

By the Committee on Insurance and Representatives Atwater, Barreiro, Heyman, Garcia, Diaz-Balart, Mayfield, Cantens, Goodlette, Harrell, Bilirakis, Allen, Lacasa, Carassas, Andrews, Sorensen, Prieguez, Green, Fiorentino, Kottkamp, Arza, Lerner, Needelman, Bucher and Slosberg

1 A bill to be entitled
2 An act relating to insurance; amending s.
3 215.555, F.S.; revising a definition; amending
4 s. 627.351, F.S.; providing for waiver of
5 required flood insurance under certain
6 circumstances; specifying policyholder burden
7 of proof under certain circumstances;
8 authorizing an association to deny certain
9 coverage under certain circumstances; renaming
10 the Residential Property and Casualty Joint
11 Underwriting Association as the Citizens
12 Property Insurance Corporation to provide
13 residential and commercial property insurance;
14 requiring insurers writing property insurance
15 to participate in the corporation; providing
16 for dividing the revenues, assets, liabilities,
17 losses, and expenses of the corporation into
18 three accounts; authorizing the Department of
19 Insurance to remove certain territories from
20 certain eligible areas under certain
21 circumstances; providing for emergency
22 assessments for policyholders of participating
23 insurers; providing a plan of operation;
24 defining the terms "quota share primary
25 insurance" and "eligible risks"; authorizing
26 the corporation to enter into quota share
27 primary insurance agreements; providing for a
28 board of governors appointed by the Treasurer,
29 subject to confirmation by the Cabinet;
30 providing rate plans of the association to
31 become rate plans of the corporation; providing

1 limitations; requiring the corporation to file
2 quarterly statements of financial condition and
3 submit other reports to the Department of
4 Insurance; providing that the corporation is
5 not required to obtain a certificate of
6 authority from the Department of Insurance;
7 providing that the corporation is not required
8 to be a member of the Florida Insurance
9 Guaranty Association; requiring the corporation
10 to pay assessments pledged by the association
11 to secure bonds to pay covered claims arising
12 from insurer insolvencies caused by hurricane
13 losses; providing for transfer of policies of
14 the association and the Florida Windstorm
15 Underwriting Association to the corporation;
16 providing for a transfer of assets and
17 liabilities; requiring the associations to take
18 actions necessary to further the transfers;
19 providing for the redesignation of certain
20 coverage as the high-risk account of the
21 corporation; providing that such account be
22 treated as if it were a separate participating
23 insurer for certain purposes; providing that
24 the personal lines and commercial lines
25 accounts be treated as a single participating
26 insurer for certain purposes; providing that
27 the department may postpone the July 1, 2002,
28 effective date of transfer under the act;
29 providing legislative intent; requiring the
30 board to report to the Legislature on certain
31 loss activities; requiring the board to reduce

1 certain eligibility boundaries under certain
2 circumstances; providing legislative intent not
3 to interfere with the rights of creditors, to
4 preserve the obligation of the association, and
5 to assure that outstanding financing agreements
6 pass unchanged to the corporation; creating s.
7 627.3517, F.S.; preserving the right of a
8 residual-market policyholder to select and
9 maintain an agent of his or her own choice;
10 providing an effective date.

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

13
14 Section 1. Paragraph (d) of subsection (2) of section
15 215.555, Florida Statutes, is amended to read:

16 215.555 Florida Hurricane Catastrophe Fund.--

17 (2) DEFINITIONS.--As used in this section:

18 (d) "Losses" means direct incurred losses under
19 covered policies, including up to 20 percent of the value of
20 the residential structure or up to 40 percent of the value of
21 the residential contents for ~~excluding~~ losses attributable to
22 additional living expense coverages on mobile homes and
23 personal residential exposures, but excluding fair rental
24 value losses associated with personal and commercial
25 residential exposures, business interruption losses associated
26 with commercial residential exposures, and also excluding loss
27 adjustment expenses.

28 Section 2. Paragraph (b) of subsection (2) and
29 subsection (6) of section 627.351, Florida Statutes, are
30 amended to read:

31 627.351 Insurance risk apportionment plans.--

1 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.--
2 (b) The department shall require all insurers holding
3 a certificate of authority to transact property insurance on a
4 direct basis in this state, other than joint underwriting
5 associations and other entities formed pursuant to this
6 section, to provide windstorm coverage to applicants from
7 areas determined to be eligible pursuant to paragraph (c) who
8 in good faith are entitled to, but are unable to procure, such
9 coverage through ordinary means; or it shall adopt a
10 reasonable plan or plans for the equitable apportionment or
11 sharing among such insurers of windstorm coverage, which may
12 include formation of an association for this purpose. As used
13 in this subsection, the term "property insurance" means
14 insurance on real or personal property, as defined in s.
15 624.604, including insurance for fire, industrial fire, allied
16 lines, farmowners multiperil, homeowners' multiperil,
17 commercial multiperil, and mobile homes, and including
18 liability coverages on all such insurance, but excluding
19 inland marine as defined in s. 624.607(3) and excluding
20 vehicle insurance as defined in s. 624.605(1)(a) other than
21 insurance on mobile homes used as permanent dwellings. The
22 department shall adopt rules that provide a formula for the
23 recovery and repayment of any deferred assessments.
24 1. For the purpose of this section, properties
25 eligible for such windstorm coverage are defined as dwellings,
26 buildings, and other structures, including mobile homes which
27 are used as dwellings and which are tied down in compliance
28 with mobile home tie-down requirements prescribed by the
29 Department of Highway Safety and Motor Vehicles pursuant to s.
30 320.8325, and the contents of all such properties. An
31 applicant or policyholder is eligible for coverage only if an

1 offer of coverage cannot be obtained by or for the applicant
2 or policyholder from an admitted insurer at approved rates.
3 2.a.(I) All insurers required to be members of such
4 association shall participate in its writings, expenses, and
5 losses. Surplus of the association shall be retained for the
6 payment of claims and shall not be distributed to the member
7 insurers. Such participation by member insurers shall be in
8 the proportion that the net direct premiums of each member
9 insurer written for property insurance in this state during
10 the preceding calendar year bear to the aggregate net direct
11 premiums for property insurance of all member insurers, as
12 reduced by any credits for voluntary writings, in this state
13 during the preceding calendar year. For the purposes of this
14 subsection, the term "net direct premiums" means direct
15 written premiums for property insurance, reduced by premium
16 for liability coverage and for the following if included in
17 allied lines: rain and hail on growing crops; livestock;
18 association direct premiums booked; National Flood Insurance
19 Program direct premiums; and similar deductions specifically
20 authorized by the plan of operation and approved by the
21 department. A member's participation shall begin on the first
22 day of the calendar year following the year in which it is
23 issued a certificate of authority to transact property
24 insurance in the state and shall terminate 1 year after the
25 end of the calendar year during which it no longer holds a
26 certificate of authority to transact property insurance in the
27 state. The commissioner, after review of annual statements,
28 other reports, and any other statistics that the commissioner
29 deems necessary, shall certify to the association the
30 aggregate direct premiums written for property insurance in
31 this state by all member insurers.

1 (II) The plan of operation shall provide for a board
2 of directors consisting of the Insurance Consumer Advocate
3 appointed under s. 627.0613, 1 consumer representative
4 appointed by the Insurance Commissioner, 1 consumer
5 representative appointed by the Governor, and 12 additional
6 members appointed as specified in the plan of operation. One
7 of the 12 additional members shall be elected by the domestic
8 companies of this state on the basis of cumulative weighted
9 voting based on the net direct premiums of domestic companies
10 in this state. Nothing in the 1997 amendments to this
11 paragraph terminates the existing board or the terms of any
12 members of the board.

13 (III) The plan of operation shall provide a formula
14 whereby a company voluntarily providing windstorm coverage in
15 affected areas will be relieved wholly or partially from
16 apportionment of a regular assessment pursuant to
17 sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

18 (IV) A company which is a member of a group of
19 companies under common management may elect to have its
20 credits applied on a group basis, and any company or group may
21 elect to have its credits applied to any other company or
22 group.

23 (V) There shall be no credits or relief from
24 apportionment to a company for emergency assessments collected
25 from its policyholders under sub-sub-subparagraph d.(III).

26 (VI) The plan of operation may also provide for the
27 award of credits, for a period not to exceed 3 years, from a
28 regular assessment pursuant to sub-sub-subparagraph d.(I) or
29 sub-sub-subparagraph d.(II) as an incentive for taking
30 policies out of the Residential Property and Casualty Joint
31 Underwriting Association. In order to qualify for the

1 exemption under this sub-sub-subparagraph, the take-out plan
2 must provide that at least 40 percent of the policies removed
3 from the Residential Property and Casualty Joint Underwriting
4 Association cover risks located in Dade, Broward, and Palm
5 Beach Counties or at least 30 percent of the policies so
6 removed cover risks located in Dade, Broward, and Palm Beach
7 Counties and an additional 50 percent of the policies so
8 removed cover risks located in other coastal counties, and
9 must also provide that no more than 15 percent of the policies
10 so removed may exclude windstorm coverage. With the approval
11 of the department, the association may waive these geographic
12 criteria for a take-out plan that removes at least the lesser
13 of 100,000 Residential Property and Casualty Joint
14 Underwriting Association policies or 15 percent of the total
15 number of Residential Property and Casualty Joint Underwriting
16 Association policies, provided the governing board of the
17 Residential Property and Casualty Joint Underwriting
18 Association certifies that the take-out plan will materially
19 reduce the Residential Property and Casualty Joint
20 Underwriting Association's 100-year probable maximum loss from
21 hurricanes. With the approval of the department, the board
22 may extend such credits for an additional year if the insurer
23 guarantees an additional year of renewability for all policies
24 removed from the Residential Property and Casualty Joint
25 Underwriting Association, or for 2 additional years if the
26 insurer guarantees 2 additional years of renewability for all
27 policies removed from the Residential Property and Casualty
28 Joint Underwriting Association.

29 b. Assessments to pay deficits in the association
30 under this subparagraph shall be included as an appropriate
31 factor in the making of rates as provided in s. 627.3512.

1 c. The Legislature finds that the potential for
2 unlimited deficit assessments under this subparagraph may
3 induce insurers to attempt to reduce their writings in the
4 voluntary market, and that such actions would worsen the
5 availability problems that the association was created to
6 remedy. It is the intent of the Legislature that insurers
7 remain fully responsible for paying regular assessments and
8 collecting emergency assessments for any deficits of the
9 association; however, it is also the intent of the Legislature
10 to provide a means by which assessment liabilities may be
11 amortized over a period of years.

12 d.(I) When the deficit incurred in a particular
13 calendar year is 10 percent or less of the aggregate statewide
14 direct written premium for property insurance for the prior
15 calendar year for all member insurers, the association shall
16 levy an assessment on member insurers in an amount equal to
17 the deficit.

18 (II) When the deficit incurred in a particular
19 calendar year exceeds 10 percent of the aggregate statewide
20 direct written premium for property insurance for the prior
21 calendar year for all member insurers, the association shall
22 levy an assessment on member insurers in an amount equal to
23 the greater of 10 percent of the deficit or 10 percent of the
24 aggregate statewide direct written premium for property
25 insurance for the prior calendar year for member insurers. Any
26 remaining deficit shall be recovered through emergency
27 assessments under sub-sub-subparagraph (III).

