful reason unrelated to the risk of loss from hurricane  
8 exposure.

9           2.a. If, for any 12-month period, an insurer proposes  
10 to cancel or nonrenew personal lines residential policies to  
11 an extent not authorized by subparagraph 1. for the purpose of  
12 reducing exposure to hurricane claims, the insurer must file a  
13 phaseout plan with the department at least 90 days prior to  
14 the effective date of the plan. In the plan, the insurer must  
15 demonstrate to the department that the insurer is protecting  
16 market stability and the interests of its policyholders. The  
17 plan may not be implemented unless it is approved by the  
18 department. In developing the plan, the insurer must consider  
19 policyholder longevity, the use of voluntary incentives to  
20 accomplish the reduction, and geographic distribution. The  
21 insurer must demonstrate that under the plan the insurer will  
22 not cancel or nonrenew more policies in the 12-month period  
23 than the largest number of similar policies the insurer  
24 canceled or nonrenewed for any reason in any 12-month period  
25 between August 24, 1989, and August 24, 1992.

26           b. If the insurer considers the number of  
27 cancellations and nonrenewals under sub-subparagraph a. to be  
28 insufficient, the insurer may apply for approval of additional  
29 cancellations or nonrenewals on the basis of an unreasonable  
30 risk of insolvency. In evaluating a request under this  
31 sub-subparagraph, the department shall consider and shall

1 require the insurer to provide information relevant to: the  
2 insurer's size, market concentration, and general financial  
3 condition; the portion of the insurer's business in this state  
4 represented by personal lines residential property insurance;  
5 the reasonableness of assumptions with respect to size,  
6 frequency, severity, and path of hurricanes; the reinsurance  
7 available to the insurer and potential recoveries from the  
8 Florida Hurricane Catastrophe Fund; and the extent to which  
9 the insurer's assets have been voluntarily transferred by  
10 dividend or otherwise from the insurer to its stockholders,  
11 parent companies, or affiliated companies since June 1, 1996,  
12 or the date on which this section became law, whichever was  
13 later. In the implementation of exposure reductions under this  
14 sub-subparagraph, the department and the insurer shall  
15 consider such factors as policyholder longevity, the use of  
16 voluntary incentives to accomplish the exposure reduction, and  
17 geographic distribution.

18 c. A policy shall not be counted as having been  
19 canceled or nonrenewed for purposes of this subsection if any  
20 of the following apply:

21 (I) The policy was canceled or nonrenewed for an  
22 underwriting reason unrelated to the risk of loss from  
23 hurricane exposure, nonpayment of premium, or any other lawful  
24 reason that is unrelated to the risk of loss from hurricane  
25 exposure. The department shall consider the reason specified  
26 in the notice of cancellation or nonrenewal to be the reason  
27 for the cancellation or nonrenewal unless the department finds  
28 by a preponderance of the evidence that the stated reason was  
29 not the insurer's actual reason for the cancellation or  
30 nonrenewal.

31

1 (II) The cancellation or nonrenewal was initiated by  
2 the insured.

3 (III) The insurer has offered the policyholder  
4 replacement or alternative coverage at approved rates, which  
5 coverage meets the requirements of the secondary mortgage  
6 market.

7 d. In addition to any other cancellations or  
8 nonrenewals subject to the limitations in this subsection, a  
9 policy shall be considered as having been canceled or  
10 nonrenewed for purposes of this subsection if:

11 (I) The insurer implements a rate increase under the  
12 use-and-file provisions of s. 627.062(2)(a)2., which rate  
13 increase exceeds 150 percent of the increase ultimately  
14 approved by the department, and, while the rate filing was  
15 pending, the policyholder voluntarily canceled or nonrenewed  
16 the policy and obtained replacement coverage from another  
17 insurer, including the Residential Property and Casualty Joint  
18 Underwriting Association; or

19 (II) The insurer reduces the commission to an agent by  
20 more than 25 percent and the agent thereafter places the risk  
21 with another insurer, including the Residential Property and  
22 Casualty Joint Underwriting Association, or the Florida  
23 Windstorm Underwriting Association, ~~or the Coastal Zone~~  
24 ~~Insurance Plan.~~

25 e. The department must approve or disapprove an  
26 application for a waiver within 90 days after the department  
27 receives the application for waiver.

