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Amendment No. \_\_\_\_ (for drafter's use only)

|   | <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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Representative(s) Lippman offered the following:

**Amendment (with title amendment)**

On page 1, line 21,

insert:

Section 1. Section 627.0628, Florida Statutes, is amended to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology.--

(1) LEGISLATIVE FINDINGS AND INTENT.--

(a) Reliable projections of hurricane losses are necessary in order to assure that rates for residential property insurance meet the statutory requirement that rates be neither excessive nor inadequate. The ability to accurately project hurricane losses has been enhanced greatly in recent years through the use of computer modeling. It is the public policy of this state to encourage the use of the most sophisticated actuarial methods to assure that consumers are charged lawful rates for residential property insurance coverage.

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1           (b) The Legislature recognizes the need for expert  
 2 advice to the department concerning the evaluation of computer  
 3 models and other recently developed or improved actuarial  
 4 methodologies for projecting hurricane losses, in order to  
 5 enhance the department's ability to resolve conflicts among  
 6 actuarial professionals, and in order to provide both  
 7 immediate and continuing improvement in the sophistication of  
 8 actuarial methods used to set rates charged to consumers.

9           (c) It is the intent of the Legislature to create the  
 10 Florida Commission on Hurricane Loss Projection Methodology as  
 11 a panel of advisory experts to make recommendations to the  
 12 department concerning the components necessary to construct  
 13 ~~provide~~ the most actuarially sophisticated computer models and  
 14 actuarial methodologies possible ~~guidelines and standards~~ for  
 15 projection of potential hurricane losses ~~possible~~, given the  
 16 current state of actuarial science. It is the further intent  
 17 of the Legislature that such components may ~~standards and~~  
 18 ~~guidelines must~~ be used by the State Board of Administration  
 19 in developing reimbursement premium rates for the Florida  
 20 Hurricane Catastrophe Fund, and may be used by an insurer  
 21 ~~insurers~~ in a rate filing ~~filings~~ under s. 627.062, subject to  
 22 the following:

23           1. If the filing is a "file and use" filing and the  
 24 department has issued a notice of intent to disapprove the  
 25 filing, the insurer must demonstrate by clear and convincing  
 26 evidence that the results produced by the computer model or  
 27 actuarial methodology are accurate, reliable, and applied by  
 28 the insurer in a reasonable manner.

29           2. If the filing is a "use and file" filing and the  
 30 department finds preliminarily that the rate might be  
 31 excessive, inadequate, or unfairly discriminatory, the

1 insurer, with respect to the proceedings initiated by the  
 2 department to disapprove the rate, if the insurer contests the  
 3 finding, must demonstrate by clear and convincing evidence  
 4 that the results produced by the computer model or actuarial  
 5 methodology are accurate, reliable, and applied by the insurer  
 6 in a reasonable manner.~~unless the way in which such standards~~  
 7 ~~and guidelines were applied by the insurer was erroneous, as~~  
 8 ~~shown by a preponderance of the evidence.~~

9 (d) It is the intent of the Legislature that such  
 10 models and methodologies ~~standards and guidelines~~ be employed  
 11 as soon as possible, and that they be subject to continuing  
 12 review thereafter.

13 (2) COMMISSION CREATED.--

14 (a) There is created the Florida Commission on  
 15 Hurricane Loss Projection Methodology, which is assigned to  
 16 the State Board of Administration. The commission shall be  
 17 administratively housed within the State Board of  
 18 Administration, but it shall independently exercise the  
 19 advisory responsibilities ~~powers~~ and duties specified in this  
 20 section.

21 (b) The commission shall consist of the following 11  
 22 members:

- 23 1. The insurance consumer advocate.
- 24 2. The Chief Operating Officer of the Florida  
 25 Hurricane Catastrophe Fund.
- 26 3. The Executive Director of the Residential Property  
 27 and Casualty Joint Underwriting Association.
- 28 4. The Director of the Division of Emergency  
 29 Management of the Department of Community Affairs.
- 30 5. The actuary member of the Florida Hurricane  
 31 Catastrophe Fund Advisory Council.