28 (III) Upon a determination by the board of directors
29 that a deficit exceeds the amount that will be recovered
30 through regular assessments on member insurers, pursuant to
31 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the

1 board shall levy, after verification by the department,
2 emergency assessments to be collected by member insurers and
3 by underwriting associations created pursuant to this section
4 which write property insurance, upon issuance or renewal of
5 property insurance policies other than National Flood
6 Insurance policies in the year or years following levy of the
7 regular assessments. The amount of the emergency assessment
8 collected in a particular year shall be a uniform percentage
9 of that year's direct written premium for property insurance
10 for all member insurers and underwriting associations,
11 excluding National Flood Insurance policy premiums, as
12 annually determined by the board and verified by the
13 department. The department shall verify the arithmetic
14 calculations involved in the board's determination within 30
15 days after receipt of the information on which the
16 determination was based. Notwithstanding any other provision
17 of law, each member insurer and each underwriting association
18 created pursuant to this section shall collect emergency
19 assessments from its policyholders without such obligation
20 being affected by any credit, limitation, exemption, or
21 deferment. The emergency assessments so collected shall be
22 transferred directly to the association on a periodic basis as
23 determined by the association. The aggregate amount of
24 emergency assessments levied under this sub-sub-subparagraph
25 in any calendar year may not exceed the greater of 10 percent
26 of the amount needed to cover the original deficit, plus
27 interest, fees, commissions, required reserves, and other
28 costs associated with financing of the original deficit, or 10
29 percent of the aggregate statewide direct written premium for
30 property insurance written by member insurers and underwriting
31 associations for the prior year, plus interest, fees,

1 commissions, required reserves, and other costs associated
2 with financing the original deficit. The board may pledge the
3 proceeds of the emergency assessments under this
4 sub-sub-subparagraph as the source of revenue for bonds, to
5 retire any other debt incurred as a result of the deficit or
6 events giving rise to the deficit, or in any other way that
7 the board determines will efficiently recover the deficit. The
8 emergency assessments under this sub-sub-subparagraph shall
9 continue as long as any bonds issued or other indebtedness
10 incurred with respect to a deficit for which the assessment
11 was imposed remain outstanding, unless adequate provision has
12 been made for the payment of such bonds or other indebtedness
13 pursuant to the document governing such bonds or other
14 indebtedness. Emergency assessments collected under this
15 sub-sub-subparagraph are not part of an insurer's rates, are
16 not premium, and are not subject to premium tax, fees, or
17 commissions; however, failure to pay the emergency assessment
18 shall be treated as failure to pay premium.

19 (IV) Each member insurer's share of the total regular
20 assessments under sub-sub-subparagraph (I) or
21 sub-sub-subparagraph (II) shall be in the proportion that the
22 insurer's net direct premium for property insurance in this
23 state, for the year preceding the assessment bears to the
24 aggregate statewide net direct premium for property insurance
25 of all member insurers, as reduced by any credits for
26 voluntary writings for that year.

27 (V) If regular deficit assessments are made under
28 sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by
29 the Residential Property and Casualty Joint Underwriting
30 Association under sub-subparagraph (6)(b)3.a. or
31 sub-subparagraph (6)(b)3.b., the association shall levy upon

1 the association's policyholders, as part of its next rate
2 filing, or by a separate rate filing solely for this purpose,
3 a market equalization surcharge in a percentage equal to the
4 total amount of such regular assessments divided by the
5 aggregate statewide direct written premium for property
6 insurance for member insurers for the prior calendar year.
7 Market equalization surcharges under this sub-sub-subparagraph
8 are not considered premium and are not subject to commissions,
9 fees, or premium taxes; however, failure to pay a market
10 equalization surcharge shall be treated as failure to pay
11 premium.

12 e. The governing body of any unit of local government,
13 any residents of which are insured under the plan, may issue
14 bonds as defined in s. 125.013 or s. 166.101 to fund an
15 assistance program, in conjunction with the association, for
16 the purpose of defraying deficits of the association. In order
17 to avoid needless and indiscriminate proliferation,
18 duplication, and fragmentation of such assistance programs,
19 any unit of local government, any residents of which are
20 insured by the association, may provide for the payment of
21 losses, regardless of whether or not the losses occurred
22 within or outside of the territorial jurisdiction of the local
23 government. Revenue bonds may not be issued until validated
24 pursuant to chapter 75, unless a state of emergency is
25 declared by executive order or proclamation of the Governor
26 pursuant to s. 252.36 making such findings as are necessary to
27 determine that it is in the best interests of, and necessary
28 for, the protection of the public health, safety, and general
29 welfare of residents of this state and the protection and
30 preservation of the economic stability of insurers operating
31 in this state, and declaring it an essential public purpose to

1 permit certain municipalities or counties to issue bonds as
2 will provide relief to claimants and policyholders of the
3 association and insurers responsible for apportionment of plan
4 losses. Any such unit of local government may enter into such
5 contracts with the association and with any other entity
6 created pursuant to this subsection as are necessary to carry
7 out this paragraph. Any bonds issued under this
8 sub-subparagraph shall be payable from and secured by moneys
9 received by the association from assessments under this
10 subparagraph, and assigned and pledged to or on behalf of the
11 unit of local government for the benefit of the holders of
12 such bonds. The funds, credit, property, and taxing power of
13 the state or of the unit of local government shall not be
14 pledged for the payment of such bonds. If any of the bonds
15 remain unsold 60 days after issuance, the department shall
16 require all insurers subject to assessment to purchase the
17 bonds, which shall be treated as admitted assets; each insurer
18 shall be required to purchase that percentage of the unsold
19 portion of the bond issue that equals the insurer's relative
20 share of assessment liability under this subsection. An
21 insurer shall not be required to purchase the bonds to the
22 extent that the department determines that the purchase would
23 endanger or impair the solvency of the insurer. The authority
24 granted by this sub-subparagraph is additional to any bonding
25 authority granted by subparagraph 6.

26 3. The plan shall also provide that any member with a
27 surplus as to policyholders of \$20 million or less writing 25
28 percent or more of its total countrywide property insurance
29 premiums in this state may petition the department, within the
30 first 90 days of each calendar year, to qualify as a limited
31 apportionment company. The apportionment of such a member

1 company in any calendar year for which it is qualified shall
2 not exceed its gross participation, which shall not be
3 affected by the formula for voluntary writings. In no event
4 shall a limited apportionment company be required to
5 participate in any apportionment of losses pursuant to
6 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II)
7 in the aggregate which exceeds \$50 million after payment of
8 available plan funds in any calendar year. However, a limited
9 apportionment company shall collect from its policyholders any
10 emergency assessment imposed under sub-sub-subparagraph
11 2.d.(III). The plan shall provide that, if the department
12 determines that any regular assessment will result in an
13 impairment of the surplus of a limited apportionment company,
14 the department may direct that all or part of such assessment
15 be deferred. However, there shall be no limitation or
16 deferment of an emergency assessment to be collected from
17 policyholders under sub-sub-subparagraph 2.d.(III).

18 4. The plan shall provide for the deferment, in whole
19 or in part, of a regular assessment of a member insurer under
20 sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II),
21 but not for an emergency assessment collected from
22 policyholders under sub-sub-subparagraph 2.d.(III), if, in the
23 opinion of the commissioner, payment of such regular
24 assessment would endanger or impair the solvency of the member
25 insurer. In the event a regular assessment against a member
26 insurer is deferred in whole or in part, the amount by which
27 such assessment is deferred may be assessed against the other
28 member insurers in a manner consistent with the basis for
29 assessments set forth in sub-sub-subparagraph 2.d.(I) or
30 sub-sub-subparagraph 2.d.(II).

31

1 5.a. The plan of operation may include deductibles and
2 rules for classification of risks and rate modifications
3 consistent with the objective of providing and maintaining
4 funds sufficient to pay catastrophe losses.

5 b. The association may require arbitration of a rate
6 filing under s. 627.062(6). It is the intent of the
7 Legislature that the rates for coverage provided by the
8 association be actuarially sound and not competitive with
9 approved rates charged in the admitted voluntary market such
10 that the association functions as a residual market mechanism
11 to provide insurance only when the insurance cannot be
12 procured in the voluntary market. The plan of operation shall
13 provide a mechanism to assure that, beginning no later than
14 January 1, 1999, the rates charged by the association for each
15 line of business are reflective of approved rates in the
16 voluntary market for hurricane coverage for each line of
17 business in the various areas eligible for association
18 coverage.

19 c. The association shall provide for windstorm
20 coverage on residential properties in limits up to \$10 million
21 for commercial lines residential risks and up to \$1 million
22 for personal lines residential risks. If coverage with the
23 association is sought for a residential risk valued in excess
24 of these limits, coverage shall be available to the risk up to
25 the replacement cost or actual cash value of the property, at
26 the option of the insured, if coverage for the risk cannot be
27 located in the authorized market. The association must accept
28 a commercial lines residential risk with limits above \$10
29 million or a personal lines residential risk with limits above
30 \$1 million if coverage is not available in the authorized
31 market. The association may write coverage above the limits

1 specified in this subparagraph with or without facultative or
2 other reinsurance coverage, as the association determines
3 appropriate.

4 d. The plan of operation must provide objective
5 criteria and procedures, approved by the department, to be
6 uniformly applied for all applicants in determining whether an
7 individual risk is so hazardous as to be uninsurable. In
8 making this determination and in establishing the criteria and
9 procedures, the following shall be considered:

10 (I) Whether the likelihood of a loss for the
11 individual risk is substantially higher than for other risks
12 of the same class; and

13 (II) Whether the uncertainty associated with the
14 individual risk is such that an appropriate premium cannot be
15 determined.

16

17 The acceptance or rejection of a risk by the association
18 pursuant to such criteria and procedures must be construed as
19 the private placement of insurance, and the provisions of
20 chapter 120 do not apply.

21 e. The policies issued by the association must provide
22 that if the association obtains an offer from an authorized
23 insurer to cover the risk at its approved rates under either a
24 standard policy including wind coverage or, if consistent with
25 the insurer's underwriting rules as filed with the department,
26 a basic policy including wind coverage, the risk is no longer
27 eligible for coverage through the association. Upon
28 termination of eligibility, the association shall provide
29 written notice to the policyholder and agent of record stating
30 that the association policy must be canceled as of 60 days
31 after the date of the notice because of the offer of coverage

1 from an authorized insurer. Other provisions of the insurance
2 code relating to cancellation and notice of cancellation do
3 not apply to actions under this sub-subparagraph.

4 f. Association policies and applications must include
5 a notice that the association policy could, under this
6 section, be replaced with a policy issued by an authorized
7 insurer that does not provide coverage identical to the
8 coverage provided by the association. The notice shall also
9 specify that acceptance of association coverage creates a
10 conclusive presumption that the applicant or policyholder is
11 aware of this potential.

12 g. The association shall not require the securing of
13 flood insurance as a condition of coverage if the insured or
14 applicant executes a form approved by the department affirming
15 that flood insurance is not provided by the association and
16 that if flood insurance is not secured by the applicant or
17 insured in addition to coverage by the association, the risk
18 will not be covered for flood damage. An association
19 policyholder electing not to secure flood insurance and
20 executing a form as provided herein making a claim for water
21 damage against the association shall have the burden of
22 proving the damage was not caused by flooding.
23 Notwithstanding other provisions of this subsection, the
24 association may deny coverage to an applicant or insured who
25 refuses to execute the form described herein.

26 6.a. The plan of operation may authorize the formation
27 of a private nonprofit corporation, a private nonprofit
28 unincorporated association, a partnership, a trust, a limited
29 liability company, or a nonprofit mutual company which may be
30 empowered, among other things, to borrow money by issuing
31 bonds or by incurring other indebtedness and to accumulate

1 reserves or funds to be used for the payment of insured
2 catastrophe losses. The plan may authorize all actions
3 necessary to facilitate the issuance of bonds, including the
4 pledging of assessments or other revenues.

5 b. Any entity created under this subsection, or any
6 entity formed for the purposes of this subsection, may sue and
7 be sued, may borrow money; issue bonds, notes, or debt
8 instruments; pledge or sell assessments, market equalization
9 surcharges and other surcharges, rights, premiums, contractual
10 rights, projected recoveries from the Florida Hurricane
11 Catastrophe Fund, other reinsurance recoverables, and other
12 assets as security for such bonds, notes, or debt instruments;
13 enter into any contracts or agreements necessary or proper to
14 accomplish such borrowings; and take other actions necessary
15 to carry out the purposes of this subsection. The association
16 may issue bonds or incur other indebtedness, or have bonds
17 issued on its behalf by a unit of local government pursuant to
18 subparagraph (g)2., in the absence of a hurricane or other
19 weather-related event, upon a determination by the association
20 subject to approval by the department that such action would
21 enable it to efficiently meet the financial obligations of the
22 association and that such financings are reasonably necessary
23 to effectuate the requirements of this subsection. Any such
24 entity may accumulate reserves and retain surpluses as of the
25 end of any association year to provide for the payment of
26 losses incurred by the association during that year or any
27 future year. The association shall incorporate and continue
28 the plan of operation and articles of agreement in effect on
29 the effective date of chapter 76-96, Laws of Florida, to the
30 extent that it is not inconsistent with chapter 76-96, and as
31 subsequently modified consistent with chapter 76-96. The board

1 of directors and officers currently serving shall continue to
2 serve until their successors are duly qualified as provided
3 under the plan. The assets and obligations of the plan in
4 effect immediately prior to the effective date of chapter
5 76-96 shall be construed to be the assets and obligations of
6 the successor plan created herein.