28 3. In addition to the cancellations or nonrenewals  
29 authorized under this section, an insurer may cancel or  
30 nonrenew policies to the extent authorized by an exemption  
31 from or waiver of either the moratorium created by chapter

1 93-401, Laws of Florida, or the moratorium phaseout under  
2 former s. 627.7013(2).

3 4. Notwithstanding any provisions of this section to  
4 the contrary, this section does not apply to any insurer that,  
5 prior to August 24, 1992, filed notice of such insurer's  
6 intent to discontinue writing insurance in this state under s.  
7 624.430, and for which a finding has been made by the  
8 department, the Division of Administrative Hearings of the  
9 Department of Management Services, or a court that such notice  
10 satisfied all requirements of s. 624.430. Nothing in this  
11 section shall be construed to authorize an insurer to withdraw  
12 from any line of property insurance business for the purpose  
13 of reducing exposure to risk of hurricane loss if such  
14 withdrawal commenced at any time that the moratorium under  
15 chapter 93-401, Laws of Florida, or the moratorium phaseout  
16 under this section is in effect.

17 5. The following actions by an insurer do not  
18 constitute cancellations or nonrenewals for purposes of this  
19 subsection:

20 a. The transfer of a risk from one admitted insurer to  
21 another admitted insurer, unless the terms of the new or  
22 replacement policy place the policyholder in default of a  
23 mortgage obligation.

24 b. An increase in the hurricane deductible applicable  
25 to the policy, unless the new deductible places the  
26 policyholder in default of a mortgage obligation or the  
27 deductible exceeds the limits specified in s. 627.701.

28 c. Any other lawful change in coverage that does not  
29 place the policyholder in default of a mortgage obligation.

30 d. A cancellation or nonrenewal that is part of the  
31 same action as the removal of a policy including windstorm or

1 hurricane coverage from the Residential Property and Casualty  
2 Joint Underwriting Association.

3           6. In order to assure fair and effective enforcement  
4 of this subsection, each insurer shall, no later than October  
5 1, 1996, report to the department the policy number of each  
6 policy subject to this subsection, arranged by county. The  
7 report shall include the policy number for each personal lines  
8 residential policy that was in force on June 1, 1996, or the  
9 date this section became law, whichever was later. Beginning  
10 October 1, 1996, each insurer shall also report, on a monthly  
11 basis, all cancellations and nonrenewals of policies included  
12 in such policy list and the reasons for the cancellations and  
13 nonrenewals.

14           ~~7. An insurer that has an overconcentration of wind  
15 risk in areas eligible for coverage under the Florida  
16 Windstorm Underwriting Association may submit to the  
17 department for approval an accelerated exposure reduction  
18 plan. The plan, if approved, shall allow the insurer to  
19 nonrenew additional policies for reasons of reducing hurricane  
20 loss, beyond the amounts authorized elsewhere in this  
21 paragraph, subject to the following conditions:~~

22           ~~a. All additional nonrenewals under this subparagraph  
23 shall consist of nonrenewals of only the windstorm portion of  
24 a policy, and shall be allowed only if the Florida Windstorm  
25 Underwriting Association provides windstorm coverage to  
26 replace the nonrenewed windstorm coverage.~~

27           ~~b. At the conclusion of the accelerated exposure  
28 reduction plan, which shall be no later than 12 months after  
29 the date of the first nonrenewal under such plan, the insurer  
30 is prohibited from any further nonrenewals for purposes of~~