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- 1           6. Six members appointed by the Insurance  
2 Commissioner, as follows:
- 3           a. An employee of the Department of Insurance who is  
4 an actuary responsible for property insurance rate filings.
- 5           b. An actuary who is employed full time by a property  
6 and casualty insurer which was responsible for at least 1  
7 percent of the aggregate statewide direct written premium for  
8 homeowner's insurance in the calendar year preceding the  
9 member's appointment to the commission.
- 10          c. An expert in insurance finance who is a full time  
11 member of the faculty of the State University System and who  
12 has a background in actuarial science.
- 13          d. An expert in statistics who is a full time member  
14 of the faculty of the State University System and who has a  
15 background in insurance.
- 16          e. An expert in computer system design who is a full  
17 time member of the faculty of the State University System.
- 18          f. An expert in meteorology who is a full time member  
19 of the faculty of the State University System and who  
20 specializes in hurricanes.
- 21          (c) Members designated under subparagraphs (b)1.-5.  
22 shall serve on the commission as long as they maintain the  
23 respective offices designated in subparagraphs (b)1.-5.  
24 Members appointed by the Insurance Commissioner under  
25 subparagraph (b)6. shall serve on the commission until the end  
26 of the term of office of the Insurance Commissioner who  
27 appointed them, unless earlier removed by the Insurance  
28 Commissioner for cause. Vacancies on the commission shall be  
29 filled in the same manner as the original appointment.
- 30          (d) The State Board of Administration shall annually  
31 appoint one of the members of the commission to serve as

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1 chair.

2 (e) Members of the commission shall serve without  
3 compensation, but shall be reimbursed for per diem and travel  
4 expenses pursuant to s. 112.061.

5 (f) The State Board of Administration shall, as a cost  
6 of administration of the Florida Hurricane Catastrophe Fund,  
7 provide for travel, expenses, and staff support for the  
8 commission.

9 (g) There shall be no liability on the part of, and no  
10 cause of action of any nature shall arise against, any member  
11 of the commission, any member of the State Board of  
12 Administration, or any employee of the State Board of  
13 Administration for any action taken in the performance of  
14 their duties under this section. In addition, the commission  
15 may, in writing, waive any potential cause of action for  
16 negligence of a consultant, contractor, or contract employee  
17 engaged to assist the commission.

18 (3) ~~ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--~~

19 (a) In developing its recommendations to the  
20 department, the commission shall consider any actuarial  
21 methods, principles, standards, models, or output ranges that  
22 have the potential for improving the accuracy of or  
23 reliability of the hurricane loss projections used in  
24 residential property insurance rate filings. The commission  
25 shall, from time to time, provide information to the  
26 department concerning ~~adopt findings as to~~ the accuracy or  
27 reliability of particular methods, principles, standards,  
28 models, or output ranges. It is not the role of the commission  
29 to validate the use of any particular method, principle,  
30 standard, model, or output range.

31 (b) In establishing reimbursement premiums for the

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1 Florida Hurricane Catastrophe Fund, the State Board of  
 2 Administration ~~may~~ must, to the extent feasible, employ  
 3 actuarial methods, principles, standards, models, or output  
 4 ranges provided ~~found~~ by the commission ~~to be accurate or~~  
 5 ~~reliable~~.

6 (c) With respect to a rate filing under s. 627.062, an  
 7 insurer may employ actuarial methods, principles, standards,  
 8 models, or output ranges provided ~~found~~ by the commission ~~to~~  
 9 ~~be accurate or reliable~~ to determine hurricane loss factors  
 10 for use in a rate filing under s. 627.062, which findings and  
 11 factors are admissible and relevant in consideration of a rate  
 12 filing by the department or in any ~~arbitration or~~  
 13 administrative or judicial review, subject to a determination  
 14 by the department, based on clear and convincing evidence,  
 15 that the methods, principles, standards, models, or output  
 16 ranges used by the insurer are, with respect to the specific  
 17 filing, including any characteristics of the area or risks  
 18 applicable to the filing, accurate and reliable and that they  
 19 are applied in a reasonable manner. The burden of proof shall  
 20 lie with the insurer.