7 c. In recognition of s. 10, Art. I of the State
8 Constitution, prohibiting the impairment of obligations of
9 contracts, it is the intent of the Legislature that no action
10 be taken whose purpose is to impair any bond indenture or
11 financing agreement or any revenue source committed by
12 contract to such bond or other indebtedness issued or incurred
13 by the association or any other entity created under this
14 subsection.

15 7. On such coverage, an agent's remuneration shall be
16 that amount of money payable to the agent by the terms of his
17 or her contract with the company with which the business is
18 placed. However, no commission will be paid on that portion of
19 the premium which is in excess of the standard premium of that
20 company.

21 8. Subject to approval by the department, the
22 association may establish different eligibility requirements
23 and operational procedures for any line or type of coverage
24 for any specified eligible area or portion of an eligible area
25 if the board determines that such changes to the eligibility
26 requirements and operational procedures are justified due to
27 the voluntary market being sufficiently stable and competitive
28 in such area or for such line or type of coverage and that
29 consumers who, in good faith, are unable to obtain insurance
30 through the voluntary market through ordinary methods would
31 continue to have access to coverage from the association. When

1 coverage is sought in connection with a real property
2 transfer, such requirements and procedures shall not provide
3 for an effective date of coverage later than the date of the
4 closing of the transfer as established by the transferor, the
5 transferee, and, if applicable, the lender.

6 9. Notwithstanding any other provision of law:

7 a. The pledge or sale of, the lien upon, and the
8 security interest in any rights, revenues, or other assets of
9 the association created or purported to be created pursuant to
10 any financing documents to secure any bonds or other
11 indebtedness of the association shall be and remain valid and
12 enforceable, notwithstanding the commencement of and during
13 the continuation of, and after, any rehabilitation,
14 insolvency, liquidation, bankruptcy, receivership,
15 conservatorship, reorganization, or similar proceeding against
16 the association under the laws of this state or any other
17 applicable laws.

18 b. No such proceeding shall relieve the association of
19 its obligation, or otherwise affect its ability to perform its
20 obligation, to continue to collect, or levy and collect,
21 assessments, market equalization or other surcharges,
22 projected recoveries from the Florida Hurricane Catastrophe
23 Fund, reinsurance recoverables, or any other rights, revenues,
24 or other assets of the association pledged.

25 c. Each such pledge or sale of, lien upon, and
26 security interest in, including the priority of such pledge,
27 lien, or security interest, any such assessments, emergency
28 assessments, market equalization or renewal surcharges,
29 projected recoveries from the Florida Hurricane Catastrophe
30 Fund, reinsurance recoverables, or other rights, revenues, or
31 other assets which are collected, or levied and collected,

1 after the commencement of and during the pendency of or after
2 any such proceeding shall continue unaffected by such
3 proceeding.

4 d. As used in this subsection, the term "financing
5 documents" means any agreement, instrument, or other document
6 now existing or hereafter created evidencing any bonds or
7 other indebtedness of the association or pursuant to which any
8 such bonds or other indebtedness has been or may be issued and
9 pursuant to which any rights, revenues, or other assets of the
10 association are pledged or sold to secure the repayment of
11 such bonds or indebtedness, together with the payment of
12 interest on such bonds or such indebtedness, or the payment of
13 any other obligation of the association related to such bonds
14 or indebtedness.

15 e. Any such pledge or sale of assessments, revenues,
16 contract rights or other rights or assets of the association
17 shall constitute a lien and security interest, or sale, as the
18 case may be, that is immediately effective and attaches to
19 such assessments, revenues, contract, or other rights or
20 assets, whether or not imposed or collected at the time the
21 pledge or sale is made. Any such pledge or sale is effective,
22 valid, binding, and enforceable against the association or
23 other entity making such pledge or sale, and valid and binding
24 against and superior to any competing claims or obligations
25 owed to any other person or entity, including policyholders in
26 this state, asserting rights in any such assessments,
27 revenues, contract, or other rights or assets to the extent
28 set forth in and in accordance with the terms of the pledge or
29 sale contained in the applicable financing documents, whether
30 or not any such person or entity has notice of such pledge or
31

1 sale and without the need for any physical delivery,
2 recordation, filing, or other action.

3 f. There shall be no liability on the part of, and no
4 cause of action of any nature shall arise against, any member
5 insurer or its agents or employees, agents or employees of the
6 association, members of the board of directors of the
7 association, or the department or its representatives, for any
8 action taken by them in the performance of their duties or
9 responsibilities under this subsection. Such immunity does not
10 apply to actions for breach of any contract or agreement
11 pertaining to insurance, or any willful tort.

12 (6) CITIZENS RESIDENTIAL PROPERTY INSURANCE
13 CORPORATION AND CASUALTY JOINT UNDERWRITING ASSOCIATION.--

14 (a)1. The Legislature finds that actual and threatened
15 catastrophic losses to property in this state from hurricanes
16 have caused insurers to be unwilling or unable to provide
17 property insurance coverage to the extent sought and needed.
18 It is in the public interest and a public purpose to assist in
19 assuring that property in the state is insured so as to
20 facilitate the remediation, reconstruction, and replacement of
21 damaged or destroyed property in order to reduce or avoid the
22 negative effects otherwise resulting to the public health,
23 safety, and welfare; to the economy of the state; and to the
24 revenues of the state and local governments needed to provide
25 for the public welfare. It is necessary, therefore, to provide
26 property insurance to applicants who are in good faith
27 entitled to procure insurance through the voluntary market but
28 are unable to do so. The Legislature intends by this
29 subsection that property insurance be provided and that it
30 continues, as long as necessary, through an entity organized
31 to achieve efficiencies and economies, all toward the

1 achievement of the foregoing public purposes. Because it is
2 essential for the corporation to have the maximum financial
3 responses to pay claims following a catastrophic hurricane, it
4 is the intent of the Legislature that the income of the
5 corporation be exempt from federal income taxation and that
6 interest on the debt obligations issued by the corporation be
7 exempt from federal income taxation.

8 2. The Residential Property and Casualty Joint
9 Underwriting Association originally created by this statute
10 shall be known, as of July 1, 2002, as the Citizens Property
11 Insurance Corporation. The corporation shall provide insurance
12 for residential and commercial

13 ~~(a) There is created a joint underwriting association~~
14 ~~for equitable apportionment or sharing among insurers of~~
15 ~~property and casualty insurance covering residential property,~~
16 for applicants who are in good faith entitled, but are unable,
17 to procure insurance through the voluntary market. The
18 corporation association shall operate pursuant to a plan of
19 operation approved by order of the department. The plan is
20 subject to continuous review by the department. The department
21 may, by order, withdraw approval of all or part of a plan if
22 the department determines that conditions have changed since
23 approval was granted and that the purposes of the plan require
24 changes in the plan. For the purposes of this subsection,
25 residential coverage includes both personal lines residential
26 coverage, which consists of the type of coverage provided by
27 homeowner's, mobile home owner's, dwelling, tenant's,
28 condominium unit owner's, and similar policies, and commercial
29 lines residential coverage, which consists of the type of
30 coverage provided by condominium association, apartment
31 building, and similar policies.

1 (b)1. All insurers authorized to write one or more
2 subject lines of business in this state are subject to
3 assessment by the corporation and, for the purposes of this
4 subsection, are referred to collectively as "assessable
5 insurers." Insurers writing one or more subject lines of
6 business in this state pursuant to part VIII of chapter 626
7 are not assessable insurers, but insureds who procure one or
8 more subject lines of business in this state pursuant to part
9 VIII of chapter 626 are subject to assessment by the
10 corporation and are referred to collectively as "assessable
11 insureds." An authorized insurer's assessment liability, ~~other~~
12 ~~than underwriting associations or other entities created under~~
13 ~~this section, must participate in and be members of the~~
14 ~~Residential Property and Casualty Joint Underwriting~~
15 ~~Association. A member's participation shall begin on the first~~
16 day of the calendar year following the year in which the
17 insurer member was issued a certificate of authority to
18 transact insurance for subject lines of business in this state
19 and shall terminate 1 year after the end of the first calendar
20 year during which the insurer member no longer holds a
21 certificate of authority to transact insurance for subject
22 lines of business in this state.

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

26 (I) A personal lines account for personal residential
27 policies issued by the corporation or issued by the
28 Residential Property and Casualty Joint Underwriting
29 Association and renewed by the corporation on risks that are
30 not located in areas eligible for coverage in the Florida
31

1 Windstorm Underwriting Association as those areas were defined
2 on January 1, 2002;

3 (II) A commercial lines account for commercial
4 residential policies issued by the corporation or issued by
5 the Residential Property and Casualty Joint Underwriting
6 Association and renewed by the corporation on risks that are
7 not located in areas eligible for coverage in the Florida
8 Windstorm Underwriting Association as those areas were defined
9 on January 1, 2002; and

10 (III) A high-risk account for personal residential
11 policies and commercial residential and commercial
12 nonresidential property policies issued by the corporation or
13 transferred to the corporation on risks that are located in
14 areas eligible for coverage in the Florida Windstorm
15 Underwriting Association as those areas were defined on
16 January 1, 2002. The department may remove territory from the
17 area eligible for wind-only and quota-share coverage if, after
18 a public hearing, the department finds that the following
19 criteria have been met:

20 (A) Admitted insurers in the voluntary market are
21 willing and able to write sufficient amounts of residential
22 coverage for all perils, including windstorm in the territory,
23 such that the remaining risks covered by wind-only policies
24 may be transferred to basic or standard personal lines
25 policies issued by the corporation without a significant
26 increase in the probable maximum loss of the corporation
27 attributable to such policies.

28 (B) Such action will not significantly impair economic
29 growth in the territory or prevent financial institutions from
30 making mortgage loans covering properties in the territory.
31

1 For purposes of the administrative proceedings to determine
2 whether a territory should be removed from the eligible area,
3 the proposed action shall be deemed to affect the substantial
4 interests of any person who owns residential property within
5 the territory and any insurer that provides coverage to any
6 residential property within the territory. The high-risk
7 account must also include quota share primary insurance under
8 subparagraph (c)2.

9 b. The three separate accounts must be maintained as
10 long as financing obligations entered into by the Florida
11 Windstorm Underwriting Association or Residential Property and
12 Casualty Joint Underwriting Association are outstanding, in
13 accordance with the terms of the corresponding financing
14 documents. When the financing obligations are no longer
15 outstanding, in accordance with the terms of the corresponding
16 financing documents, the corporation may use a single account
17 for all revenues, assets, liabilities, losses, and expenses of
18 the corporation., one of which is for personal lines
19 residential coverages and the other of which is for commercial
20 lines residential coverages.

21 c. Revenues, assets, liabilities, losses, and expenses
22 not attributable to particular accounts coverages shall be
23 prorated among between the accounts.

24 d. The Legislature finds that the revenues of the
25 corporation are revenues that are necessary to meet the
26 requirements set forth in documents authorizing the issuance
27 of bonds under this subsection.

28 e. No part of the income of the corporation may inure
29 to the benefit of any private person.

30 3. With respect to a deficit in an account:
31

1 a. When the deficit incurred in a particular calendar
2 year is not greater than 10 percent of the aggregate statewide
3 direct written premium for the subject lines of business for
4 the prior calendar year ~~for all member insurers~~, the entire
5 deficit shall be recovered through regular assessments of
6 assessable member insurers under paragraph (g) and assessable
7 insureds.

8 b. When the deficit incurred in a particular calendar
9 year exceeds 10 percent of the aggregate statewide direct
10 written premium for the subject lines of business for the
11 prior calendar year ~~for all member insurers~~, the corporation
12 ~~association~~ shall levy regular assessments ~~an assessment~~ on
13 assessable member insurers under paragraph (g) and on
14 assessable insureds in an amount equal to the greater of 10
15 percent of the deficit or 10 percent of the aggregate
16 statewide direct written premium for the subject lines of
17 business for the prior calendar year ~~for all member insurers~~.
18 Any remaining deficit shall be recovered through emergency
19 assessments under sub-subparagraph d.