31

1 ~~reducing hurricane loss until the expiration of this~~  
2 ~~subsection.~~

3 ~~c. The total number of nonrenewals statewide for~~  
4 ~~purposes of reduction of hurricane loss, under this~~  
5 ~~subparagraph taken together with the other provisions of this~~  
6 ~~paragraph, shall not exceed the total number of nonrenewals~~  
7 ~~that would have been allowed statewide under subparagraph 1.~~  
8 ~~between June 1, 1996, and the expiration of this subsection.~~

9 ~~d. Notwithstanding the provisions of s. 627.4133, the~~  
10 ~~insurer must give the policyholder 45 days' advance notice of~~  
11 ~~the nonrenewal of windstorm coverage under this subparagraph~~  
12 ~~and the availability of such coverage through the Florida~~  
13 ~~Windstorm Underwriting Association.~~

14 ~~e. The first nonrenewal under an accelerated exposure~~  
15 ~~reduction program under this subparagraph may not take effect~~  
16 ~~earlier than February 1, 1997.~~

17 ~~f. In reviewing the proposed accelerated exposure~~  
18 ~~reduction plan, the department shall consider:~~

19 ~~(I) The degree to which the exposure reduction plan is~~  
20 ~~necessary to address the insurer's overconcentration.~~

21 ~~(II) Prior levels of participation in writing~~  
22 ~~voluntary wind coverage in areas eligible for coverage through~~  
23 ~~the Florida Windstorm Underwriting Association.~~

24 ~~(III) The availability of wind coverage in the~~  
25 ~~voluntary market for the subject risks.~~

26 ~~(IV) The capacity of the Florida Windstorm~~  
27 ~~Underwriting Association to absorb the risks proposed to be~~  
28 ~~covered by the association.~~

29 (c) The department may adopt rules to implement this  
30 subsection.

31



1           (d) This section shall cease to operate at such time  
2 as the department determines that the insured value of all  
3 residential properties insured by the Florida Windstorm  
4 Underwriting Association and all properties insured by the  
5 Residential Property and Casualty Joint Underwriting  
6 Association under policies providing wind coverage, combined,  
7 has remained below \$25 billion for 3 consecutive months, based  
8 on exposure data reported to the department by the  
9 associations.

10           ~~(e)(d)~~ This subsection is repealed on June 1, 2001  
11 ~~1999~~.

12           Section 6. Section 627.7014, Florida Statutes, is  
13 amended to read:

14           627.7014 Orderly markets for condominium association  
15 residential property insurance.--

16           (1) FINDINGS AND PURPOSE.--

17           (a) The Legislature finds:

18           1. That residential property insurers providing  
19 condominium association coverage, as a condition of doing  
20 business in this state, have a responsibility to contribute to  
21 an orderly market for condominium association residential  
22 property insurance and that there is a compelling state  
23 interest in maintaining an orderly market for condominium  
24 association residential property insurance.

25           2. That Hurricane Andrew, which caused over \$15  
26 billion of insured losses in South Florida, has reinforced the  
27 need of consumers to have reliable condominium association  
28 insurance coverage; however, even more than 3 years after  
29 Hurricane Andrew, the hurricane's enormous monetary impact is  
30 causing insurers to propose substantial cancellation or  
31

1 nonrenewal of their condominium association insurance  
2 policyholders.

3           3. That the massive cancellations and nonrenewals  
4 announced, proposed, or contemplated by certain insurers  
5 constitute a significant danger to the public health, safety,  
6 and welfare and destabilize the insurance market.

7           4. That the Residential Property and Casualty Joint  
8 Underwriting Association, a residual market mechanism created  
9 to alleviate temporary unavailability of property insurance  
10 coverage, remains the primary or exclusive source of new  
11 property insurance in significant portions of the state.

12           5. That recent enactments intended to restore a  
13 competitive, private sector property insurance market,  
14 including creation and enhancement of the Florida Hurricane  
15 Catastrophe Fund, incentives for depopulation of the  
16 Residential Property and Casualty Joint Underwriting  
17 Association, incentives for hurricane loss mitigation and  
18 prevention, creation of the Florida Commission on Hurricane  
19 Loss Projection Methodology, and revisions of laws relating to  
20 rates and coverages, are beginning to have their intended  
21 effects; however, the market remains unstable.