21 (d) The commission shall provide information to the  
 22 department concerning the accuracy and reliability of  
 23 particular ~~adopt initial~~ actuarial methods, principles,  
 24 standards, models, or output ranges, including information  
 25 regarding any computer models or output ranges derived from  
 26 computer models, no later than December 31, 1998 ~~1995~~. The  
 27 commission shall furnish ~~adopt~~ revisions to such information  
 28 provided to the department ~~actuarial methods, principles,~~  
 29 ~~standards, models, or output ranges~~ at least annually  
 30 thereafter. ~~As soon as possible, but no later than July 1,~~  
 31 ~~1996, the commission shall adopt revised actuarial methods,~~

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1 ~~principles, standards, models, or output ranges which include~~  
2 ~~specification of acceptable computer models or output ranges~~  
3 ~~derived from computer models.~~

4 Section 2. Subsections (11) and (12) are added to  
5 section 627.0629, Florida Statutes, to read:

6 627.0629 Residential property insurance; rate  
7 filings.--

8 (11) The Department of Insurance shall contract with  
9 one or more institutions of higher learning which are a part  
10 of the State University System for the development of a model  
11 or improved actuarial methodologies to be used by insurers as  
12 the standard in assessing hurricane risk and to project  
13 hurricane losses, to be used in the development of rates for  
14 residential property insurance located in this state. In  
15 developing the model or methodologies, the Department of  
16 Insurance may, without a bidding process, negotiate and enter  
17 into a contract or contracts with one or more institutions of  
18 higher learning located in this state and, as necessary or  
19 appropriate, with individual professionals or consultants  
20 working in relation with such institutions, if any. The model  
21 or methodologies shall include items or factors that should be  
22 considered in light of local or regional conditions that may  
23 affect the accuracy and reliability of the model when used in  
24 specific rate filings. Any model or methodologies so developed  
25 may be used by insurers in rate filings, and shall be used by  
26 the Florida Hurricane Catastrophe Fund established under s.  
27 215.555 in determining its reimbursement premiums, but shall  
28 be subject to further review by the department on a  
29 case-by-case basis. The model or methodologies shall be  
30 nonproprietary and available for use in this state by insurers  
31 in developing rates with respect to assessing hurricane risk

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1 and hurricane losses.

2 (12) When considering the reimbursement capacity of  
3 the Florida Hurricane Catastrophe Fund, a rate filing for  
4 residential property insurance shall include the effect of  
5 premiums to be received by the fund during the policy period  
6 for which the rates are to be in effect.

7 Section 3. There is appropriated for Fiscal Year  
8 1998-1999 the sum of \$2 million from the Insurance  
9 Commissioner's Regulatory Trust Fund to the Department of  
10 Insurance for the purpose of funding the contract or contracts  
11 authorized under section 2.

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14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 On page 1, line 2,

17

18 insert after the semicolon:

19 amending s. 627.0628, F.S.; providing that the  
20 recommendations of the Florida Commission on  
21 Hurricane Loss Methodology are advisory to the  
22 Department of Insurance; clarifying the nature  
23 of such recommendations; establishing the  
24 burden of proof and level of evidence necessary  
25 regarding the use of models and methodologies  
26 in certain rate filings; providing duties of  
27 the department; requiring submission of the  
28 commission's recommendations by a specified  
29 date; amending s. 627.0629, F.S.; authorizing  
30 the department to develop and adopt certain  
31 actuarial methodologies for certain purposes;



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1           authorizing the department to enter into  
2           contracts for such development; providing  
3           criteria; requiring that certain rate filings  
4           include the effect of premiums to be received  
5           by the Florida Hurricane Catastrophe Fund;  
6           providing an appropriation;  
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