20 c. Each assessable member insurer's share of the
21 amount being assessed ~~total assessment~~ under sub-subparagraph
22 a. or sub-subparagraph b. shall be in the proportion that the
23 assessable member insurer's direct written premium for the
24 subject lines of business for the year preceding the
25 assessment bears to the aggregate statewide direct written
26 premium for the subject lines of business for that year ~~for~~
27 ~~all member insurers~~. The assessment percentage applicable to
28 each assessable insured is the ratio of the amount being
29 assessed under sub-subparagraph a. or sub-subparagraph b. to
30 the aggregate statewide direct written premium for the subject
31 lines of business for the prior year. Assessments levied by

1 the corporation on assessable insurers under sub-subparagraphs
2 a. and b. shall be paid as required by the corporation's plan
3 of operation and paragraph (g). Assessments levied by the
4 corporation on assessable insureds under sub-subparagraphs a.
5 and b. shall be collected by the surplus lines agent at the
6 time the surplus lines agent collects the surplus lines tax
7 required by s. 626.932 and shall be paid to the Florida
8 Surplus Lines Service Office at the time the surplus lines
9 agency pays the surplus lines tax to the Florida Surplus Lines
10 Service Office. Upon receipt of regular assessments from
11 surplus lines agents, the Florida surplus Lines Service Office
12 shall transfer the assessments directly to the corporation as
13 determined by the corporation.

14 d. Upon a determination by the board of governors that
15 a deficit in an account exceeds the amount that will be
16 recovered through regular assessments ~~on member insurers~~ under
17 sub-subparagraph a. or sub-subparagraph b., the board shall
18 levy, after verification by the department, emergency
19 assessments to be collected by assessable member insurers and
20 the corporation and collected from assessable insureds by
21 ~~underwriting associations created under this section which~~
22 ~~write subject lines of business~~ upon issuance or renewal of
23 policies for subject lines of business, excluding National
24 Flood Insurance policies, ~~in the year or years following levy~~
25 ~~of the regular assessments.~~ The amount of the emergency
26 assessment collected in a particular year shall be a uniform
27 percentage of that year's direct written premium for subject
28 lines of business and all accounts of the corporation for all
29 ~~member insurers and underwriting associations~~, excluding
30 National Flood Insurance Program policy premiums, as annually
31 determined by the board and verified by the department. The

1 department shall verify the arithmetic calculations involved
2 in the board's determination within 30 days after receipt of
3 the information on which the determination was based.
4 Notwithstanding any other provision of law, the corporation
5 and each assessable member insurer that and each underwriting
6 association created under this section which writes subject
7 lines of business shall collect emergency assessments from its
8 policyholders without such obligation being affected by any
9 credit, limitation, exemption, or deferment. Emergency
10 assessments levied by the corporation on assessable insureds
11 shall be collected by the surplus lines agent at the time the
12 surplus lines agent collects the surplus lines tax required by
13 s. 626.932 and shall be paid to the Florida Surplus Lines
14 Service Office at the time the surplus lines agent pays the
15 surplus lines tax to the Florida Surplus Lines Service Office.
16 The emergency assessments so collected shall be transferred
17 directly to the corporation association on a periodic basis as
18 determined by the corporation association. The aggregate
19 amount of emergency assessments levied under this
20 sub-subparagraph in any calendar year may not exceed the
21 greater of 10 percent of the amount needed to cover the
22 original deficit, plus interest, fees, commissions, required
23 reserves, and other costs associated with financing of the
24 original deficit, or 10 percent of the aggregate statewide
25 direct written premium for subject lines of business and for
26 all accounts of the corporation written by member insurers and
27 underwriting associations for the prior year, plus interest,
28 fees, commissions, required reserves, and other costs
29 associated with financing the original deficit.
30 e. The board may pledge the proceeds of assessments,
31 projected recoveries from the Florida Hurricane Catastrophe

1 Fund, other insurance and reinsurance recoverables, market
2 equalization surcharges and other surcharges, and other funds
3 available to the corporation ~~association~~ as the source of
4 revenue for and to secure bonds issued under paragraph (g),
5 bonds or other indebtedness issued under subparagraph (c)3.,
6 or lines of credit or other financing mechanisms issued or
7 created under this subsection, or to retire any other debt
8 incurred as a result of deficits or events giving rise to
9 deficits, or in any other way that the board determines will
10 efficiently recover such deficits. The purpose of the lines of
11 credit or other financing mechanisms is to provide additional
12 resources to assist the corporation ~~association~~ in covering
13 claims and expenses attributable to a catastrophe. As used in
14 this subsection, the term "assessments" includes regular
15 assessments under sub-subparagraph a., sub-subparagraph b., or
16 subparagraph (g)1. and emergency assessments under
17 sub-subparagraph d. Emergency assessments collected under
18 sub-subparagraph d. are not part of an insurer's rates, are
19 not premium, and are not subject to premium tax, fees, or
20 commissions; however, failure to pay the emergency assessment
21 shall be treated as failure to pay premium. The emergency
22 assessments under sub-subparagraph d. shall continue as long
23 as any bonds issued or other indebtedness incurred with
24 respect to a deficit for which the assessment was imposed
25 remain outstanding, unless adequate provision has been made
26 for the payment of such bonds or other indebtedness pursuant
27 to the documents governing such bonds or other indebtedness.

28 f. As used in this subsection, the term "subject lines
29 of business" means insurance written by assessable insurers or
30 procured by assessable insureds on real or personal property,
31 as defined in s. 624.604, including insurance for fire,

1 industrial fire, allied lines, farmowners multiperil,
2 homeowners multiperil, commercial multiperil, and mobile
3 homes, and including liability coverage on all such insurance,
4 but excluding inland marine as defined in s. 624.607(3) and
5 excluding vehicle insurance as defined in s. 624.605(1) other
6 than insurance on mobile homes used as permanent dwellings.

7 g. The Florida Surplus Lines Service Office shall
8 determine annually the aggregate statewide written premium in
9 subject lines of business procured by assessable insureds and
10 shall report that information to the corporation in a form and
11 at a time the corporation specifies to ensure that the
12 corporation can meet the requirements of this subsection and
13 the corporation's financing obligations.

14 h. The Florida Surplus Lines Service Office shall
15 verify the proper application by surplus lines agents of
16 assessment percentages for regular assessments and emergency
17 assessments levied under this subparagraph on assessable
18 insureds and shall assist the corporation in ensuring the
19 accurate, timely collection and payment of assessments by
20 surplus lines agents as required by the corporation., with
21 ~~respect to the personal lines account, any personal lines~~
22 ~~policy defined in s. 627.4025, and means, with respect to the~~
23 ~~commercial lines account, all commercial property and~~
24 ~~commercial fire insurance.~~

25 (c) The plan of operation of the corporation
26 association:

27 ~~1. May provide for one or more designated insurers,~~
28 ~~able and willing to provide policy and claims service, to act~~
29 ~~on behalf of the association to provide such service. Each~~
30 ~~licensed agent shall be entitled to indicate the order of~~
31 ~~preference regarding who will service the business placed by~~

1 ~~the agent. The association shall adhere to each agent's~~
2 ~~preferences unless after consideration of other factors in~~
3 ~~assigning agents, including, but not limited to, servicing~~
4 ~~capacity and fee arrangements, the association has reason to~~
5 ~~believe it is in the best interest of the association to make~~
6 ~~a different assignment.~~

7 ~~1.2.~~ Must provide for adoption of residential property
8 and casualty insurance policy forms and commercial residential
9 and nonresidential property insurance forms, which forms must
10 be approved by the department prior to use. The corporation
11 ~~association~~ shall adopt the following policy forms:

12 a. Standard personal lines policy forms that including
13 ~~wind coverage, which~~ are comprehensive multiperil policies
14 providing ~~what is generally considered to be~~ full coverage of
15 a residential property equivalent ~~similar~~ to the coverage
16 provided in the private insurance market under a dwelling fire
17 ~~an HO-2, HO-3, HO-4, or HO-6~~ policy.

18 b. ~~Standard personal lines policy forms without wind~~
19 ~~coverage, which are the same as the policies described in~~
20 ~~sub-subparagraph a. except that they do not include wind~~
21 ~~coverage.~~

22 b.c. Basic personal lines policy forms that including
23 ~~wind coverage, which~~ are policies similar to an HO-8 policy or
24 a dwelling fire policy that provide coverage meeting the
25 requirements of the secondary mortgage market, but which
26 coverage is more limited than the coverage under a standard
27 policy.

28 d. ~~Basic personal lines policy forms without wind~~
29 ~~coverage, which are the same as the policies described in~~
30 ~~sub-subparagraph c. except that they do not include wind~~
31 ~~coverage.~~

1 ~~c.e.~~ Commercial lines residential policy forms
2 ~~including wind coverage~~ that are generally similar to the
3 basic perils of full coverage obtainable for commercial
4 residential structures in the admitted voluntary market.

5 d. Commercial lines nonresidential property insurance
6 forms that cover the peril of wind only. The form is
7 applicable only to commercial lines nonresidential properties
8 located in areas eligible for coverage in the Florida
9 Windstorm Underwriting Association as those areas were defined
10 on January 1, 2002.

11 2.a. Must provide that the corporation adopt a program
12 in which the corporation and authorized insurers enter into
13 quota share primary insurance agreements for hurricane
14 coverage, as defined in s. 627.4025(2)(a), for eligible risks,
15 and adopt property insurance forms for eligible risks which
16 cover the peril of wind only. As used in this subsection, the
17 term:

18 (I) "Quota share primary insurance" means an
19 arrangement in which the primary hurricane coverage of an
20 eligible risk is provided in specified percentages by the
21 corporation and an authorized insurer. The corporation and
22 authorized insurer are each solely responsible for a specified
23 percentage of hurricane coverage of an eligible risk as set
24 forth in a quota share primary insurance agreement between the
25 corporation and an authorized insurer. The responsibility of
26 the corporation or authorized insurer to pay its specified
27 percentage of hurricane losses of an eligible risk, as set
28 forth in the quota share primary insurance agreement may not
29 be altered by the inability of the other party to the
30 agreement to pay its specified percentage of hurricane losses.
31 Eligible risks that are provided hurricane coverage through a

1 quota share primary insurance arrangement must be provided
2 policy forms that set forth the obligations of the corporation
3 and authorized insurer under the arrangement, and that clearly
4 specify the percentages of quota share primary insurance
5 provided by the corporation and authorized insurer.

6 (II) "Eligible risks" means personal lines residential
7 and commercial lines residential risks that meet the
8 underwriting criteria of the corporation and are located in
9 areas that were eligible for coverage by the Florida Windstorm
10 Underwriting Association on January 1, 2002.

11 b. The corporation may enter into quota share primary
12 insurance agreements with authorized insurers at corporation
13 coverage levels of 90 percent and 50 percent.

14 c. If the corporation determines that additional
15 coverage levels are necessary to maximize participation in
16 quota share primary insurance agreements by authorized
17 insurers, the corporation may establish additional coverage
18 levels. However, the corporation's quota share primary
19 insurance coverage level may not exceed 90 percent.

20 d. Any quota share primary insurance agreement entered
21 into between an authorized insurer and the corporation must
22 provide for a uniform, specified percentage of coverage of
23 hurricane losses, by county or territory as set forth by the
24 corporation board, for all eligible risks of the authorized
25 insurer covered under the quota share primary insurance
26 agreement.

27 e. Any quota share primary insurance agreement entered
28 into between an authorized insurer and the corporation is
29 subject to review and approval by the department.

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

1 for both the corporation and authorized insurers shall be
2 reported by the corporation to the Florida Hurricane
3 Catastrophe Fund. For all policies of eligible risks covered
4 under quota share primary insurance agreements, the
5 corporation and the authorized insurer shall maintain complete
6 and accurate records for the purpose of exposure and loss
7 reimbursement audits as required by Florida Hurricane
8 Catastrophe Fund rules. The corporation and the authorized
9 insurer shall each maintain duplicate copies of policy
10 declaration pages and supporting claims documents.

11 g. The rates charged by the corporation for covering
12 eligible personal lines residential risks under quota share
13 primary insurance agreements for the coverage levels in
14 sub-subparagraphs b. and c. must be based on the formula A
15 times B, where A is the percentage of coverage provided under
16 the quota share agreement and B is the rate that the
17 corporation would charge the owners of the subject property
18 for wind-only policies as provided in subparagraph (d)3.
19 Rates for coverage of other risks under quota share agreements
20 shall be calculated according to a formula approved by the
21 department and derived from the corporation's rates for direct
22 insurance of such other risks.

23 h. The quota share primary insurance agreement between
24 the corporation and an authorized insurer must set forth the
25 specific terms under which coverage is provided, including,
26 but not limited to, the sale and servicing of policies issued
27 under the agreement by the insurance agent of the authorized
28 insurer producing the business, the reporting of information
29 concerning eligible risks, the payment of premium to the
30 corporation, and arrangements for the adjustment and payment
31

1 of hurricane claims incurred on eligible risks by the claims
2 adjuster and personnel of the authorized insurer.