22           6. That the moratorium created by this section is the  
23 least intrusive method for maintaining an orderly market for  
24 condominium association insurance, insofar as it applies only  
25 to hurricane-related cancellations and nonrenewals of personal  
26 lines residential policies that were in force on the effective  
27 date of this section, and insofar as it allows an insurer  
28 annually to nonrenew up to 5 percent of the total number of  
29 such policies as of the effective date of this section.

30           (b) The Legislature finds, as of January 1, 1998,  
31 that:

1           1. The conditions described in paragraph (a) remain  
2 applicable to the commercial residential property insurance  
3 market in this state in 1998 and are likely to remain  
4 applicable for several years thereafter.

5           2. The general instability of the market is reflected  
6 by the recent rapid growth of the Florida Windstorm  
7 Underwriting Association, which had more than 9,500 commercial  
8 residential policies in force as of December 31, 1997,  
9 representing a 58 percent increase over the number of  
10 commercial residential policies in force on December 31, 1996.

11           3. An extension of the operation of this section until  
12 June 1, 2001, will provide an opportunity for the market to  
13 stabilize and for continuation of residual market depopulation  
14 efforts.

15           (c)(b) The purposes of this section are to provide for  
16 a temporary moratorium on hurricane-related cancellations and  
17 nonrenewals of condominium association coverage and to require  
18 advance planning and approval for programs of condominium  
19 association exposure reduction.

20           (2) MORATORIUM.--

21           (a) As used in this subsection, the term "total number  
22 of policies" means the number of an insurer's condominium  
23 association policies providing windstorm or hurricane coverage  
24 that were in force on the effective date of this section. The  
25 following restrictions apply to the cancellation or nonrenewal  
26 of condominium association residential property insurance  
27 policies that were in force on the effective date of this  
28 section:

29           1. In any 12-month period, an insurer may not cancel  
30 or nonrenew more than 5 percent of its total number of  
31 condominium association policies in the state for the purpose

1 of reducing the insurer's exposure to hurricane claims and may  
2 not, with respect to any county, cancel or nonrenew more than  
3 10 percent of its total number of condominium association  
4 policies in the county for the purpose of reducing the  
5 insurer's exposure to hurricane claims. This subparagraph does  
6 not prohibit any cancellations or nonrenewals of such policies  
7 for any other lawful reason unrelated to the risk of loss from  
8 hurricane exposure.

9         2.a. If, for any 12-month period, an insurer proposes  
10 to cancel or nonrenew condominium association policies to an  
11 extent not authorized by subparagraph 1. for the purpose of  
12 reducing exposure to hurricane claims, the insurer must file a  
13 phaseout plan with the department at least 90 days prior to  
14 the effective date of the plan. In the plan, the insurer must  
15 demonstrate to the department that the insurer is protecting  
16 market stability and the interests of its policyholders. The  
17 plan may not be implemented unless it is approved by the  
18 department. In developing the plan, the insurer must consider  
19 policyholder longevity, the use of voluntary incentives to  
20 accomplish the reduction, and geographic distribution. The  
21 insurer must demonstrate that under the plan the insurer will  
22 not cancel or nonrenew more policies in the 12-month period  
23 than the largest number of similar policies the insurer  
24 canceled or nonrenewed for any reason in any 12-month period  
25 between August 24, 1989, and August 24, 1992.

26         b. If the insurer considers the number of  
27 cancellations and nonrenewals under sub-subparagraph a. to be  
28 insufficient, the insurer may apply for approval of additional  
29 cancellations or nonrenewals on the basis of an unreasonable  
30 risk of insolvency. In evaluating a request under this  
31 sub-subparagraph, the department shall consider, and shall

1 require the insurer to provide information relevant to: the  
2 insurer's size, market concentration, and general financial  
3 condition; the portion of the insurer's business in this state  
4 represented by condominium association residential property  
5 insurance; the reasonableness of assumptions with respect to  
6 size, frequency, severity, and path of hurricanes; and the  
7 reinsurance available to the insurer and potential recoveries  
8 from the Florida Hurricane Catastrophe Fund. In the  
9 implementation of exposure reductions under this  
10 sub-subparagraph, the department and the insurer shall  
11 consider such factors as policyholder longevity, the use of  
12 voluntary incentives to accomplish the exposure reduction, and  
13 geographic distribution.

14 c. A policy shall not be counted as having been  
15 canceled or nonrenewed for purposes of this subsection if any  
16 of the following apply:

17 (I) The policy was canceled or nonrenewed for an  
18 underwriting reason unrelated to the risk of loss from  
19 hurricane exposure, nonpayment of premium, or any other lawful  
20 reason that is unrelated to the risk of loss from hurricane  
21 exposure. The department shall consider the reason specified  
22 in the notice of cancellation or nonrenewal to be the reason  
23 for the cancellation or nonrenewal unless the department finds  
24 by a preponderance of the evidence that the stated reason was  
25 not the insurer's actual reason for the cancellation or  
26 nonrenewal.

27 (II) The cancellation or nonrenewal was initiated by  
28 the insured.

29 (III) The insurer has offered the policyholder  
30 replacement or alternative coverage at approved rates.

31

1 (IV) The risk is transferred from one admitted insurer  
2 to another admitted insurer, unless the terms of the new or  
3 replacement policy place the policyholder in default of a  
4 mortgage obligation.

5 (V) The hurricane deductible applicable to the policy  
6 is increased unless the new deductible exceeds statutory  
7 limits or places the policyholder in default of a mortgage  
8 obligation.

9 (VI) Any other lawful change in coverage that does not  
10 place the policyholder in default of a mortgage obligation is  
11 made.

12 d. In addition to any other cancellations or  
13 nonrenewals subject to the limitations in this subsection, a  
14 policy shall be considered as having been canceled or  
15 nonrenewed for purposes of this subsection if:

16 (I) The insurer implements a rate increase under the  
17 use-and-file provisions of s. 627.062(2)(a)2., which rate  
18 increase exceeds 150 percent of the increase ultimately  
19 approved by the department, and, while the rate filing was  
20 pending, the policyholder voluntarily canceled or nonrenewed  
21 the policy and obtained replacement coverage from another  
22 insurer, including the Residential Property and Casualty Joint  
23 Underwriting Association; or

24 (II) The insurer reduces the commission to an agent by  
25 more than 25 percent and the agent thereafter places the risk  
26 with another insurer, including the Residential Property and  
27 Casualty Joint Underwriting Association.

28 e. The department must approve or disapprove an  
29 application for a waiver within 90 days after the department  
30 receives the application for waiver.

31

1           3. Notwithstanding any provisions of this section to  
2 the contrary, this section does not apply to any insurer that,  
3 prior to August 24, 1992, filed notice of such insurer's  
4 intent to discontinue writing insurance in this state under s.  
5 624.430, and for which a finding has been made by the  
6 department, the Division of Administrative Hearings of the  
7 Department of Management Services, or a court that such notice  
8 satisfied all requirements of s. 624.430. This section also  
9 does not apply to any insurer that:

10           a. Collects at least 75 percent of its Florida  
11 premiums from policies that include hurricane coverage  
12 provided to condominium associations in coastal counties.

13           b. Collects at least 80 percent of its Florida  
14 premiums from policies that include hurricane coverage  
15 provided to condominium associations in Broward, Dade, and  
16 Palm Beach Counties.

17           c. Has, annually since 1992:

18           (I) Increased its aggregate Florida premium volume  
19 from policies that include hurricane coverage provided to  
20 condominium associations in coastal counties.

21           (II) Increased its aggregate Florida premium volume  
22 from policies that include hurricane coverage provided to  
23 condominium associations in Broward, Dade, and Palm Beach  
24 Counties.

25           (III) Increased its aggregate Florida exposure from  
26 policies that include hurricane coverage provided to  
27 condominium associations in coastal counties.