3 ~~f. Commercial lines residential policy forms without~~
4 ~~wind coverage, which are the same as the policies described in~~
5 ~~sub-subparagraph e. except that they do not include wind~~
6 ~~coverage.~~

7 3. May provide that the corporation ~~association~~ may
8 employ or otherwise contract with individuals or other
9 entities to provide administrative or professional services
10 that may be appropriate to effectuate the plan. The
11 corporation ~~association~~ shall have the power to borrow funds,
12 by issuing bonds or by incurring other indebtedness, and shall
13 have other powers reasonably necessary to effectuate the
14 requirements of this subsection. The corporation may, but is
15 not required to, seek judicial validation of its bonds or
16 other indebtedness under chapter 75.The corporation
17 ~~association~~ may issue bonds or incur other indebtedness, or
18 have bonds issued on its behalf by a unit of local government
19 pursuant to subparagraph (g)2., in the absence of a hurricane
20 or other weather-related event, upon a determination by the
21 corporation ~~association~~, subject to approval by the
22 department, that such action would enable it to efficiently
23 meet the financial obligations of the corporation ~~association~~
24 and that such financings are reasonably necessary to
25 effectuate the requirements of this subsection. The
26 corporation ~~association~~ is authorized to take all actions
27 needed to facilitate tax-free status for any such bonds or
28 indebtedness, including formation of trusts or other
29 affiliated entities. The corporation ~~association~~ shall have
30 the authority to pledge assessments, projected recoveries from
31 the Florida Hurricane Catastrophe Fund, other reinsurance

1 recoverables, market equalization and other surcharges, and
2 other funds available to the corporation ~~association~~ as
3 security for bonds or other indebtedness. In recognition of s.
4 10, Art. I of the State Constitution, prohibiting the
5 impairment of obligations of contracts, it is the intent of
6 the Legislature that no action be taken whose purpose is to
7 impair any bond indenture or financing agreement or any
8 revenue source committed by contract to such bond or other
9 indebtedness.

10 4.a. Must require that the corporation ~~association~~
11 operate subject to the supervision and approval of a board of
12 governors consisting of 7 ~~13~~ individuals from diverse
13 geographical areas of the state, appointed by the Treasurer.
14 The appointment of each board member is subject to
15 confirmation by three members of the Cabinet as provided in s.
16 6, Art. IV of the State Constitution. The term of office of a
17 board member terminates upon termination of the term of office
18 of the official who appointed the board member. The Treasurer
19 shall designate one of the appointees as chair. All board
20 members serve at the pleasure of the Treasurer. ~~including 1~~
21 ~~who is elected as chair. The board shall consist of:~~

22 a. ~~The insurance consumer advocate appointed under s.~~
23 ~~627.0613.~~

24 b. ~~Five members designated by the insurance industry.~~

25 c. ~~Five consumer representatives appointed by the~~
26 ~~Insurance Commissioner. Two of the consumer representatives~~
27 ~~must, at the time of appointment, be holders of policies~~
28 ~~issued by the association, who are selected with consideration~~
29 ~~given to reflecting the geographic balance of association~~
30 ~~policyholders. Two of the consumer members must be individuals~~
31 ~~who are minority persons as defined in s. 288.703(3). One of~~

1 ~~the consumer members shall have expertise in the field of~~
2 ~~mortgage lending.~~

3 ~~d. Two representatives of the insurance industry~~
4 ~~appointed by the Insurance Commissioner. Of the two insurance~~
5 ~~industry representatives appointed by the Insurance~~
6 ~~Commissioner, at least one must be an individual who is a~~
7 ~~minority person as defined in s. 288.703(3).~~

8
9 ~~Any board member may be disapproved or removed and replaced by~~
10 ~~the commissioner at any time for cause. All board members,~~
11 ~~including the chair, must be appointed to serve for 3-year~~
12 ~~terms beginning annually on a date designated by the plan. Any~~
13 ~~board vacancy shall be filled for the unexpired term by the~~
14 ~~Treasurer. The Treasurer shall appoint a technical advisory~~
15 ~~group to provide information and advice to the board of~~
16 ~~governors in connection with the board's duties under this~~
17 ~~subsection. The executive director and senior managers of the~~
18 ~~corporation shall be engaged by the Treasurer and serve at the~~
19 ~~pleasure of the Treasurer. The executive director is~~
20 ~~responsible for employing other staff as the corporation may~~
21 ~~require, subject to review and concurrence by the Office of~~
22 ~~the Treasurer.~~

23 ~~b. To ensure the effective and efficient~~
24 ~~implementation of this section, the Treasurer shall appoint~~
25 ~~the board of governors by July 1, 2002. The board of governors~~
26 ~~shall work in conjunction with the Residential Property~~
27 ~~Insurance Market Coordinating Council to address appropriate~~
28 ~~organizational, operational, and financial matters relating to~~
29 ~~the corporation. In addition, after consultation with the~~
30 ~~Residential Property Insurance Market Coordinating Council,~~
31 ~~the Treasurer may postpone the implementation of the~~

1 provisions of paragraph (1) and any other provision this
2 section related to the operation of the corporation for a
3 period not to exceed 180 days if the Treasurer determines that
4 phasing-in these provisions is necessary to ensure the
5 effective and efficient implementation of the corporation's
6 operations or financing arrangements. However, the Treasurer
7 may not affect any provision in paragraph (b) or any other
8 provision of this section related to financing arrangements
9 entered into by the Florida Windstorm Underwriting Association
10 or the Florida Residential Property and Casualty Joint
11 Underwriting Association and the ability of those entities or
12 the corporation to service its debts and maintain the capacity
13 to repay funds secured under those arrangements.

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

16 a. With respect to personal lines residential risks,
17 if the risk is offered full coverage from an authorized
18 insurer at the insurer's approved rate under either a standard
19 policy ~~including wind coverage~~ or, if consistent with the
20 insurer's underwriting rules as filed with the department, a
21 basic policy ~~including wind coverage~~, the risk is not eligible
22 for any policy issued by the corporation association. If the
23 risk accepts an offer of coverage through the market
24 assistance plan or an offer of coverage through a mechanism
25 established by the corporation association before a policy is
26 issued to the risk by the corporation association or during
27 the first 30 days of coverage by the corporation association,
28 and the producing agent who submitted the application to the
29 plan or to the corporation association is not currently
30 appointed by the insurer, the insurer shall either:

31

1 (I) Pay to the producing agent of record of the
2 policy, for the first year, an amount which is the greater of
3 the insurer's usual and customary commission for the type of
4 policy written or a policy fee equal to the usual and
5 customary commission of the corporation; or
6 (II) Offer to allow the producing agent of record of
7 the policy to continue servicing the policy for a period of
8 not less than 1 year and offer to pay the agent the insurer's
9 usual and customary commission for the type of policy written.
10 If the new or producing agent is unwilling or unable to accept
11 appointment by the new insurer, the new insurer shall pay the
12 agent in accordance with sub-sub-subparagraph (I).~~appoint the~~
13 agent to service the risk or, if the insurer places the
14 coverage through a new agent, require the new agent who then
15 writes the policy to pay not less than 50 percent of the first
16 year's commission to the producing agent who submitted the
17 application to the plan or the association, except that if the
18 new agent is an employee or exclusive agent of the insurer,
19 the new agent shall pay a policy fee of \$50 to the producing
20 agent in lieu of splitting the commission.
21
22 If the risk is not able to obtain any such offer, the risk is
23 eligible for either a standard policy ~~including wind coverage~~
24 or a basic policy ~~including wind coverage~~ issued by the
25 corporation ~~association~~; however, if the risk could not be
26 insured under a standard policy ~~including wind coverage~~
27 regardless of market conditions, the risk shall be eligible
28 for a basic policy ~~including wind coverage~~ unless rejected
29 under subparagraph 8. The corporation ~~association~~ shall
30 determine the type of policy to be provided on the basis of
31

1 objective standards specified in the underwriting manual and
2 based on generally accepted underwriting practices.

3 b. With respect to commercial lines ~~residential~~ risks,
4 if the risk is offered coverage under a policy ~~including wind~~
5 ~~coverage~~ from an authorized insurer at its approved rate, the
6 risk is not eligible for any policy issued by the corporation
7 ~~association~~. If the risk accepts an offer of coverage through
8 the market assistance plan or an offer of coverage through a
9 mechanism established by the corporation association before a
10 policy is issued to the risk by the corporation association,
11 and the producing agent who submitted the application to the
12 plan or the corporation association is not currently appointed
13 by the insurer, the insurer shall either:

14 (I) Pay to the producing agent of record of the
15 policy, for the first year, an amount which is the greater of
16 the insurer's usual and customary commission for the type of
17 policy written or a policy fee equal to the usual and
18 customary commission of the corporation; or

19 (II) Offer to allow the producing agent of record of
20 the policy to continue servicing the policy for a period of
21 not less than 1 year and offer to pay the agent the insurer's
22 usual and customary commission for the type of policy written.
23 If the new or producing agent is unwilling or unable to accept
24 appointment by the new insurer, the new insurer shall pay the
25 agent in accordance with sub-sub-subparagraph (I).~~appoint the~~
26 ~~agent to service the risk or, if the insurer places the~~
27 ~~coverage through a new agent, require the new agent who then~~
28 ~~writes the policy to pay not less than 50 percent of the first~~
29 ~~year's commission to the producing agent who submitted the~~
30 ~~application to the plan, except that if the new agent is an~~
31 ~~employee or exclusive agent of the insurer, the new agent~~

1 ~~shall pay a policy fee of \$50 to the producing agent in lieu~~
2 ~~of splitting the commission.~~

3
4 If the risk is not able to obtain any such offer, the risk is
5 eligible for a policy ~~including wind coverage~~ issued by the
6 corporation association.

7 ~~c. This subparagraph does not require the association~~
8 ~~to provide wind coverage or hurricane coverage in any area in~~
9 ~~which such coverage is available through the Florida Windstorm~~
10 ~~Underwriting Association.~~

11 6. Must include rules for classifications of risks and
12 rates therefor.

13 7. Must provide that if premium and investment income
14 for an account attributable to a particular calendar plan year
15 are in excess of projected losses and expenses for the account
16 ~~of the plan~~ attributable to that year, such excess shall be
17 held in surplus in the account. Such surplus shall be
18 available to defray deficits as to future years and shall be
19 used for that purpose prior to assessing assessable member
20 insurers and assessable insureds as to any calendar plan year.

21 8. Must provide objective criteria and procedures to
22 be uniformly applied for all applicants in determining whether
23 an individual risk is so hazardous as to be uninsurable. In
24 making this determination and in establishing the criteria and
25 procedures, the following shall be considered:

26 a. Whether the likelihood of a loss for the individual
27 risk is substantially higher than for other risks of the same
28 class; and

29 b. Whether the uncertainty associated with the
30 individual risk is such that an appropriate premium cannot be
31 determined.

1
2 The acceptance or rejection of a risk by the corporation
3 ~~association~~ shall be construed as the private placement of
4 insurance, and the provisions of chapter 120 shall not apply.

5 9. Must provide that the corporation ~~association~~ shall
6 make its best efforts to procure catastrophe reinsurance at
7 reasonable rates, as determined by the board of governors.

8 10. Must provide that in the event of regular deficit
9 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
10 (b)3.b., in the personal lines account, the commercial lines
11 residential account, or the high-risk account ~~or by the~~
12 ~~Florida Windstorm Underwriting Association under~~
13 ~~sub-sub-subparagraph (2)(b)2.d.(I) or sub-sub-subparagraph~~
14 ~~(2)(b)2.d.(II)~~, the corporation ~~association~~ shall levy upon
15 corporation ~~association~~ policyholders in such account in its
16 next rate filing, or by a separate rate filing solely for this
17 purpose, a market equalization surcharge in a percentage equal
18 to the total amount of such regular assessments divided by the
19 aggregate statewide direct written premium for subject lines
20 of business ~~for member insurers~~ for the prior calendar year.
21 Market equalization surcharges under this subparagraph are not
22 considered premium and are not subject to commissions, fees,
23 or premium taxes; however, failure to pay a market
24 equalization surcharge shall be treated as failure to pay
25 premium.