28           (IV) Increased its aggregate Florida exposure from  
29 policies that include hurricane coverage provided to  
30 condominium associations in Broward, Dade, and Palm Beach  
31 Counties.

1           d. Has surplus as to policyholders of no more than  
2 \$200 million as reflected in its annual statement for 1995.

3           4. In order to assure fair and effective enforcement  
4 of this subsection, each insurer shall, no later than October  
5 1, 1996, report to the department the policy number of each  
6 policy subject to this subsection, arranged by county. The  
7 report shall include the policy number for each condominium  
8 association policy that was in force on the effective date of  
9 this section. Beginning October 1, 1996, each insurer shall  
10 also report, on a monthly basis, all cancellations and  
11 nonrenewals of policies included in such policy list and the  
12 reasons for the cancellations and nonrenewals.

13           ~~5. An insurer that has an overconcentration of wind  
14 risk in areas eligible for coverage under the Florida  
15 Windstorm Underwriting Association may submit to the  
16 department for approval an accelerated exposure reduction  
17 plan. The plan, if approved, shall allow the insurer to  
18 nonrenew additional policies for reasons of reducing hurricane  
19 loss, beyond the amounts authorized elsewhere in this  
20 paragraph, subject to the following conditions:~~

21           ~~a. All additional nonrenewals under this subparagraph  
22 shall consist of nonrenewals of only the windstorm portion of  
23 a policy, and shall be allowed only if the Florida Windstorm  
24 Underwriting Association provides windstorm coverage to  
25 replace the nonrenewed windstorm coverage.~~

26           ~~b. At the conclusion of the accelerated exposure  
27 reduction plan, which shall be no later than 12 months after  
28 the date of the first nonrenewal under such plan, the insurer  
29 is prohibited from any further nonrenewals for purposes of  
30 reducing hurricane loss until the expiration of this  
31 subsection.~~



1           ~~c. The total number of nonrenewals statewide for~~  
2 ~~purposes of reduction of hurricane loss, under this~~  
3 ~~subparagraph taken together with the other provisions of this~~  
4 ~~paragraph, shall not exceed the total number of nonrenewals~~  
5 ~~that would have been allowed statewide under subparagraph 1.~~  
6 ~~between June 1, 1996, and the expiration of this subsection.~~

7           ~~d. Notwithstanding the provisions of s. 627.4133, the~~  
8 ~~insurer must give the policyholder 45 days' advance notice of~~  
9 ~~the nonrenewal of windstorm coverage under this subparagraph~~  
10 ~~and the availability of such coverage through the Florida~~  
11 ~~Windstorm Underwriting Association.~~

12           ~~e. The first nonrenewal under an accelerated exposure~~  
13 ~~reduction program under this subparagraph may not take effect~~  
14 ~~earlier than February 1, 1997.~~

15           ~~f. In reviewing the proposed accelerated exposure~~  
16 ~~reduction plan, the department shall consider:~~

17           ~~(I) The degree to which the exposure reduction plan is~~  
18 ~~necessary to address the insurer's overconcentration.~~

19           ~~(II) Prior levels of participation in writing~~  
20 ~~voluntary wind coverage in areas eligible for coverage through~~  
21 ~~the Florida Windstorm Underwriting Association.~~

22           ~~(III) The availability of wind coverage in the~~  
23 ~~voluntary market for the subject risks.~~

24           ~~(IV) The capacity of the Florida Windstorm~~  
25 ~~Underwriting Association to absorb the risks proposed to be~~  
26 ~~covered by the association.~~

27           (b) The department may adopt rules to implement this  
28 subsection.

29           (c) This section shall cease to operate at such time  
30 as the department determines that the insured value of all  
31 residential properties insured by the Florida Windstorm

1 Underwriting Association and all properties insured by the  
2 Residential Property and Casualty Joint Underwriting  
3 Association under policies providing wind coverage, combined,  
4 has remained below \$25 billion for 3 consecutive months, based  
5 on exposure data reported to the department by the  
6 associations.