26 11. The policies issued by the corporation ~~association~~
27 must provide that, if the corporation ~~association~~ or the
28 market assistance plan obtains an offer from an authorized
29 insurer to cover the risk at its approved rates ~~under either a~~
30 ~~standard policy including wind coverage or a basic policy~~
31 ~~including wind coverage~~, the risk is no longer eligible for

1 ~~renewal coverage through the corporation association. However,~~
2 ~~if the risk is located in an area in which Florida Windstorm~~
3 ~~Underwriting Association coverage is available, such an offer~~
4 ~~of a standard or basic policy terminates eligibility~~
5 ~~regardless of whether or not the offer includes wind coverage.~~
6 ~~Upon termination of eligibility, the association shall provide~~
7 ~~written notice to the policyholder and agent of record stating~~
8 ~~that the association policy shall be canceled as of 60 days~~
9 ~~after the date of the notice because of the offer of coverage~~
10 ~~from an authorized insurer. Other provisions of the insurance~~
11 ~~code relating to cancellation and notice of cancellation do~~
12 ~~not apply to actions under this subparagraph.~~

13 12. Corporation Association policies and applications
14 must include a notice that the corporation association policy
15 could, under this section ~~or s. 627.3511~~, be replaced with a
16 policy issued by an authorized ~~admitted~~ insurer that does not
17 provide coverage identical to the coverage provided by the
18 corporation association. The notice shall also specify that
19 acceptance of corporation association coverage creates a
20 conclusive presumption that the applicant or policyholder is
21 aware of this potential.

22 13. May establish, subject to approval by the
23 department, different eligibility requirements and operational
24 procedures for any line or type of coverage for any specified
25 county or area if the board determines that such changes to
26 the eligibility requirements and operational procedures are
27 justified due to the voluntary market being sufficiently
28 stable and competitive in such area or for such line or type
29 of coverage and that consumers who, in good faith, are unable
30 to obtain insurance through the voluntary market through
31 ordinary methods would continue to have access to coverage

1 from the corporation ~~association~~. When coverage is sought in
2 connection with a real property transfer, such requirements
3 and procedures shall not provide for an effective date of
4 coverage later than the date of the closing of the transfer as
5 established by the transferor, the transferee, and, if
6 applicable, the lender.

7 14. Must provide that, with respect to the high-risk
8 account, any assessable insurer with a surplus as to
9 policyholders of \$25 million or less writing 25 percent or
10 more of its total countrywide property insurance premiums in
11 this state may petition the department, within the first 90
12 days of each calendar year, to qualify as a limited
13 apportionment company. In no event shall a limited
14 apportionment company be required to participate in the
15 portion of any assessment, within the high-risk account,
16 pursuant to sub-subparagraph (b)3.a. or sub-subparagraph
17 (b)3.b. in the aggregate which exceeds \$50 million after
18 payment of available high-risk account funds in any calendar
19 year. However, a limited apportionment company shall collect
20 from its policyholders any emergency assessment imposed under
21 sub-subparagraph (b)3.d. The plan shall provide that, if the
22 department determines that any regular assessment will result
23 in an impairment of the surplus of a limited apportionment
24 company, the department may direct that all or part of such
25 assessment be deferred. However, there shall be no limitation
26 or deferment of an emergency assessment to be collected from
27 policyholders under sub-subparagraph (b)3.d.

28 15. Must provide that the corporation appoint as its
29 licensed agents only those agents who also hold an appointment
30 as defined in s. 626.104 with an insurer who at the time of
31 the agent's initial appointment by the corporation is

1 authorized to write and is actually writing personal lines
2 residential property coverage, commercial residential property
3 coverage, or commercial nonresidential property coverage
4 within the state.

5 (d)1. It is the intent of the Legislature that the
6 rates for coverage provided by the corporation ~~association~~ be
7 actuarially sound and not competitive with approved rates
8 charged in the admitted voluntary market, so that the
9 corporation ~~association~~ functions as a residual market
10 mechanism to provide insurance only when the insurance cannot
11 be procured in the voluntary market. Rates shall include an
12 appropriate catastrophe loading factor that reflects the
13 actual catastrophic exposure of the corporation ~~association~~
14 ~~and recognizes that the association has little or no capital~~
15 ~~or surplus; and the association shall carefully review each~~
16 ~~rate filing to assure that provider compensation is not~~
17 ~~excessive.~~

18 2. For each county, the average rates of the
19 corporation ~~association~~ for each line of business for personal
20 lines residential policies excluding rates for wind-only
21 policies shall be no lower than the average rates charged by
22 the insurer that had the highest average rate in that county
23 among the 20 insurers with the greatest total direct written
24 premium in the state for that line of business in the
25 preceding year, except that with respect to mobile home
26 coverages, the average rates of the corporation ~~association~~
27 shall be no lower than the average rates charged by the
28 insurer that had the highest average rate in that county among
29 the 5 insurers with the greatest total written premium for
30 mobile home owner's policies in the state in the preceding
31 year.

1 3. Rates for personal lines residential wind-only
2 policies must be actuarially sound and not competitive with
3 approved rates charged by authorized insurers. Beginning July
4 1, 2002, the rate plans used by the Florida Windstorm
5 Underwriting Association on January 1, 2002, shall become the
6 rate plans of the corporation for all wind-only rates. With
7 respect to personal lines residential wind-only rates, the
8 corporation shall continue the phase in of such rate plan
9 until the full actuarially indicated rates are completely
10 phased in. The Legislature recognizes that while it is a
11 matter of public necessity for the wind-only rates eventually
12 to reach their full actuarially indicated level as provided in
13 such rate plan, the rapid implementation of these rates will
14 create a hardship for some wind-only policyholders. Therefore
15 the corporation shall continue to phase in the rate plan, but
16 shall limit the premium increase to any wind-only personal
17 lines residential policyholder in any year to 15 percent. The
18 15-percent limitation shall first apply with respect to
19 policies issued or renewed on or after July 1, 2003. The
20 15-percent limitation applies only to a residence for which
21 the property owner has provided the corporation with proof
22 that the property qualifies for a homestead exemption under
23 chapter 196 or to a property valued at \$500,000 or less
24 according to the property appraiser's most recent official
25 appraisal.

26 ~~4.3.~~ Rates for commercial lines ~~residential~~ coverage
27 shall not be subject to the requirements of subparagraph 2.,
28 but shall be subject to all other requirements of this
29 paragraph and s. 627.062.

30
31

1 ~~5.4.~~ Nothing in this paragraph shall require or allow
2 the corporation ~~association~~ to adopt a rate that is inadequate
3 under s. 627.062 ~~or to reduce rates approved under s. 627.062.~~

4 ~~6.5.~~ ~~The association may require arbitration of a~~
5 ~~filing pursuant to s. 627.062(6).~~ Rate filings of the
6 ~~association under this paragraph shall be made on a use and~~
7 ~~file basis under s. 627.062(2)(a)2.~~ The corporation
8 ~~association~~ shall make a rate filing at least once a year, but
9 no more often than quarterly.

10 7. In addition to the rates otherwise determined
11 pursuant to this paragraph, the corporation shall impose and
12 collect an amount equal to the premium tax provided for in s.
13 624.509 to augment the financial resources of the corporation.

14 (e) If coverage in an account through the association
15 ~~is hereby activated effective upon approval of the plan, and~~
16 ~~shall remain activated until coverage is deactivated pursuant~~
17 ~~to paragraph (f).~~ ~~Thereafter,~~ coverage through the corporation
18 ~~association~~ shall be reactivated by order of the department
19 only under one of the following circumstances:

20 1. If the market assistance plan receives a minimum of
21 100 applications for coverage within a 3-month period, or 200
22 applications for coverage within a 1-year period or less for
23 residential coverage, unless the market assistance plan
24 provides a quotation from admitted carriers at their filed
25 rates for at least 90 percent of such applicants. Any market
26 assistance plan application that is rejected because an
27 individual risk is so hazardous as to be uninsurable using the
28 criteria specified in subparagraph (c)8. shall not be included
29 in the minimum percentage calculation provided herein. In the
30 event that there is a legal or administrative challenge to a
31 determination by the department that the conditions of this

1 subparagraph have been met for eligibility for coverage in the
2 corporation ~~association~~, any eligible risk may obtain coverage
3 during the pendency of such challenge.

4 2. In response to a state of emergency declared by the
5 Governor under s. 252.36, the department may activate coverage
6 by order for the period of the emergency upon a finding by the
7 department that the emergency significantly affects the
8 availability of residential property insurance.

9 (f)1. The corporation shall file with the department
10 quarterly statements of financial condition, an annual
11 statement of financial condition, and audited financial
12 statements in the manner prescribed by law. In addition, the
13 corporation shall report to the department monthly on the
14 types, premium, exposure, and distribution by county of its
15 policies in force, and shall submit other reports as the
16 department requires to carry out its oversight of the
17 corporation.

18 2. The activities of the corporation ~~association~~ shall
19 be reviewed at least annually by the department to determine
20 whether ~~board and, upon recommendation by the board or~~
21 ~~petition of any interested party,~~ coverage shall be
22 deactivated in an account on the basis ~~if the department finds~~
23 that the conditions giving rise to its activation no longer
24 exist.

25 (g)1. The corporation ~~board~~ shall certify to the
26 department its needs for annual assessments as to a particular
27 calendar year, and for any ~~startup or~~ interim assessments that
28 it deems to be necessary to sustain operations as to a
29 particular year pending the receipt of annual assessments.
30 Upon verification, the department shall approve such
31 certification, and the corporation ~~board~~ shall levy such

1 annual, ~~startup~~, or interim assessments. Such assessments
2 shall be prorated as provided in paragraph (b). The
3 corporation board shall take all reasonable and prudent steps
4 necessary to collect the amount of assessment due from each
5 assessable participating member insurer, including, if
6 prudent, filing suit to collect such assessment. If the
7 corporation board is unable to collect an assessment from any
8 assessable member insurer, the uncollected assessments shall
9 be levied as an additional assessment against the assessable
10 participating member insurers and any assessable participating
11 member insurer required to pay an additional assessment as a
12 result of such failure to pay shall have a cause of action
13 against such nonpaying assessable member insurer. Assessments
14 shall be included as an appropriate factor in the making of
15 rates. The failure of a surplus lines agent to collect and
16 remit any regular or emergency assessment levied by the
17 corporation is considered to be a violation of s. 626.936 and
18 subjects the surplus lines agent to the penalties provided in
19 that section.

20 2. The governing body of any unit of local government,
21 any residents of which are insured by the corporation
22 association, may issue bonds as defined in s. 125.013 or s.
23 166.101 from time to time to fund an assistance program, in
24 conjunction with the corporation association, for the purpose
25 of defraying deficits of the corporation association. In order
26 to avoid needless and indiscriminate proliferation,
27 duplication, and fragmentation of such assistance programs,
28 any unit of local government, any residents of which are
29 insured by the corporation association, may provide for the
30 payment of losses, regardless of whether or not the losses
31 occurred within or outside of the territorial jurisdiction of

1 the local government. Revenue bonds may not be issued until
2 validated pursuant to chapter 75, unless a state of emergency
3 is declared by executive order or proclamation of the Governor
4 pursuant to s. 252.36 making such findings as are necessary to
5 determine that it is in the best interests of, and necessary
6 for, the protection of the public health, safety, and general
7 welfare of residents of this state ~~and the protection and~~
8 ~~preservation of the economic stability of insurers operating~~
9 ~~in this state,~~and declaring it an essential public purpose to
10 permit certain municipalities or counties to issue such bonds
11 as will permit relief to claimants and policyholders of the
12 corporation ~~joint underwriting association and insurers~~
13 ~~responsible for apportionment of association losses.~~ Any such
14 unit of local government may enter into such contracts with
15 the corporation ~~association~~ and with any other entity created
16 pursuant to this subsection as are necessary to carry out this
17 paragraph. Any bonds issued under this subparagraph shall be
18 payable from and secured by moneys received by the corporation
19 ~~association~~ from emergency assessments under sub-subparagraph
20 (b)3.d., and assigned and pledged to or on behalf of the unit
21 of local government for the benefit of the holders of such
22 bonds. The funds, credit, property, and taxing power of the
23 state or of the unit of local government shall not be pledged
24 for the payment of such bonds. If any of the bonds remain
25 unsold 60 days after issuance, the department shall require
26 all insurers subject to assessment to purchase the bonds,
27 which shall be treated as admitted assets; each insurer shall
28 be required to purchase that percentage of the unsold portion
29 of the bond issue that equals the insurer's relative share of
30 assessment liability under this subsection. An insurer shall
31 not be required to purchase the bonds to the extent that the

1 department determines that the purchase would endanger or
2 impair the solvency of the insurer.

3 3.a. ~~In addition to any credits, bonuses, or~~
4 ~~exemptions provided under s. 627.3511,~~The corporation board
5 shall adopt one or more programs ~~a program~~ subject to approval
6 by the department for the reduction of both new and renewal
7 writings in the corporation association. The corporation board
8 may consider any prudent and not unfairly discriminatory
9 approach to reducing corporation association writings, and may
10 ~~but must~~ adopt ~~at least~~ a credit against assessment liability
11 or other liability that provides an incentive for insurers to
12 take risks out of the corporation association and to keep
13 risks out of the corporation association by maintaining or
14 increasing voluntary writings in counties or areas in which
15 corporation association risks are highly concentrated and a
16 program to provide a formula under which an insurer
17 voluntarily taking risks out of the corporation association by
18 maintaining or increasing voluntary writings will be relieved
19 wholly or partially from assessments under sub-subparagraphs
20 (b)3.a. and b. When the corporation enters into a contractual
21 agreement for a take-out plan, the producing agent of record
22 of the corporation policy is entitled to retain any unearned
23 commission on such policy, and the insurer shall either:

24 (I) Pay to the producing agent of record of the
25 policy, for the first year, an amount which is the greater of
26 the insurer's usual and customary commission for the type of
27 policy written or a policy fee equal to the usual and
28 customary commission of the corporation; or

29 (II) Offer to allow the producing agent of record of
30 the policy to continue servicing the policy for a period of
31 not less than 1 year and offer to pay the agent the insurer's

1 usual and customary commission for the type of policy written.
2 If the new or producing agent is unwilling or unable to accept
3 appointment by the new insurer, the new insurer shall pay the
4 agent in accordance with sub-sub-subparagraph (I).

5 b. Any credit or exemption from regular assessments
6 adopted under this subparagraph shall last no longer than the
7 3 years following the cancellation or expiration of the policy
8 by the corporation ~~association~~. With the approval of the
9 department, the board may extend such credits for an
10 additional year if the insurer guarantees an additional year
11 of renewability for all policies removed from the corporation
12 ~~association~~, or for 2 additional years if the insurer
13 guarantees 2 additional years of renewability for all policies
14 so removed.

15 c. There shall be no credit, limitation, exemption, or
16 deferment from emergency assessments to be collected from
17 policyholders pursuant to sub-subparagraph (b)3.d.

18 4. The plan shall provide for the deferment, in whole
19 or in part, of the assessment of an assessable ~~a member~~
20 insurer, other than an emergency assessment collected from
21 policyholders pursuant to sub-subparagraph (b)3.d., if the
22 department finds that payment of the assessment would endanger
23 or impair the solvency of the insurer. In the event an
24 assessment against an assessable ~~a member~~ insurer is deferred
25 in whole or in part, the amount by which such assessment is
26 deferred may be assessed against the other assessable ~~member~~
27 insurers in a manner consistent with the basis for assessments
28 set forth in paragraph (b).

29 (h) Nothing in this subsection shall be construed to
30 preclude the issuance of residential property insurance
31 coverage pursuant to part VIII of chapter 626.

1 (i) There shall be no liability on the part of, and no
2 cause of action of any nature shall arise against, any
3 assessable member insurer or its agents or employees, the
4 corporation ~~association~~ or its agents or employees, members of
5 the board of governors or their respective designees at a
6 board meeting, corporation ~~association~~ committee members, or
7 the department or its representatives, for any action taken by
8 them in the performance of their duties or responsibilities
9 under this subsection. Such immunity does not apply to:

10 1. Any of the foregoing persons or entities for any
11 willful tort;

12 2. The corporation ~~association~~ or its ~~servicing or~~
13 producing agents for breach of any contract or agreement
14 pertaining to insurance coverage;

15 3. The corporation ~~association~~ with respect to
16 issuance or payment of debt; or

17 4. Any assessable member insurer with respect to any
18 action to enforce an assessable ~~a member~~ insurer's obligations
19 to the corporation ~~association~~ under this subsection.

20 (j) ~~The Residential Property and Casualty Joint~~
21 ~~Underwriting Association is not a state agency, board, or~~
22 ~~commission. However, For the purposes of s. 199.183(1), the~~
23 corporation ~~Residential Property and Casualty Joint~~
24 ~~Underwriting Association~~ shall be considered a political
25 subdivision of the state and shall be exempt from the
26 corporate income tax. The premiums, assessments, investment
27 income, and other revenue of the corporation are funds
28 received for providing property insurance coverage as required
29 by this subsection, paying claims for Florida citizens insured
30 by the corporation, securing and repaying debt obligations
31 issued by the corporation, and conducting all other activities

1 of the corporation, and shall not be considered taxes, fees,
2 licenses, or charges for services imposed by the Legislature
3 on individuals, businesses, or agencies outside state
4 government. Bonds and other debt obligations issued by or on
5 behalf of the corporation are not to be considered "State
6 bonds" within the meaning of s. 215.58(10). The corporation is
7 not subject to the procurement provisions of chapter 287, and
8 policies and decisions of the corporation relating to
9 incurring debt, levying of assessments and the sale, issuance,
10 continuation, terms and claims under corporation policies, and
11 all services relating thereto, are not subject to the
12 provisions of chapter 120. The corporation is not required to
13 obtain or to hold a certificate of authority issued by the
14 department, nor is it required to participate as a member
15 insurer of the Florida Insurance Guaranty Association.
16 However, the corporation is required to pay, in the same
17 manner as an authorized insurer, assessments pledged by the
18 Florida Insurance Guaranty Association to secure bonds issued
19 or other indebtedness incurred to pay covered claims arising
20 from insurer insolvencies caused by, or proximately related
21 to, hurricane losses. It is the intent of the Legislature that
22 the tax exemptions provided in this paragraph will augment the
23 financial resources of the corporation to better enable the
24 corporation to fulfill its public purposes. Any bonds issued
25 by the corporation, their transfer, and the income therefrom,
26 including any profit made on the sale thereof, shall at all
27 times be free from taxation of every kind by the state and any
28 political subdivision or local unit or other instrumentality
29 thereof; however, this exemption does not apply to any tax
30 imposed by chapter 200 on interest, income, or profits on debt
31 obligations owned by corporations other than the corporation.

1 (k) Upon a determination by the department ~~board of~~
2 ~~governors~~ that the conditions giving rise to the establishment
3 and activation of the corporation ~~association~~ no longer exist,
4 ~~and upon the consent thereto by order of the department,~~ the
5 corporation ~~association~~ is dissolved. Upon dissolution, the
6 assets of the association shall be applied first to pay all
7 debts, liabilities, and obligations of the corporation
8 ~~association~~, including the establishment of reasonable
9 reserves for any contingent liabilities or obligations, and
10 all remaining assets of the corporation ~~association~~ shall
11 become property of the state and deposited in the Florida
12 Hurricane Catastrophe Fund.

13 (1) 1. Effective July 1, 2002, policies of the
14 Residential Property and Casualty Joint Underwriting
15 Association shall become policies of the corporation. All
16 obligations, rights, assets and liabilities of the Residential
17 Property and Casualty Joint Underwriting Association,
18 including bonds, note and debt obligations, and the financing
19 documents pertaining to them become those of the corporation
20 as of July 1, 2002. The corporation is not required to issue
21 endorsements or certificates of assumption to insureds during
22 the remaining term of in-force transferred policies.

23 2. Effective July 1, 2002, policies of the Florida
24 Windstorm Underwriting Association are transferred to the
25 corporation and shall become policies of the corporation. All
26 obligations, rights, assets, and liabilities of the Florida
27 Windstorm Underwriting Association, including bonds, note, and
28 debt obligations, and the financing documents pertaining to
29 them are transferred to and assumed by the corporation on July
30 1, 2002. The corporation is not required to issue endorsement
31

1 or certificates of assumption to insureds during the remaining
2 term of in-force transferred policies.

3 3. The Florida Windstorm Underwriting Association and
4 the Residential Property and Casualty Joint Underwriting
5 Association shall take all actions as may be proper to further
6 evidence the transfers and shall provide the documents and
7 instruments of further assurance as may reasonably be
8 requested by the corporation for that purpose. The corporation
9 shall execute assumptions and instruments as the trustees or
10 other parties to the financing documents of the Florida
11 Windstorm Underwriting Association or the Residential Property
12 and Casualty Joint Underwriting Association may reasonably
13 request to further evidence the transfers and assumptions,
14 which transfers and assumptions, however, are effective on the
15 date provided under this paragraph whether or not, and
16 regardless of the date on which, the assumptions or
17 instruments are executed by the corporation. Subject to the
18 relevant financing documents pertaining to their outstanding
19 bonds, notes, indebtedness, or other financing obligations,
20 the moneys, investments, receivables, choses in action, and
21 other intangibles of the Florida Windstorm Underwriting
22 Association shall be credited to the high-risk account of the
23 corporation, and those of the personal lines residential
24 coverage account and the commercial lines residential coverage
25 account of the Residential Property and Casualty Joint
26 Underwriting Association shall be credited to the personal
27 lines account and the commercial lines account, respectively,
28 of the corporation.

29 4. Effective July 1, 2002, a new applicant for
30 property insurance coverage who would otherwise have been
31 eligible for coverage in the Florida Windstorm Underwriting

1 Association is eligible for coverage from the corporation as
2 provided in this subsection.

3 5. The transfer of all policies, obligations, rights,
4 assets, and liabilities from the Florida Windstorm
5 Underwriting Association to the corporation and the renaming
6 of the Residential Property and Casualty Joint Underwriting
7 Association as the corporation shall in no way affect the
8 coverage with respect to covered policies as defined in s.
9 215.555(2)(c) provided to these entities by the Florida
10 Hurricane Catastrophe Fund. The coverage provided by the
11 Florida Hurricane Catastrophe Fund to the Florida Windstorm
12 Underwriting Association based on its exposures as of June 30,
13 2002, and each June 30 thereafter shall be redesignated as
14 coverage for the high-risk account of the corporation. The
15 coverage provided by the Florida Hurricane Catastrophe Fund to
16 the Residential Property and Casualty Joint Underwriting
17 Association based on its exposures as of June 30, 2002, and
18 each June 30 thereafter shall be transferred to the personal
19 lines account and the commercial lines account of the
20 corporation. The high-risk account shall be treated, for all
21 Florida Hurricane Catastrophe Fund purposes, as if it were a
22 separate participating insurer with its own exposures,
23 reimbursement premium, and loss reimbursement. Likewise, the
24 personal lines and commercial lines accounts shall be viewed
25 together, for all Florida Hurricane Catastrophe Fund purposes,
26 as if the two accounts were one and represent a single,
27 separate participating insurer with its own exposures,
28 reimbursement premium, and loss reimbursement. The coverage
29 provided by the Florida Hurricane Catastrophe Fund to the
30 corporation shall constitute and operate as a full transfer of
31 coverage from the Florida Windstorm Underwriting Association

1 and Residential Property and Casualty Joint Underwriting to
2 the corporation.

3 6. The department may, by order, postpone the July 1,
4 2002, effective dates set forth in this paragraph if the
5 department finds that effectuation of these dates cannot be
6 accomplished due to emergency conditions.~~All obligations,~~
7 ~~rights, assets, and liabilities of the Florida Property and~~
8 ~~Casualty Joint Underwriting Association created by subsection~~
9 ~~(5), which obligations, rights, assets, or liabilities relate~~
10 ~~to the provision of commercial lines residential property~~
11 ~~insurance coverage as described in this section are hereby~~
12 ~~transferred to the Residential Property and Casualty Joint~~
13 ~~Underwriting Association. The Residential Property and~~
14 ~~Casualty Joint Underwriting Association is not required to~~
15 ~~issue endorsements or certificates of assumption to insureds~~
16 ~~during the remaining term of in-force transferred policies.~~

17 (m) Notwithstanding any other provision of law:

18 1. The pledge or sale of, the lien upon, and the
19 security interest in any rights, revenues, or other assets of
20 the corporation ~~association~~ created or purported to be created
21 pursuant to any financing documents to secure any bonds or
22 other indebtedness of the corporation ~~association~~ shall be and
23 remain valid and enforceable, notwithstanding the commencement
24 of and during the continuation of, and after, any
25 rehabilitation, insolvency, liquidation, bankruptcy,
26 receivership, conservatorship, reorganization, or similar
27 proceeding against the corporation ~~association~~ under the laws
28 of this state.

29 2. No such proceeding shall relieve the corporation
30 ~~association~~ of its obligation, or otherwise affect its ability
31 to perform its obligation, to continue to collect, or levy and

1 collect, assessments, market equalization or other surcharges
2 under subparagraph (c)10., or any other rights, revenues, or
3 other assets of the corporation ~~association~~ pledged pursuant
4 to any financing documents.