7 (d)~~(e)~~ This subsection is repealed on June 1, 2001  
8 ~~1999~~.

9 Section 7. Subsection (7) of section 627.7295, Florida  
10 Statutes, is amended to read:

11 627.7295 Motor vehicle insurance contracts.--

12 (7) A policy of private passenger motor vehicle  
13 insurance or a binder for such a policy may be initially  
14 issued in this state only if the insurer or agent has  
15 collected from the insured an amount equal to 2 months'  
16 premium. An insurer, agent, or premium finance company may  
17 not directly or indirectly take any action resulting in the  
18 insured having paid from the insured's own funds an amount  
19 less than the 2 months' premium required by this subsection.  
20 This subsection applies without regard to whether the premium  
21 is financed by a premium finance company or is paid pursuant  
22 to a periodic payment plan of an insurer or an insurance  
23 agent. This subsection does not apply if an insured or member  
24 of the insured's family is renewing or replacing a policy or a  
25 binder for such policy written by the same insurer or a member  
26 of the same insurer group. This subsection does not apply to  
27 an insurer that issues private passenger motor vehicle  
28 coverage primarily to active duty or former military personnel  
29 or their dependents. This subsection does not apply if the  
30 policy is paid pursuant to a payroll deduction plan or an  
31 automatic electronic funds transfer payment plan.This

1 subsection and subsection (4) do not apply if an insured has  
2 had a policy in effect for at least 6 months, the insured's  
3 agent is terminated by the insurer that issued the policy, and  
4 the insured obtains coverage on the policy's renewal date with  
5 a new company through the terminated agent.

6 Section 8. Paragraph (e) of subsection (2) of section  
7 627.351, Florida Statutes, is amended to read:

8 627.351 Insurance risk apportionment plans.--

9 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--

10 (e) Notwithstanding the provisions of subparagraph  
11 (c)2. or paragraph (d), eligibility shall not be extended to  
12 any area that was not eligible on March 1, 1997, except that  
13 the department may act with respect to any petition on which a  
14 hearing was held prior to May 9, 1997 ~~the effective date of~~  
15 ~~this act. This paragraph is repealed on October 1, 1998.~~

16 Section 9. Section 626.9543, Florida Statutes, is  
17 created to read:

18 626.9543 Holocaust victims.--

19 (1) SHORT TITLE.--This section may be cited as the  
20 "Holocaust Victims Insurance Act."

21 (2) INTENT; PURPOSE.--It is the Legislature's intent  
22 that the potential and actual insurance claims of Holocaust  
23 victims and their heirs and beneficiaries be expeditiously  
24 identified and properly paid and that Holocaust victims and  
25 their families receive appropriate assistance in the filing  
26 and payment of their rightful claims.

27 (3) DEFINITIONS.--For the purpose of this section:

28 (a) "Department" means the Department of Insurance.

29 (b) "Holocaust victim" means any person who lost his  
30 or her life or property as a result of discriminatory laws,  
31 policies, or actions targeted against discrete groups of

1 persons between 1920 and 1945, inclusive, in Nazi Germany,  
2 areas occupied by Nazi German, or countries allied with Nazi  
3 Germany.

4 (c) "Insurance policy" means, but is not limited to,  
5 life insurance, property insurance, or education policies.

6 (d) "Legal relationship" means any parent, subsidiary,  
7 or affiliated company with an insurer doing business in this  
8 state.

9 (e) "Proceeds" means the face or other payout value of  
10 policies and annuities plus reasonable interest to date of  
11 payments without diminution for wartime or immediate postwar  
12 currency devaluation.

13 (4) ASSISTANCE TO HOLOCAUST VICTIMS.--The department  
14 shall establish a toll-free telephone number, available in  
15 appropriate languages, to assist any person seeking to recover  
16 proceeds from an insurance policy issued to a Holocaust  
17 victim.

18 (5) PROOF OF A CLAIM.--Any insurer doing business in  
19 this state, in receipt of a claim from a Holocaust victim or  
20 from a beneficiary, descendent or heir of a Holocaust victim,  
21 shall:

22 (a) Diligently and expeditiously investigate all such  
23 claims.

24 (b) Allow such claimants to meet a reasonable, not  
25 unduly restrictive, standard of proof to substantiate a claim,  
26 pursuant to standards established by the department.

27 (c) Permit claims irrespective of any statute of  
28 limitations or notice requirements imposed by any insurance  
29 policy issued, provided the claim is submitted within 10 years  
30 after effective date of this section.

31

1           (6) STATUTE OF LIMITATIONS.--Notwithstanding any law  
2 or agreement among the parties to an insurance policy to the  
3 contrary, any action brought by Holocaust victims or by a  
4 beneficiary, heir, or descendent of a Holocaust victim seeking  
5 proceeds of an insurance policy issued or in effect between  
6 1920 and 1945, inclusive, shall not be dismissed for failure  
7 to comply with the applicable statute of limitations or laches  
8 provided the action is commenced within 10 years after the  
9 effective date of this section.

10           (7) REPORTS FROM INSURERS.--Any insurer doing business  
11 in this state shall have an affirmative duty to ascertain to  
12 the extent possible and report to the department within 90  
13 days after the effective date of this section and annually  
14 thereafter all efforts made and results of such efforts to  
15 ascertain:

16           (a) Any legal relationship with an international  
17 insurer that issued an insurance policy to a Holocaust victim  
18 between 1920 and 1945, inclusive.

19           (b) The number and total value of such policies.

20           (c) Any claim filed by a Holocaust victim, his or her  
21 beneficiary, heir, or descendent that has been paid, denied  
22 payment, or is pending.

23           (d) Attempts made by the insurer to locate the  
24 beneficiaries of any such policies for which no claim of  
25 benefits has been made.

26           (e) An explanation of any denial or pending payment of  
27 a claim to a Holocaust victim, his or her beneficiary, heir,  
28 or descendent.

29           (8) REPORTS TO THE LEGISLATURE.--The department shall  
30 report to the Legislature one year after the effective date of  
31 this section and annually thereafter:

1           (a) The number of insurers doing business in this  
2 state which have a legal relationship with an international  
3 insurer that could have issued a policy to a Holocaust victim  
4 between 1920 and 1945, inclusive.

5           (b) A list of all claims paid, denied, or pending to a  
6 Holocaust victim, his or her beneficiary, heir, or descendent.

7           (c) A summary of the length of time for the processing  
8 and disposition of a claim by the insurer.

9           (9) PENALTIES.--In addition to any other penalty  
10 provided under this chapter, any insurer or person who  
11 violates the provisions of this section is subject to an  
12 administrative penalty of \$1,000 per day for each day such  
13 violation continues.

14           (10) PRIVATE RIGHT OF ACTION.--An action to recover  
15 damages caused by a violation of this section must be  
16 commenced within 5 years after the cause of action has  
17 accrued. Any person who shall sustain damages by the reason  
18 of a violation of this section shall recover threefold the  
19 actual damages sustained thereby, as well as costs not  
20 exceeding \$50,000, and reasonable attorneys' fees. At or  
21 before the commencement of any civil action by a party, notice  
22 thereof shall be served upon the department.

23           (11) RULES.--The department, by rule, shall provide  
24 for the implementation of the provisions of this section by  
25 establishing procedures and related forms for facilitating,  
26 monitoring, and verifying compliance with this section and for  
27 the establishment for a restitution program for Holocaust  
28 victims, survivors, and their heirs and beneficiaries.

29           (12) SEVERABILITY.--If any provision of this section  
30 or the application thereof to any person or circumstance is  
31 held invalid, the invalidity shall not affect other provisions

1 or applications of the section which can be given effect  
2 without the invalid provision or application, and to this end  
3 the provisions of this section are declared severable.

4           Section 10. This act shall take effect July 1, 1998.  
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