5 3. Each such pledge or sale of, lien upon, and
6 security interest in, including the priority of such pledge,
7 lien, or security interest, any such assessments, market
8 equalization or other surcharges, or other rights, revenues,
9 or other assets which are collected, or levied and collected,
10 after the commencement of and during the pendency of, or
11 after, any such proceeding shall continue unaffected by such
12 proceeding. As used in this subsection, the term "financing
13 documents" means any agreement or agreements, instrument or
14 instruments, or other document or documents now existing or
15 hereafter created evidencing any bonds or other indebtedness
16 of the corporation ~~association~~ or pursuant to which any such
17 bonds or other indebtedness has been or may be issued and
18 pursuant to which any rights, revenues, or other assets of the
19 corporation ~~association~~ are pledged or sold to secure the
20 repayment of such bonds or indebtedness, together with the
21 payment of interest on such bonds or such indebtedness, or the
22 payment of any other obligation or financial product, as
23 defined in the plan of operation of the corporation
24 ~~association~~ related to such bonds or indebtedness.

25 4. Any such pledge or sale of assessments, revenues,
26 contract rights, or other rights or assets of the corporation
27 ~~association~~ shall constitute a lien and security interest, or
28 sale, as the case may be, that is immediately effective and
29 attaches to such assessments, revenues, or contract rights or
30 other rights or assets, whether or not imposed or collected at
31 the time the pledge or sale is made. Any such pledge or sale

1 is effective, valid, binding, and enforceable against the
2 corporation ~~association~~ or other entity making such pledge or
3 sale, and valid and binding against and superior to any
4 competing claims or obligations owed to any other person or
5 entity, including policyholders in this state, asserting
6 rights in any such assessments, revenues, or contract rights
7 or other rights or assets to the extent set forth in and in
8 accordance with the terms of the pledge or sale contained in
9 the applicable financing documents, whether or not any such
10 person or entity has notice of such pledge or sale and without
11 the need for any physical delivery, recordation, filing, or
12 other action.

13 (n)1. The following records of the corporation
14 ~~Residential Property and Casualty Joint Underwriting~~
15 ~~Association~~ are confidential and exempt from the provisions of
16 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

17 a. Underwriting files, except that a policyholder or
18 an applicant shall have access to his or her own underwriting
19 files.

20 b. Claims files, until termination of all litigation
21 and settlement of all claims arising out of the same incident,
22 although portions of the claims files may remain exempt, as
23 otherwise provided by law. Confidential and exempt claims file
24 records may be released to other governmental agencies upon
25 written request and demonstration of need; such records held
26 by the receiving agency remain confidential and exempt as
27 provided for herein.

28 c. Records obtained or generated by an internal
29 auditor pursuant to a routine audit, until the audit is
30 completed, or if the audit is conducted as part of an
31 investigation, until the investigation is closed or ceases to

1 be active. An investigation is considered "active" while the
2 investigation is being conducted with a reasonable, good faith
3 belief that it could lead to the filing of administrative,
4 civil, or criminal proceedings.

5 d. Matters reasonably encompassed in privileged
6 attorney-client communications.

7 e. Proprietary information licensed to the corporation
8 ~~association~~ under contract and the contract provides for the
9 confidentiality of such proprietary information.

10 f. All information relating to the medical condition
11 or medical status of a corporation ~~an association~~ employee
12 which is not relevant to the employee's capacity to perform
13 his or her duties, except as otherwise provided in this
14 paragraph. Information which is exempt shall include, but is
15 not limited to, information relating to workers' compensation,
16 insurance benefits, and retirement or disability benefits.

17 g. Upon an employee's entrance into the employee
18 assistance program, a program to assist any employee who has a
19 behavioral or medical disorder, substance abuse problem, or
20 emotional difficulty which affects the employee's job
21 performance, all records relative to that participation shall
22 be confidential and exempt from the provisions of s. 119.07(1)
23 and s. 24(a), Art. I of the State Constitution, except as
24 otherwise provided in s. 112.0455(11).

25 h. Information relating to negotiations for financing,
26 reinsurance, depopulation, or contractual services, until the
27 conclusion of the negotiations.

28 i. Minutes of closed meetings regarding underwriting
29 files, and minutes of closed meetings regarding an open claims
30 file until termination of all litigation and settlement of all
31

1 claims with regard to that claim, except that information
2 otherwise confidential or exempt by law will be redacted.
3
4 When an authorized insurer is considering underwriting a risk
5 insured by the corporation ~~association~~, relevant underwriting
6 files and confidential claims files may be released to the
7 insurer provided the insurer agrees in writing, notarized and
8 under oath, to maintain the confidentiality of such files.
9 When a file is transferred to an insurer that file is no
10 longer a public record because it is not held by an agency
11 subject to the provisions of the public records law.
12 Underwriting files and confidential claims files may also be
13 released to staff of and the board of governors of the market
14 assistance plan established pursuant to s. 627.3515, who must
15 retain the confidentiality of such files, except such files
16 may be released to authorized insurers that are considering
17 assuming the risks to which the files apply, provided the
18 insurer agrees in writing, notarized and under oath, to
19 maintain the confidentiality of such files. Finally, the
20 corporation ~~association~~ or the board or staff of the market
21 assistance plan may make the following information obtained
22 from underwriting files and confidential claims files
23 available to licensed general lines insurance agents: name,
24 address, and telephone number of the residential property
25 owner or insured; location of the risk; rating information;
26 loss history; and policy type. The receiving licensed general
27 lines insurance agent must retain the confidentiality of the
28 information received.
29 2. Portions of meetings of the corporation ~~Residential~~
30 ~~Property and Casualty Joint Underwriting Association~~ are
31 exempt from the provisions of s. 286.011 and s. 24(b), Art. I

1 of the State Constitution wherein confidential underwriting
2 files or confidential open claims files are discussed. All
3 portions of corporation ~~association~~ meetings which are closed
4 to the public shall be recorded by a court reporter. The
5 court reporter shall record the times of commencement and
6 termination of the meeting, all discussion and proceedings,
7 the names of all persons present at any time, and the names of
8 all persons speaking. No portion of any closed meeting shall
9 be off the record. Subject to the provisions hereof and s.
10 119.07(2)(a), the court reporter's notes of any closed meeting
11 shall be retained by the corporation ~~association~~ for a minimum
12 of 5 years. A copy of the transcript, less any exempt matters,
13 of any closed meeting wherein claims are discussed shall
14 become public as to individual claims after settlement of the
15 claim.

16 (o) It is the intent of the Legislature that the
17 amendments to this subsection enacted in 2002 should, over
18 time, reduce the probable maximum windstorm losses in the
19 residual markets and should reduce the potential assessments
20 to be levied on property insurers and policyholders statewide.
21 In furtherance of this intent:

22 1. The board shall, on or before February 1 of each
23 year, provide a report to the President of the Senate and the
24 Speaker of the House of Representatives showing the reduction
25 or increase in the 100-year probable maximum loss attributable
26 to wind-only coverages and the quota share program under this
27 subsection combined, as compared to the benchmark 100-year
28 probable maximum loss of the Florida Windstorm Underwriting
29 Association. For purposes of this paragraph, the benchmark
30 100-year probable maximum loss of the Florida Windstorm
31 Underwriting Association shall be the calculation dated

1 February 2001 and based on November 30, 2000, exposures. In
2 order to ensure comparability of data, the board shall use the
3 same methods for calculating its probable maximum loss as were
4 used to calculate the benchmark probable maximum loss.

5 2. Beginning February 1, 2007, if the report under
6 subparagraph 1. for any year indicates that the 100-year
7 probable maximum loss attributable to wind-only coverages and
8 the quota share program combined does not reflect a reduction
9 of at least 25 percent from the benchmark, the board shall
10 reduce the boundaries of the high-risk area eligible for
11 wind-only coverages under this subsection in a manner
12 calculated to reduce such probable maximum loss to an amount
13 at least 25 percent below the benchmark.

14 3. Beginning February 1, 2012, if the report under
15 subparagraph 1. for any year indicates that the 100-year
16 probable maximum loss attributable to wind-only coverages and
17 the quota share program combined does not reflect a reduction
18 of at least 50 percent from the benchmark, the boundaries of
19 the high-risk area eligible for wind-only coverages under this
20 subsection shall be reduced by the elimination of any area
21 that is not seaward of a line 1,000 feet inland from the
22 Intracoastal Waterway.

23 (p) In enacting the provisions of this section, the
24 Legislature recognizes that both the Florida Windstorm
25 Underwriting Association and the Residential Property and
26 Casualty Joint Underwriting Association have entered into
27 financing arrangements that obligate each entity to service
28 its debts and maintain the capacity to repay funds secured
29 under these financing arrangements. It is the intent of the
30 Legislature that nothing in this section be construed to
31 compromise, diminish, or interfere with the rights of

1 creditors under such financing arrangements. It is further the
2 intent of the Legislature to preserve the obligations of the
3 Florida Windstorm Underwriting Association and Residential
4 Property and Casualty Joint Underwriting Association with
5 regard to outstanding financing arrangements, with such
6 obligations passing entirely and unchanged to the corporation.
7 So long as any bonds, notes, indebtedness, or other financing
8 obligations of the Florida Windstorm Underwriting Association
9 or the Residential Property and Casualty Joint Underwriting
10 Association are outstanding, under the terms of the financing
11 documents pertaining to them, the governing board of the
12 corporation shall have and shall exercise the authority to
13 levy, charge, collect, and receive all premiums, assessments,
14 surcharges, charges, revenues and receipts that the
15 associations had authority to levy, charge, collect, or
16 receive under the provisions of subsection (2) and subsection
17 (6), respectively, as they existed on January 1, 2002, to the
18 extent necessary to provide moneys, together with other
19 available moneys of the corporation without exercise of the
20 authority provided by this paragraph, in at least the amounts,
21 and by the times, as would be provided under those former
22 provisions of subsection (2) or subsection (6), respectively,
23 so that the value, amount, and collectability of any assets,
24 revenues, or revenue source pledged or committed to, or any
25 lien thereon securing such outstanding bonds, notes,
26 indebtedness, or other financing obligations will not be
27 diminished, impaired, or adversely affected by the amendments
28 made by this act and to permit compliance with all provisions
29 of financing documents pertaining to such bonds, notes,
30 indebtedness, or other financing obligations, or the security
31 or credit enhancement for them, and any reference in this

1 subsection to bonds, notes, indebtedness, financing
2 obligations, or similar obligations, of the corporation shall
3 include like instruments or contracts of the Florida Windstorm
4 Underwriting Association and the Residential Property and
5 Casualty Joint Underwriting Association to the extent not
6 inconsistent with the provisions of the financing documents
7 pertaining to them.

8 (g) Effective January 7, 2003, any reference in this
9 subsection to the Treasurer shall be deemed to be a reference
10 to the Chief Financial Officer and any reference to the
11 Department of Insurance shall be deemed to be a reference to
12 the Department of Insurance and Financial Services or other
13 successor to the Department of Insurance specified by law.

14 Section 3. Section 627.3517, Florida Statutes, is
15 created to read:

16 627.3517 Consumer choice.--A provision of this part
17 may not be construed to impair the right of any residual
18 market policyholder to select and maintain an agent of his or
19 her own choosing. This right may not be cancelled, suspended,
20 impeded, abridged, or otherwise compromised by any rule, plan
21 of operation, or depopulation plan, whether through keepout,
22 takeout, midterm assumption, or any other means, of any
23 Insurance Risk Apportionment plan or depopulation plan
24 including, but not limited to, those described in ss. 627.351,
25 627.3511, and 627.3515. The department shall adopt any rules
26 necessary to cause any Insurance Risk Apportionment Plan or
27 Market Assistance Plan under this part to demonstrate that its
28 operations do not interfere with, promote, or allow
29 interference with the rights created under this section. If
30 the policyholder chooses an agent who is either unable or
31 unwilling to be appointed with a particular carrier, the

1 policyholder is not disqualified from participation in the
2 appropriate residual market because of an offer of coverage in
3 the voluntary market. Any rule, plan of operation, or
4 depopulation plan, through keepout, takeout, midterm
5 assumption, or any other means, of any Insurance Risk
6 Apportionment plan is subject to ss. 627.351(2)(b) and
7 627.3511(4)(a).

8 Section 4. This act shall take effect July 1, 2002.
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